Agenda

Minnetonka City Council

Regular Meeting, Monday, January 9, 2017

6:30 P.M.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Bergstedt-Wagner-Ellingson-Allendorf-Acomb-Wiersum-Schneider
4. Approval of Agenda
5. Approval of Minutes: December 19, 2016 regular meeting minutes
6. Special Matters: None
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases: None
10. Consent Agenda - Items Requiring a Majority Vote:
    A. Agreements with Xcel Energy for the burial of power lines along Plymouth Road and Crosby Road
    B. Resolution designating an Acting Mayor and Alternate Acting Mayor for 2017
    C. Resolution approving a conditional use permit, with parking variance, for River Valley Church at 10801 Red Circle Drive
11. Consent Agenda - Items Requiring Five Votes: None
12. Introduction of Ordinances:
    A. Ordinance amending permit fees, land use application fee and mechanical contractor licenses
       Recommendation: Introduce the ordinance (4 votes)
13. **Public Hearings:**

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

   Recommendation: Adopt the ordinance (7 votes)

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

   Recommendation: Continue the public hearing and grant the license (5 votes)

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

   Recommendation: Hold the public hearing and adopt the resolutions approving the request (5 votes)

14. **Other Business:**

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

   Recommendation: Approve the agreements (4 votes)

B. Extension for items concerning the Music Barn Apartments, at 5740 and 5750 Shady Oak Road

   Recommendation: Approve the extension (4 votes)

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

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

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

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

   Recommendation: Adopt the resolution approving the request (5 votes)

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

   Recommendation: Adopt the ordinance (4 votes)
15. Appointments and Reappointments: None

16. Adjournment
Minutes
Minnetonka City Council
Monday, December 19, 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 Brad Wiersum, Tim Bergstedt, Tony Wagner, Bob Ellingson, Dick Allendorf, Patty Acomb, and Terry Schneider were present.

4. Approval of Agenda

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

5. Approval of Minutes: December 5, 2016

Allendorf moved, Acomb seconded a motion to approve the December 5, 2016 regular council meeting minutes, as presented. All voted “yes.” Motion carried.

6. Special Matters: None

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on upcoming meetings.

8. Citizens Wishing to Discuss Matters not on the Agenda

9. Bids and Purchases:

A. Approval of Avolve Software purchase

Barone gave the staff report.

Acomb moved, Wiersum seconded a motion to approve the contract to purchase Avolve Software. All voted “yes.” Motion carried.
10. Consent Agenda – Items Requiring a Majority Vote:

A. 2017 general liability insurance and workers’ compensation renewals

Allendorf moved, Wagner seconded a motion to authorize renewal of the city’s insurance policies through LMCIT for package policies with the following options:
1) $25,000/$150,000 deductible for the package policies
2) 100% Open Meeting law coverage
3) No waiver of statutory limits
And the renewal of the LMCIT workers’ compensation policy with a $10,000 deductible. All voted “yes.” Motion carried.

B. Designation of the city’s official newspaper for 2017

Allendorf moved, Wagner seconded a motion to designate Lakeshore Weekly News as the city’s official newspaper for 2017 legal notices. All voted “yes.” Motion carried.

C. City manager performance pay

Allendorf moved, Acomb seconded a motion to approve a lump sum merit pay amount of $1,430.27. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes:

A. Resolution accepting gifts, donations and sponsorships given to the city during 2016

Allendorf moved, Wiersum seconded a motion to adopt resolution 2016-135 to accept the list of gifts, donation and sponsorships for 2016, which have a total estimated value of $187,223.55. All voted “yes.” Motion carried.

B. Applications for renewed precious metal and secondhand dealer licenses for 2017

Allendorf moved, Wiersum seconded a motion to approve the precious metal and secondhand dealer licenses for Evergreene Jewelers; Ideal Diamond, Inc.; Best Buy #4; Best Buy Mobile #2975; Best Buy #2621; and Shane Co. for license year January 1, 2017 through December 31, 2017. Wiersum, Bergstedt, Ellingson, Allendorf, Acomb, and Schneider voted “yes.” Wagner abstained. Motion carried.
12. Introduction of Ordinances: None

13. Public Hearings:

A. Resolutions regarding utility related items:

1) Municipal water and sanitary sewer rates;
2) Municipal water and sanitary sewer connection fees;
3) Recycling fee; and
4) Stormwater rates.

Finance Director Merrill King gave the staff report.

Schneider opened the public hearing at 6:48 p.m. No one spoke. He closed the public hearing at 6:48 p.m.

Allendorf said he knew the water and utility rates needed to increase but the level of increase, around $72 per year, might cause concerns. He suggested not only including information in the city’s newsletter but also including an insert in the utility bills. The increase won’t hit people until they see the bill and he said when it did hit, people would expect a good explanation for the increase.

Wiersum moved, Acomb seconded a motion to adopt resolution 2016-136 approving municipal water and sanitary sewer rates; Resolution 2016-137 approving municipal water and sanitary sewer connection rates; Resolution 2016-138 approving the recycling fee; and Resolution 2016-139 approving stormwater rates effective January 1, 2017. All voted “yes.” Motion carried.

B. On-Sale & Sunday On-Sale Intoxicating liquor license for Fun Eats and Drinks, LLC (dba Champps), 1641 Plymouth Road

Barone gave the staff report.

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

Wagner moved, Bergstedt seconded a motion to grant the license and renew the license for 2017. All voted “yes.” Motion carried.

14. Other Business:

A. Resolution amending loan documents executed in connection with the multifamily housing revenue obligations issued for the benefit of
CHC Minnetonka Affordable Housing LLC; and authorizing the execution and delivery of an amendment document in connection with the request

Community Development Director Julie Wischnack gave the staff report.

Gina Fiorini, from Kennedy and Graven, said in May 2016 the council approved the issuance of conduit revenue bonds for the multi-family housing project. The proceeds were to be loaned to the Minnetonka Affordable Housing LLC to construct the Music Barn apartments, acquire and rehab the Elmbrooke Apartments, and rehab eight units in Golden Valley. On August 8, 2016, the council approved short term financing for the project. The plan was the developer would refund the short term financing with long term housing revenue bonds sometime before the end of the year. As part of the short term financing there was a provision establishing a mandatory redemption date of December 31, 2016. The borrower was now requesting the redemption date be extended to May 31, 2017. They expected to pay sometime early in the year. The permanent part of the project would be secured by a FHA mortgage and would require HUD approval. There also was a new tax credit investor involved. The bonds would continue to be secured solely by the revenues from the facilities.

Wiersum asked if the change in administration would exacerbate the amount of time to get the federal approvals done. Fiorini said she was not sure but did not think anything major would change before May.

Allendorf asked what the schedule was to begin construction on the project. Wischnack said she estimated it would begin in the spring. Staff would hold a neighborhood meeting to bring the neighbors up to date on the project.

Bergstedt moved, Wagner seconded a motion to adopt resolution 2016-140 authorizing the execution of related documents that include Master Amendment Agreement and Amendments to Note. All voted “yes.” Motion carried.

B. Items concerning Groveland Elementary School at 17310 Minnetonka Blvd and 3217 Groveland School Road:

1) Conditional use permit
2) Site and Building Plan Review
3) Comprehensive Plan Amendment
4) Resolution designating no parking area
City Planner Loren Gordon gave the staff report.

Wagner asked for information about the new sidewalk and curbing in the area. Gordon said the current curbing ends just north of the parking lot on the east side and extends a little further on the west side. Staff would like the school district to build the sidewalk from Minnetonka Boulevard up to the new parking lot. The timing would need to be reviewed because of 2021 street improvements in the area. Wagner said he drives by the school every day and noted there were drainage issues in the area. While he appreciated the parking restrictions, he had some concerns about how it would functionally work. When he drops his daughter off at the school between 7:15 and 7:40, there were usually one to eight other cars there and when he picks his daughter up there were usually four to 12 cars. Parents have to go inside and sign that their son/daughter is being dropped off or picked up. The resolution indicated the parking restrictions would begin immediately upon council approval. He thought it would be better to wait until a broader traffic management plan has been updated.

Wiersum said it was well known that the parking in the Sanctuary neighborhood was very tight. He questioned if there were any discussions about Sanctuary having some access to the school parking lot if there was a need. Gordon said the topic was discussed over the years as Sanctuary was built out. Concerns are still being raised about the lack of parking on the private street. What has been discussed in the past was on street parking on Groveland School Road. He wasn’t sure what the conversations were between the residents and the school district. Wiersum recommended if the issue comes up, that some creativity and flexibility be allowed to address the problem.

Schneider said in situations where residential property abuts a street with no parking typically if there was a special event like a wedding reception or graduation, the residents could obtain a special permit that allowed parking for a limited time. He said it would be nice to alert this neighborhood of that option. This wouldn’t address the daily issue of Sanctuary needing more parking.

Acomb asked if parents could park in the parking lot when signing their children in and out. Wagner indicated that staff parking fills the lot. His thought was once the changes were complete, the parking issue would be revisited. Acomb said for her the safety issue was the top issue to be addressed. At the planning commission hearing, neighborhood residents raised safety concerns about all the cars in the area and parents dropping off and picking up students. Her question for the school district was if there
were parking spaces in the parking lot that could be designated for
parents dropping off and picking up students.

Schneider said during the interim before the traffic management plan
was done, if signs were posted and no parking was enforced for the west
side parking, but short term parking was allowed on the east side for a
certain distance, drivers would drive around so their door wasn’t opening
on to the street. This might be a reasonable accommodation that could be made
until a long term permanent plan was developed.

Paul Bourgeois, executive director for finance and operations for the
Minnetonka School District, said in terms of the overall plan the district
was open to doing whatever it took to alleviate the concern. There would
be ample capacity to solve the problem once the parking lot was built. In
the meantime, there were around five more months left in the existing
school year where the existing setup would still be used. The district would
be open to interim solutions. He noted there were three stormwater ponds
included in the project so a lot of the current runoff would be absorbed. He
thought the sidewalk was a good improvement. Agreements were in place
with St. Luke’s.

Wiersum asked for more information about the timing. Bourgeois said the
hope was for the contractor to start as soon as possible once construction
conditions allow. The district is looking at bidding the project out with a
June 30 substantial completion date.

Acomb applauded the district and church for working together in coming
up with a win-win for both. There were many improvements including
pedestrian safety and stormwater treatment improvements.

Wiersum moved, Wagner seconded a motion to adopt resolution 2016-
141 approving a conditional use permit and site and building plan review;
adopt resolution 2016-142 approving a comprehensive guide plan
amendment from low density residential to institutional. All voted “yes.”
Motion carried.

15. Appointments and Reappointments:

A. Appointment to the senior citizen advisory board

Schneider moved, Allendorf seconded a motion to approve the
appointment of Frederick Leverentz to the senior citizen advisory board, to
serve a two-year term, effective December 20, 2016 and expiring on May
31, 2018. All voted “yes.” Motion carried.
16. Closed meeting as permitted by the attorney-client privilege (Minn. Stat. 13D.05, subd. 3) to discuss pending litigation

Heine gave a staff report.

Schneider moved, Bergstedt seconded a motion to convene in a closed session to discuss Minnesota Fine Wines & Spirits' appeal of the city's decision not to grant a liquor license. All voted “yes.” Motion carried.

17. Adjournment

Bergstedt moved, Wiersum seconded a motion to adjourn the meeting at 8:37 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
City Council Agenda Item #10A
Meeting of January 9, 2017

Brief Description: Agreements with Xcel Energy for the burial of power lines along Plymouth Road and Crosby Road

Recommended Action: Approve the agreements and amend the CIP

Introduction

The burial of overhead utility lines and upgrades to lighting is consistent with Minnetonka’s community vision and strategic goals for reducing the community’s use of energy as well as maintaining and improving its visual image along major road corridors. Overhead burial within the city also helps to reduce outages during major storm events and allows additional space for pedestrian improvements in these areas.

Background and Scheduled Improvements

Plymouth Road
On April 11, 2016, Council adopted a resolution authorizing preparation of plans and specifications for the Ridgehaven Lane/Ridgedale Drive (Cartway Lane) and Plymouth Road Improvements project to provide road, infrastructure, and pedestrian improvements.

Staff has been working with Xcel Energy since April to determine a feasible and effective alignment to bury overhead utilities from Plymouth Road to south of Ridgedale Drive. The proposed underground alignment is challenging due to limited right of way and therefore, staff has worked with Xcel Energy to split the burial into two phases as a result. The first phase is proposed from I-394 to the south side of the Highland Bank redevelopment site and the second phase is proposed to continue from the Highland Bank site to 600-ft south of Ridgedale Drive. Phase II would be brought to council later this spring or early summer.

Crosby Road
On October 24, 2016, Council adopted a resolution authorizing the preparation of plans and specifications for the 2017 Street Rehabilitation project on Crosby Road. The project includes reconstruction of the roadway and utilities, along with the burial of overhead power throughout the corridor.

Staff has been working with Xcel Energy since October to finalize their design for burying overhead power along Crosby Road. In an effort to coordinate and complete this work as efficiently as possible in conjunction with the street project, the overhead burial is proposed to begin in late February or early March. This will require isolated areas of tree removal ahead of the project contract award; which in turn, will allow the overall construction of the Crosby Road project to be accelerated.
Agreements with Xcel Energy

The city received a statement of work for each project as attached. These statements of work require city payment of 50-percent of the estimated costs up front before work begins. Once a project is complete, Xcel Energy bills the city for the remainder of the actual project costs. These costs are planned to be paid from the city’s Electric Franchise Fee Fund.

Xcel Energy is requesting execution of one of their standard agreements for each project that outlines the conditions for overhead power line burial along these corridors. The city attorney has reviewed these agreements.

Estimated Project Costs and Funding

The total estimated project costs, including construction, engineering, administration and contingency for the overhead burial work, as well as funding sources are shown below. The funds are included in the 2017-2021 Capital Improvements Program (CIP).

<table>
<thead>
<tr>
<th>Project</th>
<th>Budget Amount</th>
<th>Proposed Funding</th>
<th>Expense</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plymouth Road (Phase I)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electric Franchise Fund</td>
<td>$1,400,000</td>
<td>$150,000</td>
<td>$150,000</td>
</tr>
<tr>
<td>Crosby Road</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electric Franchise Fund</td>
<td>$400,000</td>
<td>$500,000</td>
<td>$500,000</td>
</tr>
</tbody>
</table>

On October 24, 2016, council approved a budget of $400,000 for overhead burial on Crosby Road. At this time, staff is requesting an amendment to the CIP to cover the higher costs from Xcel Energy and other expenses related to the burial work for this project. Fund balances in the Electric Franchise Fund can support the additional costs.

As a note, Plymouth Road Phase II is not anticipated to use the remainder of the budget amount for this item.

Recommendation

1) Authorize the mayor and city manager to execute an agreement with Xcel Energy in the estimated amount of $110,480.07 to provide burial of overhead utility lines for Phase I of the Plymouth Road and Ridgehaven Lane Improvements Project.
2) Authorize the mayor and city manager to execute an agreement with Xcel Energy in the estimated amount of $453,661.77 to provide burial of overhead utility lines as part of the 2017 Street Rehabilitation Project on Crosby Road.
3) Amend the CIP.
Submitted through:
   Geralyn Barone, Minnetonka City Manager
   Will Manchester P.E., Director of Engineering

Originated by:
   Phil Olson, P.E., Engineering Project Manager
   Jeremy Koenen, P.E., Assistant City Engineer
Legend

- Proposed Project Area
- Overhead Power Burial

This map is for illustrative purposes only.
STATEMENT OF WORK REQUESTED
BY COUNTY, CITY, TOWN OR TOWNSHIP
FOR PROJECTS WITH ESTIMATED
CONSTRUCTION COSTS OVER $25,000

DATE: January 5th, 2017
WORK REQUESTED BY: City of Minnetonka
WORK LOCATION: Plymouth Rd (13000 Ridgedale Dr to 1810 Plymouth Rd)
ADDRESS: 1700 Plymouth Rd
Minnetonka, MN 55305

CONSISTING OF:

The following shall constitute the “Work” to be performed by Xcel Energy:

The City of Minnetonka has requested that Xcel Energy replace the existing overhead facilities with a new underground system along Plymouth Rd, from just north of the property at 13000 Ridgedale Dr heading south to the property of 1810 Plymouth Rd. The cost to remove overhead distribution facilities and install new underground facilities for this project is $110,480.07

The primary cost elements included in this cost are as follows:
A) Directional boring of 2,000’ of 3 phase primary cable.
B) Installation of a PMH-11 Switch Center to maintain the existing underground system.
C) Installation of two new poles at either extent of new underground facilities.
D) Removal of the existing overhead system.

Municipality agrees to pay Xcel Energy for Xcel Energy’s actual total cost of the Work, subject to the Municipality’s right of cost review in accordance with the terms of this Statement of Work (“Statement”). The current estimate for the Work is $110,480.07 (“Estimate”). The Estimate is comprised of the following major components:

<table>
<thead>
<tr>
<th>Component</th>
<th>Sub-estimate (Material and Labor)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A) Primary cable</td>
<td>$60,000</td>
</tr>
<tr>
<td>B) PMH-11 Switch Center</td>
<td>$27,000</td>
</tr>
<tr>
<td>C) Two new poles</td>
<td>$17,000</td>
</tr>
<tr>
<td>D) Removal</td>
<td>$6,000</td>
</tr>
</tbody>
</table>

Total: $110,480.07

The undersigned hereby requests and authorizes Xcel Energy to perform the Work. In consideration thereof and in lieu of a City Requested Facilities Surcharge, the City agrees to pay Xcel Energy on the date of this Statement an initial payment of ($ 55,240.04 _______) which is fifty (50) percent of the Estimate (“Down Payment”).

All Work shall be performed pursuant to good utility practice (as that term is generally understood in the utility industry) utilizing Xcel Energy’s commercially reasonable efforts to complete the Work within the Estimate under Xcel Energy’s then current design standards, operating procedures, and safety procedures. The facilities installed or removed by Xcel Energy shall be the property of Xcel Energy and any payment by Municipality shall not entitle Municipality to any ownership interest or right therein. Municipality’s and Xcel Energy’s rights and obligations with respect to the facilities and services provided through the facilities are subject to the terms of this Statement, as well as the additional terms and conditions provided in the Xcel Energy Electric Rate Book, as now exists or may hereafter be changed, on file with the Minnesota Public Utilities Commission.

In advance of the Work, Municipality agrees to inform Xcel Energy of any Municipality-related or other projects that may affect the Work. During the Work, Xcel Energy agrees to provide the Municipality notice of any proposed change orders increasing the cost of the Work. Municipality acknowledges that change orders that result from requests of Municipality with respect to the performance of the Work or the scope of the Work may increase Xcel Energy’s actual cost of the Work. Upon completion of the
Work, Xcel Energy agrees to provide Municipality with final detail of the actual work performed and the actual costs of such work performed. Xcel Energy will identify any information included in such information that is non-public pursuant to Minn. Stat. Ch. 13. Upon request by Municipality, Xcel Energy shall provide Municipality the opportunity to review more detailed documentation of the Work performed and related costs.

Xcel Energy agrees to keep Municipality reasonably informed with respect to Xcel Energy's performance of the Work, consistent with good utility practice and will, at minimum, apprise Municipality when half of the Estimate has been spent and when ninety percent of the Estimate has been spent. Xcel Energy also agrees to timely notify the Municipality when the Work is substantially complete.

Upon receipt of the invoice for the cost balance, the City shall have the right to require that Xcel Energy provide reasonable cost support documentation, including change orders, for its actual total cost of the Work. The Municipality shall pay the balance of cost not subject to reasonable dispute within the timeframe set forth in the Minnesota Municipal Prompt Payment Act, Minn. Stat. 471.425. Xcel Energy and Municipality shall reasonably try to resolve any disputes with respect to costs incurred in performance of the Work in good faith. In the event Xcel Energy and Municipality are unable to resolve any such disputes, the parties may seek redress in a forum with jurisdiction over the dispute.

This Statement of Work is agreed to by Xcel Energy and Municipality and receipt of the above Down Payment of $55,240.04 is hereby acknowledged on behalf of Xcel Energy.

Northern States Power Company, a Minnesota corporation ("Xcel Energy")

City of Minnetonka

Print Full Name and Title

Signature

Address: 5309 W. 70th St

Edina, MN 55439

Phone: (952) 380-2637

E-mail: Jacob.r.mock@xcelenergy.com

Xcel Energy Work Order # 12454652

Estimated Construction $104,480.07

Estimated Removal $6,000

Estimated Total $110,480.07

Form 17-7012
STATEMENT OF WORK REQUESTED
BY COUNTY, CITY, TOWN OR TOWNSHIP
FOR PROJECTS WITH ESTIMATED
CONSTRUCTION COSTS OVER $25,000

DATE: December 19, 2016
WORK REQUESTED BY: City of Minnetonka
WORK LOCATION: McGinty & Crosby Road, Minnetonka
ADDRESS: Near Address:2301 Crosby Road, Minnetonka

CONSISTING OF:

The following shall constitute the "Work" to be performed by Xcel Energy:

City of Minnetonka has requested that the existing overhead feeder line be converted to underground. Xcel Energy will stake equipment locations prior to construction and will require for City to agree with route along with equipment locations. Per this agreement, City agrees to pay 50% of the total cost prior to construction starting and when the project is completed, agree to pay actual costs of remaining balance. This cost may be higher or lower than attached total estimate. Note that the cost associated with this document includes the winter construction of $22,800.

Municipality agrees to pay Xcel Energy for Xcel Energy's actual total cost of the Work, subject to the Municipality's right of cost review in accordance with the terms of this Statement of Work ("Statement"). The current estimate for the Work is $\underline{453,661.77}$ ("Estimate"). The estimate is compromised of the following major components:
A) Bore in underground primary and secondary wires
B) The installation of (2) underground switchgears (PMH-9)
C) Directional bore of new 750AL feeder and 1/0AL tap level primary conductors
D) Installation of switch gear centers, load break centers, and padmount transformers necessary to maintain system integrity and services to existing customers.
E) Removal of the existing overhead system
F) Winter construction costs of $22,800

<table>
<thead>
<tr>
<th>Component</th>
<th>Sub-estimate</th>
</tr>
</thead>
</table>

The undersigned hereby requests and authorizes Xcel Energy to perform the Work. In consideration thereof and in lieu of a City Requested Facilities Surcharge, the City agrees to pay Xcel Energy on the "Statement". The current estimate for the Work is ($226,830.88) which is fifty (50) percent of the Estimate ("Down Payment").

All Work shall be performed pursuant to good utility practice (as that term is generally understood in the utility industry) utilizing Xcel Energy's commercially reasonable efforts to complete the Work within the Estimate under Xcel Energy's then current design standards, operating procedures, and safety procedures. The facilities installed or removed by Xcel Energy shall be the property of Xcel Energy and any payment by Municipality shall not entitle Municipality to any ownership interest or right therin. Municipality's and Xcel Energy's rights and obligations with respect to the facilities and services provided through the facilities are subject to the terms of this Statement, as well as the additional terms and conditions provided in the Xcel Energy Electric Rate Book, as now exists or may hereafter be changed, on file with the Minnesota Public Utilities Commission.

In advance of the Work, Municipality agrees to inform Xcel Energy of any Municipality-related or other projects that may affect the Work. During the Work, Xcel Energy agrees to provide the Municipality notice of any proposed change orders increasing the cost of the Work. Municipality acknowledges that change orders that result from request of Municipality with respect to the performance of the Work or the scope of the Work may increase Xcel Energy's actual cost of the Work. Upon Completion of the Work, Xcel Energy agrees to provide Municipality with final detail of the actual work performed and the actual costs of such work performed. Xcel Energy will identify any information included in such information that is non-public pursuant to Minn. Stat. Ch. 13. Upon request by Municipality, Xcel Energy shall provide Municipality the opportunity to review more detailed documentation of the Work performed and related costs.

Xcel Energy agrees to keep Municipality reasonably informed with respect to Xcel Energy's performance of the Work, consistent with good utility practice and will, at minimum, apprise Municipality when half of the Estimate has been spent and when ninety percent of the Estimate has been spent. Xcel Energy also agrees to timely notify the Municipality when the Work is substantially complete.
Upon receipt of the invoice for the cost balance, the City shall have the right to require that Xcel Energy provide reasonable cost support documentation, including change orders, for its actual total cost of the Work. The Municipality shall pay the balance of cost not subject to reasonable dispute within the timeframe set forth in the Minnesota Municipal Prompt Payment Act, Minn. Stat. 471-425. Xcel Energy and Municipality shall reasonably try to resolve any disputes with respect to costs incurred in performance of the Work in good faith. In the event Xcel Energy and Municipality are unable to resolve any such disputes, the parties may seek redress in a forum with jurisdiction over the dispute.

This Statement of Work is agreed to by Xcel Energy and Municipality and receipt of the above Down Payment of $ 226,830.88 is hereby acknowledged on behalf of Xcel Energy.

Northern States Power Company
a Minnesota corporation ("Xcel Energy")

Brian Broucek/Design Manager
Print Full Name and Title

City of Minnetonka

Philip Olson
Print Full Name and Title (if applicable)

________________________________________________________________________
Signature

Signature of Authorized Representative

Address: 710 S Pine Street
Waconia, MN 55387
Phone: 952-470-3358
E-mail: troy.miller@xcelenergy.com

Address: 14600 Minnetonka Blvd
Minnetonka, MN 55345
Phone: 952-939-8239
E-mail: polson@minnetonka.com

Xcel Energy Work Order # 12466428

Estimated Construction $ 436,581.22
Estimated Removal $ 17080.55

Estimated Total $ 453,661.77

Form 17-7012
Brief Description: Resolution designating an Acting Mayor and Alternate Acting Mayor for 2017

Recommended Action: Make designation and adopt resolution

Background:

The City Charter requires that the city council choose from its members a person to serve as Acting Mayor in the Mayor’s absence or disability. In the past, the city council has also chosen an Alternate Acting Mayor to serve in the event the Mayor and Acting Mayor are unavailable.

Here is a list of the designations for the past five years:
- 2016 – Allendorf acting, Acomb alternate
- 2015 – Bergstedt acting, Allendorf alternate
- 2014 – Wagner acting, Allendorf alternate
- 2013 – Wiersum acting, Wagner alternate
- 2012 – Hiller acting, Wiersum alternate

Recommendation:

Attached is a resolution that may be used to designate the Acting Mayor and Alternate Acting Mayor. After the city council has made these designations, the appropriate blank areas will be completed.

Based on the foregoing, the city council is requested to adopt the following motion (filling in the appropriate designations.)

That the resolution designating Council Member _______ Acting Mayor and Council Member __________ as Alternate Acting Mayor for the year 2017 is hereby adopted.

Submitted through: Geralyn Barone, City Manager
Perry Vetter, Assistant City Manager

Originated by: David Maeda, City Clerk
Resolution No. 2017-

Resolution designating the acting mayor and alternate acting mayor

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

Section 1. Background.

1.01. Section 2.06 of the Minnetonka City Charter authorizes the City Council to designate an Acting Mayor to serve in the absence of the Mayor.

1.02. Because there may be times when the Mayor and designated Acting Mayor are both out of the city, the designation of another councilmember is advised.

Section 2. Council Action.

2.01. For the calendar year 2017, Council Member ____ is designated as the Acting Mayor for the City of Minnetonka, to serve in the absence of the Mayor.

2.02. For the calendar year 2017, Council Member _____ is designated as the Alternate Acting Mayor for the City of Minnetonka, to serve in the absence of the Mayor and Acting Mayor.

Adopted by the City Council of the City of Minnetonka, Minnesota, on January 9, 2017.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption:  Seconded by:  Voted in favor of:  Voted against:  Abstained:  Absent:  Resolution adopted
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on January 9, 2017.

________________________________________
David E. Maeda, City Clerk
City Council Agenda Item #10C
Meeting of January 9, 2017

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

Recommendation
Adopt the resolution approving the conditional use permit, with variance

Background
River Valley Church currently has eight campus locations in Minnesota. The church is proposing to relocate the existing Edina campus to a vacant office building at 10801 Red Circle Drive. To accommodate the church, three small building additions are proposed and its interior would be completely remodeled. The proposal requires approval of a conditional use permit, with parking variance.

Planning Commission Hearing
The planning commission considered the proposal on December 15, 2016. The staff report from that meeting and various plans and documents describing the proposal are attached. Staff recommended approval, noting:

1) The proposed use is reasonable. Approval of a conditional use permit for a religious institution would be consistent with several other recent approvals in the OPUS area.

2) The requested parking variance is reasonable. Though the number of parking stalls available on site would be less than required by city code, the number would exceed the amount suggested by the Institute of Transportation Engineers (ITE) and would be similar to the level of parking provided at other River Valley Church campuses.

At the commission meeting, a public hearing was opened to take comment. However, no comments were received.

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

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

Staff Recommendation

Staff recommends the city council adopt the resolution approving a conditional use permit, with parking variance, for River Valley Church at 10801 Red Circle Drive.

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

Originator:  Susan Thomas, AICP, Assistant City Planner
Brief Description  A conditional use permit, with parking variance, for River Valley Church at 10801 Red Circle Drive

Recommendation  Recommend the city council approve the request

Introduction

River Valley Church is requesting a conditional use permit to operate a religious institution within the existing building at 10801 Red Circle Drive. River Valley Church is a multi-site church. The religious institution started in Apple Valley and now has eight Minnesota locations. The River Valley Church Campus in Edina will be relocating to this building if the proposal is approved.

As a part of this application the applicant is proposing three additions to the subject building. These additions include a 1,200 square foot lounge, a 1,150 square foot classroom, and a 250 square foot entry. (See attachments.) These additions will require a building permit, but do not require any special zoning approvals. At full build-out the building would include: (1) main worship space; (2) youth worship space; (3) lounges; (4) classrooms; (5) childcare facilities; (6) offices; and (7) multiple lobbies. The interior of the building would be remodeled to accommodate the various spaces. (See attachments).

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 both the primary questions associated with the applicant’s request and staff’s findings:

1. Is the use generally reasonable?

Yes. The proposed use of the building is reasonable and would generally meet standards outlined in city code. The applicant has proposed using the site for a religious gathering space, religious education, youth events, and offices for church employees and members. While the zoning district does not contain any provisions for schools, religious institutions, or gathering spaces, the ordinance does allow – as conditionally-permitted uses – public buildings and “other uses similar to those permitted in this section, as determined by the city.”

Based on the programming of the site, staff determined it would be appropriate to review the proposal under the “other uses similar to” provision.
On several occasions and in several zoning districts, the city has reviewed day
cares, schools, religious institutions, and gathering spaces under this "other uses
similar to" provision. The city has found that these types of uses operate similar to
public buildings in which large groups of people gather at specified times for a
specified purpose. Public buildings are a conditionally permitted use in the I-1
zoning district.

The only conditional use permit standard required by ordinance for public buildings
is site and building plan approval. With the exception of the parking variance, the
proposal would meet all of the required standards for site and building plan
approval. The standards and findings are outlined in the “Supporting Information”
section of this report.

2. Is the parking variance reasonable?

Yes. The city’s parking ordinance calculates minimum parking requirements for
religious institutions based on the number of seats in the worship area (one parking
stall per 2.5 seats). The proposal has identified two worship spaces, one for main
worship and another for youth worship. Staff has omitted the seats in the youth
worship space from the parking calculation under the assumption, confirmed by
the applicant, that the youth using the space are unable to drive a vehicle to the
site and would not add to the parking demand. The main worship area has space
for 1,000 seats. By ordinance, the applicant’s proposal would require a minimum
of 400 stalls.

Currently, there are a total of 246 spaces available on site. However, the applicant
has proposed to restripe the parking lot to create 69 compact car parking spaces,
which is permitted by city ordinance. Restriping would add additional parking
spaces to the site without increasing the hard surface area of the parking lot. The
total parking proposed would be 291 total spaces. This would provide a parking
ratio of just under one parking space for every 3.5 worship seats, requiring a
parking variance.

Based on a parking study completed by the Institute of Transportation Engineers
(ITE), the proposed parking plan would adequately accommodate the parking
demand generated by the site. Per this study, the peak period parking demand
was just over one parking space for every 4 worship seats for the highest demand
observed. (See table below).

<table>
<thead>
<tr>
<th>Parking Standard</th>
<th>Parking requirement</th>
<th>Number of Spaces Needed for Site</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Ordinance</td>
<td>1 space for every 2.5 seats</td>
<td>400 spaces</td>
</tr>
<tr>
<td>ITE: Highest Demand</td>
<td>1 space for every 4.2</td>
<td>238 spaces</td>
</tr>
<tr>
<td>ITE: 85th percentile</td>
<td>1 space for every 4.8 seats</td>
<td>208 spaces</td>
</tr>
<tr>
<td>Proposed</td>
<td>1 space for every 3.5 seats</td>
<td>291 spaces</td>
</tr>
</tbody>
</table>
In addition to the ITE study, the applicant has provided parking ratio data for three current River Valley Church sites located in Apple Valley, Minnetrista, and Shakopee. At these sites the church has parking ratios of one parking space for every 3.4–3.6 worship seats. (See attachments.) The ratios provided are similar to the ratio proposed for the subject site and the applicant has stated that parking issues have not occurred at these sites. Staff contacted the local government jurisdictions where these churches are located and was informed that there have not been any parking complaints.

Staff finds that the proposed parking variance is reasonable as:

- The parking study completed by ITE provides evidence that the site would adequately accommodate the parking demand of the site.
- The city has granted parking ratio variances for religious institutions and other uses based on parking studies and other evidence.
- Parking examples, submitted by the applicant, provide evidence that the proposed plan would adequately accommodate the parking demand of the site.

3. Would the specific proposal be appropriate for the site?

Yes. The proposed facility would be appropriate for the site. The subject property is located in a mixed-use area of residential, industrial, and commercial land uses. The proposal would occupy a vacant building within the Opus 2 Fourth Addition.

Traffic and Transportation

Properties within the Opus Overlay District are allocated a maximum number of p.m. peak hour trips to avoid overloading the Bren Road and Highway 169 interchange. The allocated number is not the number of trips at the property driveway. Rather, it is the number of trips anticipated to use the interchange based on the property’s proximity to the interchange. A redevelopment of property within the overlay district that increases the amount of trips generated to the interchange above what is allocated is required to pay a trip generation fee. By ordinance, the subject property is allocated a maximum of 14 p.m. peak hour trips.

The religious institution, programming, and offices would not generate more than 14 trips during the p.m. peak hours. P.M. peak hours are weekdays, 4 p.m. to 6 p.m. The applicant has informed staff that there would be approximately 10 office employees working at the subject site Monday through Friday (with approximate work hours of 9:00 a.m. to 5:00 p.m.). These employees would produce less than the allowable maximum p.m. peak hour trips. Other religious services and programming would occur on weekends or after 6:00 p.m. on weekdays, which are outside of the p.m. peak hour.
Summary Comments

Staff finds that the proposal would be an appropriate use of the site. While the site would operate differently than an industrial use, the proposal would not have significant adverse impacts on the surrounding area.

Staff Recommendation

Recommend that the city council adopt the resolution approving a conditional use permit, with parking variance, for River Valley Church at 10801 Red Circle Drive.

Originator: Drew Ingvalson, Planner
Through: Loren Gordon, AICP, City Planner
## Supporting Information

<table>
<thead>
<tr>
<th><strong>Project No.</strong></th>
<th>90040.16a</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Property</strong></td>
<td>10801 Red Circle Drive</td>
</tr>
<tr>
<td><strong>Applicant</strong></td>
<td>River Valley Church</td>
</tr>
<tr>
<td><strong>Surrounding Land Uses</strong></td>
<td></td>
</tr>
<tr>
<td>Northerly:</td>
<td>Transition Networks, Inc., office building, zoned PUD, guided for mixed use</td>
</tr>
<tr>
<td>Easterly:</td>
<td>Network Investments, zoned I-1 and guided for mixed use</td>
</tr>
<tr>
<td>Southerly:</td>
<td>Shady Oak Office Center, office building, zoned B-1 and guided for mixed use</td>
</tr>
<tr>
<td>Westerly:</td>
<td>Jimmy’s restaurant, zoned PUD and guided for mixed use</td>
</tr>
</tbody>
</table>
| **Planning**        | Zoning: I-1 Industrial District  
|                     | Guide Plan designation: Mixed Use |
| **Site features**   | The subject property is part of the Opus 2 Fourth Addition. The property is just over 4.1 acres in size and is improved with a two-story building. The existing building’s gross area is 60,078 square feet. In addition, there are 246 parking stalls located on the east and west sides of the building. |
| **Proposed Use**    | The applicant is proposing to operate a religious facility at the subject site. As a part of this project, the applicant also proposes to construct three additions that would include a:  
|                     | • 1,200 square foot lounge;  
|                     | • 1,150 square foot classroom; and  
|                     | • 250 square foot entry.  
<p>|                     | In addition to the exterior changes to the building, the applicant has also proposed to make interior changes to the building. Specifically, the interior construction would include: (1) main worship space; (2) youth worship space; (3) lounges; (4) classrooms; (5) childcare facilities; (6) offices; and (7) multiple lobbies. The interior of the building would be remodeled to accommodate the various uses. (See attachments). |
| <strong>Site Programming</strong>| As part of the proposal the applicant has also submitted information regarding their programing for the site. In addition to hosting Sunday morning worship, the River Valley Church also plans on hosting: |</p>
<table>
<thead>
<tr>
<th>Event/Site Users</th>
<th>Days/Time</th>
<th>Approximate Number of attendees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Youth Events</td>
<td>Sundays, 6:00 p.m. – 8:00 p.m.</td>
<td>30 people</td>
</tr>
<tr>
<td>Women’s Event “Sisterhood”</td>
<td>Mondays, 6:30 p.m. – 8:00 p.m.</td>
<td>80 people</td>
</tr>
<tr>
<td>Adult Bible Study “Alpha”</td>
<td>Tuesdays 6:00 p.m. – 8:00 p.m.</td>
<td>200 people</td>
</tr>
<tr>
<td>Youth Events</td>
<td>Wednesday, 6:30 p.m. – 8:30 p.m.</td>
<td>100 people</td>
</tr>
<tr>
<td>Office Employees</td>
<td>Monday through Friday, 9:00 a.m. – 5:00 p.m.</td>
<td>10 people</td>
</tr>
</tbody>
</table>

The information submitted by the applicant is based on current numbers and event times at the River Valley Church: Edina Campus, which will be relocating the subject site if approved. (See attached.)

**Parking**

In the past, the city has issued parking variances to religious institutions and other uses. For parking ratio variance requests, the city has researched parking studies, similar site examples, and other information to ensure that there would be adequate parking for the proposed use.

Below is a table that provides information about parking and church sizes at other River Valley Church sites. (Information submitted by applicant).

<table>
<thead>
<tr>
<th>Religious Facility</th>
<th>Main Auditorium Seating</th>
<th>Spaces</th>
<th>Ratio</th>
<th>City Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shakopee Campus</td>
<td>1,000 seats</td>
<td>295</td>
<td>1 space per 3.4 seats</td>
<td>1 space per 4 seats</td>
</tr>
<tr>
<td>Apple Valley Campus</td>
<td>1,300 seats</td>
<td>361</td>
<td>1 space per 3.6 seats</td>
<td>1 space per 3.5 seats</td>
</tr>
<tr>
<td>Minnetrista Campus</td>
<td>400 seats</td>
<td>112</td>
<td>1 space per 3.6 seats</td>
<td>1 space per 4 seats</td>
</tr>
<tr>
<td>Minnetonka Campus (proposed)</td>
<td>1,000 seats</td>
<td>291</td>
<td>1 space per 3.5 seats</td>
<td>1 space per 2.5 seats</td>
</tr>
</tbody>
</table>

The applicant is currently working with nearby property owners to acquire a parking agreement to use their parking lots for service spillover parking. Approval of a parking agreement is not a
condition of approval and has not been considered as a part of this review.

As stated previously, the proposed parking for the subject site and use is adequate based on ITE demand data. ITE suggests that, during peak parking times, the site would only require:

- one parking space per 4.2 worship seats at the highest demand observed in their study (or 238 parking spaces); and
- one parking space per 4.8 worship seats at the 85th percentile observed in their study (or 208 parking spaces).

The subject site is proposing one parking space per 3.5 worship seats (or 291 parking spaces). This is significantly more parking spaces than what the ITE study predicts would be necessary for a religious institution.

### Southwest Light Rail Transit

The subject site is located less than ½ a mile from the proposed Opus Southwest Light Rail Transit (SWLRT) Station. (See attachment). While some members of the River Valley Church might use the proposed light rail transit system, staff does not believe that the church members would be a high user of the future transit system. More than likely, riders of the future light rail transit system will be traveling to/from office, residential, and other land use properties in the area.

### Red Circle Drive Future Construction

In this event of SWLRT construction, Red Circle Drive will be partially reconstructed. A part of this construction will involve routing the current one-way street the opposite direction. This alteration would potentially affect the location and angle of the driveways accessing the site.

### CUP Standards

The proposal would meet the general conditional use permit standards as outlined in City Code §300.16 Subd.2:

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

   **Finding:** A public building is a conditionally-permitted use within the I-1 district. The city has conditionally allowed religious institutions as uses similar to a public building under the “other uses similar to” section of this ordinance.

2. The use is consistent with the goals, policies and objectives of the comprehensive plan;
**Finding:** The proposed use is consistent with the goals, policies, and objectives of the comprehensive plan. The site is located within the Opus area, which is predominately guided for mixed use. The larger development includes industrial, commercial, office, and residential land uses.

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

**Finding:** The proposal has been reviewed by the city’s building, engineering, planning, natural resource, and fire staff. Staff has determined that it would not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements.

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

**Finding:** The proposal is consistent with the city’s water resources management plan. Only minor additions are proposed to the property at this time.

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

**Finding:** The majority of the performance standards outlined in the zoning ordinance are related to development and construction. The proposal is for the use of an existing building with three small additions. With the exception of the parking variance to allow a reduction of parking, the proposal would meet the standards outlined.

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

**Finding:** Staff does not believe that the proposal would have an undue adverse impact on the public’s health, safety or welfare.

---

**Specific CUP Standards and Site and Building Plan Standards**

City Code §300.21 Subd. 3(m) requires that public buildings must meet site and building plan standards as outlined in City Code §300.27. Staff has included the standards and findings for both below:
1. Consistency with the elements and objectives of the city's development guides, including the comprehensive guide plan and water resources management plan;

**Finding:** The proposal has been reviewed by the city's building, engineering, planning, natural resources, and fire staff to ensure consistency with the city's development guides.

2. Consistency with this ordinance;

**Finding:** With the exception of the parking variance, the proposal would be consistent with the ordinance. Staff finds that the parking variance is reasonable, as the proposed use would not require additional parking based on ITE parking demand information.

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 external modifications to the property are minimal and would minimally alter the trees, soil, and the general appearance of the site.

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

**Finding:** The proposed external changes would be minimal and would maintain a harmonious relationship between buildings and open space with natural features and with existing and future buildings of 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 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 with 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 external changes on the site are minimal. As such, there would be no negative impacts to existing internal order, open space, aesthetics, or vehicular and pedestrian circulation on the property.

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

Finding: The proposal is for the reuse and remodel of an existing building with small additions.

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

Finding: The proposal would not have any negative impacts on adjacent or neighboring properties.

Variance Standards  Staff finds that the applicant’s proposal is reasonable as:

1. Purpose and Intent of the Zoning Ordinance:

The proposal, and resulting variance request, would be in keeping with the city's zoning ordinance. The intent of the ordinance, as it pertains to parking requirements, is to ensure adequate parking is provided to meet the anticipated parking demand of the subject site. Based on ITE parking analysis, the highest parking demand observed for a religious institute use during the peak period was one parking space per 4.2 worship seats, or 238 spaces for the subject site. The subject site has
proposed one space per 3.5 worship seats, or 291 parking spaces.

Staff finds that the proposed reduction in parking spaces would meet the intent of the ordinance because, based on the ITE study, the proposed use would demand less parking than required by ordinance.

2. Consistent with the Comprehensive Plan:

The proposal would be consistent with the city’s comprehensive plan. The subject property is guided for mixed use. This designation has been established to allow flexibility in land use and creative site design. The proposed use of this property would be consistent with this objective.

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

- Reasonableness: Staff finds that the request for a variance from the required number of parking spaces is reasonable.
  - The proposed number of parking spaces would satisfy the highest peak period parking demand observed in a religious institution parking generation study completed by ITE in 2004.
  - River Valley Church has three other sites located in the metro area that have similar parking ratios. The local jurisdictions where these churches are located have been contacted and informed city staff that no complaints have been received regarding a lack of parking.

- Circumstance Unique to the Property:

Per the 2004 ITE parking generation manual, the proposed use of the property would require less parking spaces than the ordinance requires for a religious institution.

- Neighborhood Character:
The parking variance would not adversely affect the character of the surrounding neighborhood. The site would meet the anticipated peak parking demand on site.

**Neighborhood Comments**

The city sent notices to 37 area property owners and received zero comments.

**Pyramid of Discretion**

The planning commission has the following motion options:

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

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

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

**Voting Requirement**

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

The city council’s final approval requires affirmative votes of five members, given that the proposal includes a variance.

**Deadline for Decision**

January 14, 2016
Location Map

Project: River Valley Church
Applicant: Vanman Architects & Builders
Address: 10801 Red Circle Dr
Project No. 90040.16a

This map is for illustrative purposes only.
Auditorium seats = 1,000
Parking Ratio = 2.5 : 1
400 spaces required

PROPOSED VARIANCE REQUEST
Parking Ratio 3.5 : 1
286 spaces required

Regulation size stalls = 214
Handicap stalls = 8 spaces
Compact Parking = 69 spaces
Total Parking spaces = 291

90 degree parking Requirements
24'-0" wide drive aisles
Regulation stall size
18'-0" long and 8'-6" wide
Compact stall size
16'-0" long and 7'-6" wide

Total Impervious Required
- not to exceed 85%
Total Site Area = 179,186 sf
Total Pervious Area = 40,876 sf
Total Impervious = 138,310 sf
Impervious Factor = 77%
November 15, 2016

City of Minnetonka
Attn: Susan Thomas, City Planner
14600 Minnetonka Boulevard
Minnetonka, MN  55345

RE:   Conditional Use Permit and Variance Request Submittal For:
      River Valley Church – 10801 Red Circle Drive

A. CONTACT INFORMATION:
   River Valley Church Contact:
      Pastor Darin Poli
      12345 Portland Ave
      Burnsville, MN 55337
      Darin.Poli@rivervalley.org
      952-255-8800

   Vanman Architects and Builders Contact:
      Angie Knodel, AIA
      9600 54th Ave N, Suite 180
      Plymouth, MN 55442
      angie@vanmanab.com
      763-541-9552

B. LEGAL DESCRIPTION / SITE DATA:
   The site is located at 10801 Red Circle Drive.  This site is legally described as "Lot 1, Block 11, Opus 2 Fourth Addition, according to the recorded plat thereof, Hennepin County, Minnesota. PID #3611722330009
   Torrens Property:  Certificate of Title No. 1062731
   Note: River Valley does not currently own the property, but has a purchase agreement in place.
   The site is currently zoned as I-1, Industrial District.  In total, the property is 4.14 acres (180,148 square feet).  The existing building is 2-story with a footprint of 30,082 sf.
   There are 286 striped parking stalls existing with 8 designated as handicap.

C. HISTORY NARRATIVE:
   In 1995, River Valley Church started in Apple Valley.  Through many periods of growth, an Edina campus was added.  As this local church grew, the need for a larger auditorium became evident.  River Valley Church plans to remodel the existing building on this site in order to accommodate the growing church and plan for future growth.
D. PROPOSED USES:
The proposed plan for River Valley Church on this site consists of remodeling the existing new 60,164 sf facility. The remodeled facility would include a lobby space as you enter the building, a 1,000 seat worship auditorium, a 228 seat Youth Auditorium, 8 classrooms, administrative offices, as well as toilets, storage and utility spaces.

The building would be used primarily on Sunday Mornings, from 8 am, when the volunteers arrive, to 1 pm, when the volunteers leave. The building would also be used on Sunday nights, during youth services, from 5 pm to 9 pm. Office hours would be kept during the week from 8 am to 5 pm.

E. PARKING/ VARIANCE REQUEST:
The existing parking lot will be restriped in order to accommodate additional parking spaces to accommodate the new facility. Please note the Youth Auditorium is for Children and will not require additional parking spaces.

River Valley Church is asking for Variance Request for the 2.5:1 parking ratio to be a 3.5:1 ratio. River Valley Church consists of families who typically drive together in one vehicle, therefore a 3.5:1 ratio is more in line with their demand for parking. The traffic would be heaviest on Sunday mornings, when the greatest amount of traffic for the neighboring properties would not be affected. River Valley built a new campus in Shakopee with a 1,000 seat auditorium and 295 parking spaces. They opened the doors in March of 2014 and have had over 2 years of ministry as well as growth and have found this number of parking spaces is adequate for their needs.

F. BUILDING AESTHETICS:
Despite being a multi-site church, River Valley Church has continually pressed home to its attendees the importance of making local connections – having the benefits of a large church with the community of a small church. This has remained true in the Edina campus, which will undoubtedly continue in the new location.

The exterior of the building will remain mostly as is. Repainting the existing exterior will give it a new fresh look and at strategic locations, black Nichiha panels will be added to the existing façade to tie in the materials of other campuses to create the River Valley aesthetic. The area of the new 1,000 seat auditorium will get a new roof and sit 7'-0” higher than the existing roof in order gain the appropriate ceiling height for their ministry needs. We are proposing 2 crosses on the building, one 45'-0” high and one 55'-0” high.
December 5, 2016

City of Minnetonka
Attn: Drew Ingvalson
14600 Minnetonka Boulevard
Minnetonka, MN  55345

RE:  Conditional Use Permit and Variance Request Submittal For:
River Valley Church – 10801 Red Circle Drive

G. ADDITIONAL BUILDING INFORMATION
River Valley Church offers various opportunities during the week for spiritual growth and community building. The list below describes use of the building and events outside of Sunday morning worship.

Monday thru Friday  
**9:00am – 5:00pm  Office Employees**
- 10 total occupants
- There are approximately 10 office employees that will staff the building Mondays thru Fridays.

Sunday Evenings  
**6:00pm – 8:00pm  Youth Events**
- 30 occupants
- Approximately 50% drive (carpool or drop-off/pick-up)

Monday Evenings  
**6:30pm – 8:00pm  Womens Event “Sisterhood”  
80 occupants**

Tuesday Evenings  
**6:00pm – 8:00pm  Adult Bible Study “Alpha”**
- 200 occupants
- Note: Usually attend as couples

Wednesday Evenings  
**6:30pm – 8:30pm  Youth Events**
- 100 occupants
- Approximately 40% drive (carpool or drop-off/pick-up)

This information is based on the current numbers that they are seeing at their Edina Campus. The Edina Campus will relocate to this building once completed. Please let me know if there is any additional information that you need. Thank you.

Sincerely,

Angie Knodel, AIA
Vanman Architects and Builders
By state law, variances may be granted from the standards of the city’s zoning ordinance only if:

1) The proposed variance is in harmony with the general purpose and intent of the zoning ordinance;

2) The proposed variance is consistent with the comprehensive plan; and

3) An applicant establishes that there are practical difficulties in complying with the ordinance standard from which they are requesting a variance. Practical difficulties means:

- The proposed use is reasonable;
- The need for a variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations; and
- The proposed use would not alter the essential character of the surrounding area.

<table>
<thead>
<tr>
<th>PRACTICAL DIFFICULTIES</th>
<th>The variance request is reasonable because River Valley would experience peak parking demands at varied times from the neighboring properties.</th>
</tr>
</thead>
</table>

Describe why the proposed use is reasonable

Describe:
- circumstances unique to the property;
- why the need for variance was not caused by the property owner; and
- why the need is not solely based on economic considerations.

The property sits on a hill and is fully developed, offering no location to add significant parking on the site. River Valley Church consists of families who drive together and therefore a 3.5:1 ratio is more in line with their demand for parking. River Valley has 8 locations in Minnesota and therefore precedence of existing locations and understanding their parking needs. The Shakopee campus has a 1,000 seat auditorium with 295 parking spaces and is found to be adequate for their needs.

Describe why the variance would not alter the essential character of the neighborhood

The building is located in an area where the majority of the traffic is on Mondays through Fridays from 7:30 am to 5:30 pm. River Valleys demand for parking will be on Sunday mornings and opposite most traffic in this area. The paved parking lot will only change slightly to re-stripe some additional spaces and will not alter the character of the neighborhood.

VARIANCE APPLICATIONS WILL NOT BE ACCEPTED IF THIS WORKSHEET IS NOT COMPLETE
Shakopee Campus

1350 Crossings Blvd
Shakopee, MN  55379

City Requirements = 1 : 4 Parking Ratio
Main Auditorium Seating = 1,000 seats
Parking Required = 250 spaces
Parking Provided = 295 spaces
Actual Ratio = 1 : 3.4 Ratio
Apple Valley Campus
14898 Energy Way
Apple Valley, MN  55124

City Requirements = 1 : 3.5 Parking Ratio
Main Auditorium Seating = 1,300 seats
Parking Required = 371 spaces
Parking Provided = 361 spaces
Actual Ratio = 1 : 3.6 Ratio
Minnetrista Campus
5595 Westwood Ave
Minnetrista, MN 55364

City Requirements = 1:4 Parking Ratio
Main Auditorium Seating = 400 seats
Parking Required = 100 spaces
Parking Provided = 112 spaces
Actual Ratio = 1:3.5 Ratio
8. Public Hearings

A. A conditional use permit with parking variance for River Valley Church at 10801 Red Circle Drive.

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

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

Powers asked Ingvalson if ITE determined that there would be enough parking to accommodate the main worship area and youth area at full capacity. Ingvalson explained that the youth area capacity was not included in the calculation since the children do not drive separately from adults. ITE found that the site would have significantly more parking than would be needed during the site’s highest parking demand times.

Anthony Richards, pastor of River Valley Church, applicant, thanked commissioners for considering the application and staff for their hard work. The building would provide central administration services for eight campuses around the twin cities. His congregation currently meets at a temporary location in a warehouse. The youth areas are for newborns to 5th grade. The children meet in those areas during regular service times. There is a weekend each year that is dedicated to serving the city where the church is located. The goal is to be part of the community.

O’Connell asked if there would be late-night services or activities. Pastor Richards answered that there would be a Christmas Eve candle-light service at 10 p.m., but, usually, the latest service would be at 6 p.m. There are youth events on Wednesday nights that finish at 8:30 p.m.

Chair Kirk noted that there is no housing near the site.

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

**Odland moved, second by O’Connell, to recommend that the city council adopt the resolution approving a conditional use permit with parking variance for River Valley Church at 10801 Red Circle Drive.**

O’Connell, Odland, Powers, Calvert, and Kirk voted yes. Knight was absent. Motion carried.
Resolution No. 2017-

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

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

Section 1. Background.

1.01 Vanman Architects and Builders, on behalf of River Valley Church, has requested a conditional use permit to operate a religious institution within an existing building. In addition, a parking variance from 400 to 291 parking stalls is required.

1.02 The property is located at 10801 Red Circle Drive.

It is legally described as:

Lot 1, Block 11, Opus 2 Fourth Addition

1.03 City Code §300.18 Subd. 4(n) allows public buildings as conditional uses within the I-1 zoning district.

1.04 City Code §300.18 Subd. 4(t) allows other “uses similar to those permitted within this section, as determined by the city” as conditional uses within the I-1 zoning district.

1.05 The proposed religious institution would be similar to a public building, as it is a place where a group of people would gather at a specified time for a specific purpose.

1.06 On December 15, 2016, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the
permit, with variance.

Section 2. Standards.

2.01 City Code §300.21 Subd. 2 lists the following general standards that must be met for granting a conditional use permit:

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

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

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

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

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

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

2.02 City Code §300.21 Subd. 3(m) outlines the following specific standards that must be met for granting a conditional use permit for public buildings:

1. Site and building plan pursuant to section 300.27 of this ordinance.

2.03 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.

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

Section 3.  Findings.

3.01 The proposal would meet the general conditional use permit standards outlined in City Code §300.21 Subd.2.

1. A public building is a conditionally-permitted use within the I-1 district. The city has conditionally allowed religious institutions as uses similar to a public building under the “other uses similar to” section of this ordinance.

2. The proposed use is consistent with the goals, policies, and objectives of the comprehensive plan. The site is located within the Opus area, which is predominately guided for mixed use. The larger development includes industrial, commercial, office, and residential land uses.

3. The proposal has been reviewed by the city’s building, engineering, planning, natural resource, and fire staff. It is not anticipated to have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements.

4. The proposal is consistent with the city’s water resources management plan. Only minor additions are proposed to the property at this time.

5. The majority of the performance standards outlined in the zoning ordinance are related to development and construction. The proposal is for the use of an existing building with three small additions. With the exception of the parking variance to allow a reduction of parking, the proposal would meet the standards outlined.

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

3.02 The proposal would meet all but one of the specific conditional use permit standards outlined in City Code §300.21 Subd. 3(m) and site and building plan standards outlined in City Code §300.27, Subd. 5.

1. The proposal has been reviewed by the city’s building, engineering, planning, natural resources, and fire staff to ensure consistency with
2. With the exception of the parking variance to allow a reduction of parking, the proposal would be consistent with the ordinance. The parking variance is reasonable, as the proposed use would not require additional parking based on Institute of Transportation Engineers (ITE) parking demand data.

3. The external modifications to the property are minor and would minimally alter the trees, soil, and the general appearance of the site.

4. The proposed external changes would be minor and would maintain a harmonious relationship between buildings and open space with natural features and with existing and future buildings of the development.

5. The proposed external changes on the site would be minimal. As such, there would be no negative impacts to existing internal order, open space, aesthetics, or vehicular and pedestrian circulation on the property.

6. The proposal is for the reuse and remodel of an existing building with small additions.

7. The proposal would not have any negative impacts on adjacent or neighboring properties.

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

1. The proposal, and resulting variance request, would be in keeping with the city’s zoning ordinance. The intent of the ordinance, as it pertains to parking requirements, is to ensure adequate parking is provided to meet the anticipated parking demand of the subject site. Based on ITE parking analysis, the highest parking demand observed for a religious institution during the p.m. peak period was one parking space per 4.2 worship seats, or 238 spaces for the subject site. One space per 3.5 worship seats, or 291 parking spaces, are proposed.

2. The proposal would be consistent with the city’s comprehensive plan. The subject property is guided for mixed-use. This designation has been established to allow flexibility in land use and creative site design. The proposed use of this property would be consistent with
this objective.

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

a) The request for a variance from the required number of parking spaces is reasonable.
   1) The proposed number of parking spaces would satisfy the highest peak period parking demand anticipated for a religious institution.
   2) River Valley Church has three other sites located in the metro area that have similar parking ratios. The cities where these churches are located were contacted and indicated they have received no parking complaints.

b) Per the Institute of Transportation Engineers, the proposed use of the property would require less parking spaces than the ordinance requires for a religious institution.

c) The parking variance would not adversely affect the character of the surrounding neighborhood. The site would meet the anticipated peak parking demand.

Section 4. City Council Action.

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

1. This resolution must be recorded with Hennepin County.

2. Stormwater management is required if building additions exceed 5,000 sq. ft. of disturbance or 50 cubic yards of excavation/fill.

3. The proposed building must comply with all public health code requirements.

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

5. Sign permits are required for any exterior signs.

6. The applicant must inform city staff in writing if any significant
changes in programming that would increase the p.m. peak trip generation. This includes, but is not limited to, general programming changes and user increases, as it may require an updated traffic study. If an updated study indicates a negative impact on the surrounding roadway system or parking demand, staff may require the conditional use permit be brought back to the city council for further review.

7. The applicant must sign an agreement acknowledging the future road construction and possible driveway entrance changes on Red Circle Drive.

8. Erosion control and tree protection must be installed and inspected prior to building permit being issued. These items must be maintained throughout the course of construction.

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

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on January 9, 2017.

_______________________________________
Terry Schneider, Mayor

Attest:

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

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on January 9, 2017.

__________________________________
David E. Maeda, City Clerk
City Council Agenda Item #12A  
Meeting of January 9, 2017

**Brief Description**  
Ordinance amending permit fees, land use application fee and mechanical contractor licenses

**Recommendation**  
Introduce the ordinance

**Background**

There are three housekeeping items needed for the inspections, planning and licensing department.

When Ordinance No. 2016-15 was adopted, it did not include the words “fire or sewer/water” in paragraph 9 of section 710.005 to reflect that the permit fees for those permits were also increased. Also, in paragraph 16 for land use applications, the addition of “master plan” to site plan or major amendment to master plan plus “or lot division” to preliminary plat (no new public roadways) is needed to clarify application fees. Also, the plan review description should be revised to say “15% of permit fee only if permit valuation is over $30,000”.

In addition, staff realized that local cities that issue competency cards for mechanical licenses no longer include the cities of Burnsville and Edina as they no longer test and provide competency cards. Therefore the ordinance needs to be updated to remove those cities as providers of the cards.

**Recommendation**

Staff recommends introduction of the ordinance.

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

Originated by:
Lenny Rutledge, Building Official  
Karen Telega, Community Development Assistant
Ordinance No. 2017-

An Ordinance amending Minnetonka City Code Section 710.005, paragraph 9 regarding permit fees and Section 515.010, subsection 4 regarding contractor licensing

The City of Minnetonka Ordains:

Section 1. Minnetonka City Code Section 710.005, paragraph 9 is amended as follows:

<table>
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<th>para. no.</th>
<th>description</th>
<th>amount</th>
<th>code section</th>
</tr>
</thead>
<tbody>
<tr>
<td>9.</td>
<td>electrical, fire, gas piping, mechanical, plumbing or sewer/water permit</td>
<td>$1 to $1300</td>
<td>505.020 510.020 515.020 910.010</td>
</tr>
<tr>
<td></td>
<td>contract price</td>
<td>percent of contract price</td>
<td></td>
</tr>
<tr>
<td></td>
<td>$1 to $1300</td>
<td>minimum: $50.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>$1,301 to $5,000</td>
<td>$50.00 plus 2.98% of amount over $1,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>$5,001 to 10,000</td>
<td>$162.00 plus 2.70% of amount over $5,000</td>
<td></td>
</tr>
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<td></td>
<td>$10,001 to $25,000</td>
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</tr>
<tr>
<td></td>
<td>$25,001 to $50,000</td>
<td>$651.00 plus 2.14% of amount over $25,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>$50,001 and up</td>
<td>$1186.50 plus 1.80% of amount over $50,000</td>
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</tr>
</tbody>
</table>

in addition, the following flat-rate fees are charged:

| plan review | 15% of permit fee only if valuation is over $30,000 |
| re-inspection fee | $77.00 |
Section 2. Minnetonka City Code Section 710.005, paragraph 15 regarding site plan or major amendment to plan and preliminary plat (no new public roadway) are amended as followed:

<table>
<thead>
<tr>
<th>para. no.</th>
<th>description</th>
<th>amount</th>
<th>code section</th>
</tr>
</thead>
<tbody>
<tr>
<td>15.</td>
<td>land use applications</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>site plan, <strong>master plan</strong> or major amendment to master plan</td>
<td></td>
<td>300.22</td>
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<tr>
<td></td>
<td>administrative site plan review</td>
<td>$300.00</td>
<td>300.27</td>
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<tr>
<td></td>
<td>other site plan review</td>
<td>$1,050.00</td>
<td></td>
</tr>
<tr>
<td>$25,001 to $50,000</td>
<td>$651.00 plus $2.14% of amount over $25,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$50,001 and up</td>
<td>$1186.50 plus 1.80% of amount over $50,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>subdivision or lot division</td>
<td></td>
<td></td>
<td>400.015</td>
</tr>
<tr>
<td></td>
<td>administrative lot division</td>
<td>$500.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>preliminary plat (new public roadways)</td>
<td>$1050.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>preliminary plat (no new public roadways) or lot division</td>
<td>$400.00</td>
<td></td>
</tr>
</tbody>
</table>

Section 3. Minnetonka City Code Section 515.010 subdivision 4, is amended to read as follows:

4. The building official may require the license applicant to undergo an examination before a license is issued. The examination will be for the purpose of determining the applicant's ability to adequately undertake the work being licensed. The applicant must perform to the satisfaction of the building official before a license will be granted. The building official may waive the examination for applicants who provide proof that they passed the examination in the Minnesota cities of Bloomington, **Burnsville, Edina**, Minneapolis, St. Cloud, St. Paul, St. Louis Park, or Rochester.

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 upon adoption.
Adopted by the city council of the City of Minnetonka, Minnesota, on.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

**Action on this Ordinance:**

Date of introduction: January 9, 2017
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

David E. Maeda, City Clerk
City Council Agenda Item #13A  
Meeting of January 9, 2017

Brief Description: Ordinance amending section 2.06 of the city charter, regarding vacancies in office

Recommended Action: Hold the public hearing and adopt the ordinance

Background

At its meeting on November 10, 2016, the charter commission unanimously recommended that the city council adopt an ordinance amending section 2.06 of the city charter. The proposed ordinance would delete two provisions in the charter that purport to give the city council the authority to permanently remove a city council member from office: one that authorizes removal of a council member who is continuously absent from the city for more than 90 days; and a second that authorizes removal if a council member fails without good cause to perform any of the duties of the office for a period of 90 consecutive days. The Minnesota attorney general has opined that a similar charter provision is contrary to the state constitution.

In addition, the proposed ordinance would add language to allow the council to declare a temporary vacancy in office, when a council member is unable to serve due to illness for a 90-day period or is absent from or refuses to attend meetings for a 90-day period. The council could appoint an individual to serve until the absent member is able to resume his or her duties. The new provision mirrors a state law that governs statutory cities.

The city council discussed the amendments in a study session on October 17, 2016 and introduced the ordinance on December 5, 2016. Adoption of the ordinance requires a unanimous vote of the full council. If adopted, the charter amendment would become effective 90 days after publication of the ordinance, unless a petition is filed to challenge the amendment. If the entire council is not present for the January 9 meeting, this item may be continued to January 23, 2017.

Recommendation

Hold the public hearing and adopt the ordinance.

Submitted through: 
Geralyn Barone, City Manager

Originated by: 
Corrine Heine, City Attorney
The City of Minnetonka ordains:

Section 1. Preamble.

The Minnetonka charter commission voted on November 10, 2016, to recommend amendments to sections of the Minnetonka charter. The city council discussed the amendments in a study session on October 17, 2016 and introduced the ordinance on December 5, 2016. Notice of a public hearing on the proposed amendments, including the text of the proposed amendments, was published in the city’s official newspaper on December 6, 2016. The public hearing was held on January 9, 2017 before the city council, at which time all people desiring to be heard were given an opportunity to address the council. After considering the advice of the charter commission and any comments from citizens, the city council has determined that the following amendments are relatively minor and may be appropriately adopted by ordinance rather than by an election.

Section 2. Section 2.06, subdivision 2 of the Minnetonka city charter is amended to read as follows:

Subd. 2. A vacancy in a council position also exists in the following situations:

(a) failure of an elected person to qualify on or before the date of the council's second regular meeting in the year after the election;

(b) termination of residency in the city;

(c) except as provided in section 2.04, termination of a ward council member's residency in the ward from which elected;

(d) continuous absence from the city for more than 90 days;

(e) conviction of a felony either before or after qualification for office; or

(f) loss of qualifications for the elective office; or

The struck language is deleted; the underlined language is inserted.
(g) failure without good cause to perform any of the duties of office for a period of 90 consecutive days.

Section 3. Section 2.06 of the city charter is amended by adding a new subdivision as follows:

Subd. 9. When the mayor or a council member is unable to serve in the office or attend council meetings for a 90-day period because of illness, or because of absence from or refusal to attend council meetings for a 90-day period, the city council, by resolution, may declare a temporary vacancy in that office to exist. After a vacancy is declared, the council must appoint a qualified individual to fill the vacancy for the remainder of the unexpired term or until the original officeholder is again able to resume duties and attend council meetings, whichever is earlier. When the original officeholder is again able to resume duties and attend council meetings, the council must by resolution remove the temporary officeholder and restore the original officeholder.

Section 4. This ordinance is effective 90 days after publication.

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

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this Ordinance:

Date of introduction: December 5, 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 true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on *

David E. Maeda, City Clerk
City Council Agenda Item #13B
Meeting of January 9, 2017

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

Recommendation
Continue the public hearing and grant the license

Background
The Bunker Indoor Golf Center was owned by The Bunker Indoor Golf Center LLP since 1997. The Bunker Indoor Golf Center LLP sold the business to Edward “Ed” Boeve, the existing manager of the Bunker Indoor Golf Center, on November 1, 2016.

Business Ownership
Ed Boeve has been employed as the manager and golf professional at the Bunker Indoor Golf Center since 2007.

A management agreement was established by the seller and buyer allowing the operation under the current license until final council approval. The agreement terminates upon issuance of a new liquor license.

Business Operations
The change in ownership necessitates the need for a new liquor license. All other operational aspects of the existing facility will remain the same including the establishment name.

Application Information
Application information has been submitted. The police department’s investigative report is complete and will be forwarded to the council separately.

Recommendation
Staff recommends that the city council continue the public hearing from December 5, 2016 and grant the license.

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

Originated by:
  Kathy Leervig, Community Development Coordinator
Location Map

Bunker Indoor Golf Center
14900 State Hwy 7
City Council Agenda Item #13C  
Meeting of January 9, 2017

Brief Description
Public hearing approving vacation of easements and preliminary and final plats for RIZE AT OPUS PARK at 10101 Bren Road East

Recommendation
Hold the public hearing and adopt the resolutions approving the request

Background

On November 14, 2016, the city council approved a proposal by LeCesse Development Corporation to redevelop the SCICOM property at 10101 Bren Road East. As approved, the existing buildings will be removed and a new six-story, 322-unit apartment building will be constructed.

Proposal

The site is currently comprised of two parcels and is encumbered by a number of public easements. The approved project includes the relocation of several public utility lines and a portion of a public trail. New easements are required over the relocated utilities and trails; with relocation the abandoned easements area would become obsolete. To simplify the easement vacation and dedication, LeCesse Development Corporation has submitted applications to re-plat the property.

Planning Commission Hearing

The planning commission considered the request on December 15, 2016. The staff report and associated plans are attached. At that meeting, a public hearing was opened to take comment but no one appeared to speak. Staff recommended approval of the requests noting:

- The approved redevelopment of the property could occur without re-platting the properties. However, the developer has chosen to do so to simplify the process of vacating and dedicating easements.

- The proposed re-plat would be consistent with the recently approved master development plat for the building.

Planning Commission Recommendation

On a 5-0 vote, the commission recommended that the city council approve the proposal. Minutes from that meeting are attached.
Since Planning Commission Hearing

There have been no changes to the proposal or additional information received since the planning commission meeting.

Staff Recommendation

Staff recommends the council adopt the following associated with RIZE AT OPUS PARK at 10101 Bren Road East:

1) Resolution approving preliminary and final plats; and

2) Resolution approving the vacation of existing easements.

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

Originator: Ashley Cauley, Senior Planner
MINNETONKA PLANNING COMMISSION
December 15, 2016

Brief Description
Preliminary and final plat for RIZE AT OPUS PARK at 10101 Bren Road East.

Recommendation
Recommend the city council approve the proposal.

Background
On November 14, 2016 the city approved a proposal by LeCesse Development Corporation to redevelop the SCICOM property at 10101 Bren Road East. As approved, the existing buildings will be removed and a new six-story, 322-unit apartment building will be constructed.

Proposal
Currently, the property is comprised of two parcels and is encumbered by a number of public easements. The approved project includes the relocation of several existing public utilities and a portion of the public trail. With the relocation of the utilities and easements, new easements would be required and the abandoned easements would become obsolete. To simplify the easement dedication and vacation, LeCesse Development Corporation has submitted preliminary and final plat applications to replat the property.

Primary Questions and Analysis
A land use proposal is comprised of many details. In evaluating a proposal, staff first reviews these details and then aggregates them into a few primary questions or issues. The following outlines both the primary questions associated with the primary subdivision and staff’s findings.

• **Is the proposed replat reasonable?**
  
  Yes. The approved redevelopment of the property could occur without replatting the properties. However, the developer has chosen to do so, in order to make the process of dedicating and vacating easements more clear.

• **Is the proposed replat consistent with the approved master development plan?**
  
  Yes. The proposed replat would be consistent with the recently approved master development plan for the 322 unit apartment building.
Staff Recommendation

Recommend the city council adopt the resolution granting preliminary and final plat approval to RiZe at Opus at 10101 Bren Road East.

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

Project No. 88095.16a

Property 10101 Bren Road East

Applicant LeCesse Development Corp.

Property Owners Scicom Data Services ltd., c/o Lighthouse Management Group Inc.

Surrounding Land Uses
- Northerly: Office building, zoned PUD, guided for Mixed Use
- Easterly: Opus II Business Condos, zoned Industrial, guided for Mixed Use and United Health Care beyond
- Southerly: Office building, zoned Industrial, guided for Mixed Use
- Westerly: Industrial and office buildings, zoned Industrial and guided for Mixed Use

Planning
- Guide Plan designation: Mixed Use
- Zoning: PUD, Planned Unit Development

Compliance review
Typically, as part of a preliminary plat application, staff evaluates items such as tree removal, grading, utility connections, etc. However since a replat of the property is not required, staff evaluated these items concurrent with review of the site and building plans which were approved by the city council in November 2016.

Neighborhood Comments
The city sent notices to 36 area property owners and received no comments to date.

Pyramid of Discretion

[Diagram of pyramid with the following levels:
- Discretionary Authority
- Public Participation
- Comprehensive Plan
- Zoning
- Variance/Expansion Permit
- Plat
- Conditional Use Permit
- Site Plan
- Building Permit
--less]

This application
Motion Options

The planning commission has three options in making recommendation to the city council:

1) Concur with staff’s recommendation. In this case, a motion should be made approving the preliminary and final plats.

2) Disagree with staff’s recommendation. In this case, a motion should be made directing staff to prepare a resolution for denying the preliminary and final plats. This motion should include findings for denial.

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

Voting Requirement

The planning commission will make a recommendation to the city council. A recommendation for approval requires an affirmative vote of a simple majority.

The city council’s final approval requires affirmative votes of a simple majority.

Deadline for Decision

March 6, 2017
Location Map

Project: Lecesse Apartments
Applicant: Lecesse Development Corp.
Address: 10101 Bren Road E
Project No. 88095.16b

This map is for illustrative purposes only.
RIZE AT OPUS PARK

MINNETONKA, MINNESOTA

This plat of RIZE AT OPUS PARK was approved and accepted by the City Council of Minnetonka, Minnesota, at a regular meeting held on the ___ day of __________ 20___, at ______ o'clock ___ M., and the same is hereby declared to be a plat of the land therein described and the same is hereby approved and accepted as a plat of land in accordance with the provisions of Chapter 483 of the Minnesota Statutes, Section 505.03, Subd. 2.

CITY COUNCIL OF MINNETONKA, MINNESOTA

By __________________________ Mayor By _________________________ Clerk

RESIDENT AND REAL ESTATE SERVICES, Hennepin County, Minnesota

I hereby certify, that taxes payable in 201___ and prior years have been paid for land described on this plat, dated this ___ day of ___________ 20___.

Mark V. Chapin, Hennepin County Auditor

By ____________________________ Deputy

SURVEY DIVISION, Hennepin County, Minnesota

Forward to Min. Stat. Sec. 483.065 (1989) this plat has been approved this ___ day of ______________ 20___.

Chris F. Mavak, Hennepin County Surveyor

By ____________________________

REGISTRAR OF TITLES, Hennepin County, Minnesota

I hereby certify that the within plat of RIZE AT OPUS PARK was filed in this office this ___ day of __________ 20___, at ___ o'clock __ M.

Mark Mccormick, Registrar of Titles

By ____________________________ Deputy

RIZE AT OPUS PARK

KNOW ALL PERSONS BY THESE PRESENTS: That Lecesse Development Corporation, a Florida corporation, fee owner of the following described property situated in the County of Hennepin, State of Minnesota, to wit:

Lots 2 and 6, Block 10, Opus II 1st Addition

County of Hennepin

State of Minnesota

has caused the same to be surveyed and platted as RIZE AT OPUS PARK, and does hereby dedicate to the public for public use forever the public ways and the easements for drainage and utility purposes as shown on this plat.

LECESSE DEVELOPMENT CORPORATION

(Signature)

(Printed Name, Title)

State of __________

County of __________

This instrument was acknowledged before me this ___ day of __________ 20___ by __________ Corporation, a Florida corporation, on behalf of the corporation.

(Signature)

(Printed Name)

Notary Public

My Commission Expires January 31, 20__.

SURVEYORS CERTIFICATION

I, Henry O. Nelson, do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that the plat is a correct representation of the boundary survey; that all mathematical data and tables are correctly designated on this plat; that all monuments depicted on this plat have been, or will be correctly set within one year; that all water features and wet lands, as defined in Minnesota Statutes, Section 505.01, Subd. 3, as of the date of this certificate are shown and labeled on this plat; and all public ways are shown and labeled on this plat.

Dated this ___ day of __________ 20___

Henry O. Nelson, Licensed Land Surveyor

Minnesota License No. 17325

State of Minnesota

County of Hennepin

This instrument was acknowledged before me this ___ day of __________ 20___ by Henry O. Nelson, a Licensed Land Surveyor.

(Signature)

(Printed Name, Title)

Notary Public

My Commission Expires January 31, 20__.
Easements to be vacated
The purpose of this exhibit is to show the following Table A items:

Item no. 11: Drainage and utility easements as shown on and dedicated by the plat of Opus II 1st Addition, recorded November 27, 1974 as Document No. 1126595.
- As shown hereon.

Item no. 12: Terms and conditions of Declaration of Covenants, Conditions, Restrictions, Easements and Industrial Standards, dated January 2, 1975, recorded January 10, 1975 as CR Doc No. 4123473, and as shown as a recital on the Certificate of Title.
- Over Lot 6, easements per plat, as shown hereon.

Denotes D & U Easement Area To Be Vacated
The purpose of this exhibit is to show the following Table A items:

Item no. 13: Easements for sanitary sewer, storm sewer and water main purposes, and easement for public right of way and bridge purposes in favor of the City of Minnetonka as described in Quit Claim Deed dated December 12, 1975, recorded January 10, 1975 as CR Doc No 4183046, and as shown as a recital on the Certificate of Title.

- As shown hereon over the southeasterly and southwesterly side of Lot 6.

Legend:
- Denotes R.O.W. & Bridge Easement Area
- Denotes Sanitary, Storm & Water Easement Area To Be Vacated
- Denotes Sanitary, Storm & Water Easement Area To Remain

SCALE IN FEET
0 100
7. Public Hearings: Consent Agenda

No items were removed from the consent agenda for discussion or separate action.

*Odland moved, second by Powers, to approve the items listed on the consent agenda as recommended in the respective staff reports as follows:*

A. Preliminary and final plat for RiZe at Opus Park at 10101 Bren Road East.

Recommend that the city council adopt the resolution granting preliminary and final plat approvals to RiZe at Opus at 10101 Bren Road East.

B. Variance to allow construction of an attached garage addition at 14831 Wellington Road.

Adopt the resolution approving an aggregate side yard setback variance for an attached garage addition at 14831 Wellington Road.

*O’Connell, Odland, Powers, Calvert, and Kirk voted yes. Knight was absent. Motion carried. Motion carried and the items on the consent agenda were approved as submitted.*

Chair Kirk stated that an appeal of the planning commission’s decision must be made in writing to the planning division within 10 days.
Resolution No. 2017-
Resolution approving the preliminary and final plats of
RIZE AT OPUS PARK at 10101 Bren Road East

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

Section 1. Background.

1.01 LeCesse Development Corporation has requested preliminary and final plat
approval for RIZE AT OPUS PARK.

1.02 The property is located at 10101 Bren Road East. It is legally described as
follows:

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

1.03 On November 14, 2016, the city council approved Ordinance No. 2016-16
re zoning the property at 10101 Bren Road East from I-1, Industrial, to PUD,
Planned Unit Development, and adopting a master development plan.

1.04 On November 14, 2016, the city council approved Resolution No. 2016-129
which approved final site and building plans, with a parking variance, for a
multi-family residential apartment building at 10101 Bren Road East.

1.05 On December 15, 2016, the planning commission held a hearing on the
proposed plats. The applicant was provided the opportunity to present
information to the planning commission. The planning 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 and final plat approval.
Section 2. General Standards.

2.01 City Code §400.030 outlines general plat design standards. These standards are incorporated by reference into this resolution.

Section 3. Findings.

3.01 The proposed plats meet the design standards 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 purposes:

   a) 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 thirty days before release of the final plat.

      2) Easement documents should state that retaining walls, driveways, parking areas, lighting, landscaping and any other private infrastructure within easements are owned and maintained by the property owner. (Private improvements within public easements.)

      3) An access easement, in favor of the city, over the driveway from Blue Circle Drive. This easement should extend from Blue Circle Drive to the east end of the southern parking lot.

      4) An access easement, in favor of the city, from the driveway to the drainage area in the northwest corner of the site.

      5) Provide a copy of any changed or newly executed private driveway agreement between this property and the property to the east.

   b) Submit the following:
1) A revised final plat drawing. The final plat drawing must include:
   a. Drainage and utility easements centered over the infrastructure and be at least 20 feet wide or twice the depth of the infrastructure, whichever is greater.
   b. A secondary roadway easement extended over the north-south trail. The easement should be 50-feet wide and be consistent with the existing secondary roadway system easement.
   c. The small area between drainage and utility easements and the driveway and Blue Circle Drive as drainage and utility easement.
   d. A roadway easement accommodating the bridge in the southwest corner of the site.

2) Two sets of mylars for city signatures.

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

4) Park dedication fee of $1,660,000. Staff may approve a reduction of this fee based on cost associated with newly constructed required sidewalk connections.

2. This approval will be void if: (1) the final plat is not recorded with the county within one calendar year of preliminary plat approval; and (2) the city has not received and approved a written application for a time extension within one calendar year of final plat approval.

Adopted by the City Council of the City of Minnetonka, Minnesota, on January 9, 2017.

______________________________
Terry Schneider, Mayor

Attest:
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 January 9, 2017.

______________________________________________
David E. Maeda, City Clerk
Resolution No. 2017-

Resolution vacating multiple easements at 10101 Bren Road East

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

Section 1. Background.

1.01 LeCesse Development Corporation has petitioned the Minnetonka City Council to vacate several easements located at 10101 Bren Road East.

1.02 The easements are legally described on Exhibit A.

1.03 City Charter Section 12.06 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 January 9, 2017, the City Council held a hearing on such petition, at which time all persons for and against the granting of said petition 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. Upon approved relocation, no public utilities or facilities would be located within the easements.

2. There is no anticipated public need for the easements.
3. New easements would be dedicated within the RIZE AT OPUS PARK plat.

4. The vacation is not counter to the public interest.


4.01 The city council vacates the above-described easements. This vacation is valid only upon:

1. Filing of the RIZE AT OPUS PARK final plat; and

2. Confirmation that public utilities have been removed from those easements to be vacated.

Adopted by the City Council of the City of Minnetonka, Minnesota, on January 9, 2017.

__________________________
Terry Schneider, Mayor

Attest:

__________________________
David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on January 9, 2017.

__________________________
David E. Maeda, City Clerk
Exhibit A

Vacate all those drainage and utility easements over and across Lot 2 and Lot 6, Block 10, Opus II 1st Addition, as shown on and dedicated on the plat of Opus II 1st Addition, Hennepin County, Minnesota.

Also vacate that part of an easement originally established in document 4183046, filed in the office of the county recorder, in and for the County of Hennepin, State of Minnesota. Said permanent easement to be vacated is for sanitary sewer, storm sewer and watermain purposes over, under and across that part of Lot 6, Block 10, Opus II 1st Addition, which lies easterly of a line described as follows:

Commencing at the northeasterly corner of said Lot 6; thence on an assumed bearing of North 73 degrees 49 minutes 18 seconds West, along the northerly line of said Lot 6, a distance of 75.00 feet to the beginning of the line to be described; thence South 22 degrees 35 minutes 52 seconds West, parallel with the easterly line of said Lot 6, a distance of 400.00 feet and said line there terminating.
City Council Meeting Agenda Item #14A  
Meeting of January 9, 2017

**Brief Description**  
Agreements related to the Green Line Extension (Southwest LRT)

**Recommendation**  
Approve the agreements and amend the CIP

**Background**

In February 2015, the city council approved the Southwest Light Rail Transit (SWLRT) Master Funding Agreement and two Subordinate Funding Agreements with the Metropolitan Council for locally requested capital improvements (LRCIs) related to the 17th Avenue extension design and the Smetana station design. After receiving the estimates for the Smetana Station, the city council decided not to proceed with that request.

As discussions with the Metropolitan Council have proceeded over the last several months, the 17th Avenue extension continues to be included as a LRCI. Additionally, as more refined project design has occurred, Minnetonka staff has identified several other items that require the city’s financial participation, notably: casing of storm sewer utilities, standard fencing style, and wall stain using multiple colors throughout the project area. Inclusion of these items would maintain city of Minnetonka standards and are typically included with other city infrastructure projects.

**Metropolitan Council Agreements**

To move forward with the implementation and commitment of payment for the LRCIs, the city must enter into additional Subordinate Funding Agreements (SFA) with the Metropolitan Council. The SFA includes the cost of each LRCI that is being proposed.

The extension of 17th Avenue in Hopkins south to K-Tel Drive in Minnetonka will provide additional pedestrian and vehicle access from Minnetonka to the Shady Oak LRT Station in Hopkins. Staff is also recommending installation of storm water utility casings; city standard railing/fencing on top of retaining walls (as opposed to SWLRT chain link) where visible from city streets; and multiple color retaining wall staining (as opposed SWLRT single color). The latter two items are consistent with railing type and fencing used on previous city projects such as the I-394 Ridgedale ramp, TH 169/Bren Road interchange and Shady Oak Road.

The list below details Minnetonka’s costs as identified by the Metropolitan Council:

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>17th Avenue extension</td>
<td>$904,176</td>
</tr>
<tr>
<td>Storm water utility casings</td>
<td>$141,112</td>
</tr>
<tr>
<td>Railing/fencing</td>
<td>$386,375</td>
</tr>
<tr>
<td>Retaining wall staining</td>
<td>$139,815</td>
</tr>
</tbody>
</table>
City funding for the 17th Avenue extension would be appropriated as follows: $730,000 from the Street Improvement Fund; $210,000 from the Utility Fund; $80,000 from the Electric Franchise Fund; and $80,000 from the Storm Water Fund (see revised Capital Improvement Program (CIP) page 8-6).

City funding for the storm water utility casings, railing/fencing, and retaining wall staining would be appropriated as follows: $615,000 from the Street Improvement Fund and $180,000 from the Storm Water Fund. An additional $5,000 from the Electric Franchise Fund is included for underground utility relocations (see new Capital Improvement Fund (CIP) page 8-8).

The above designations include construction contingencies to account for adjustments to the costs during construction only if necessary. These contingencies allow for SWLRT project office field extensions or adjustments to retaining walls during construction, which would require additional railing and staining.

The agreements with the Metropolitan Council specify the payments for the LRCIs would be made in three installments. The first payment is equal to 25% of the costs and is due 30 days following the SWLRT Civil Contract Notice to Proceed. The notice is anticipated to be issued in the summer of 2017. The second payment is 50% of the costs and is due February 2018. The final payment and remaining amount would be due February 2019.

Other Project Commitment

As a result of overall SWLRT project funding challenges, the city council adopted a resolution on July 13, 2015 committing to $2 million in additional city dollars for the project. Identified funding sources were $750,000 from the Housing and Redevelopment Authority (HRA) Levy (designated in the city’s Economic Improvement Program (EIP) and each year’s levy adoption of $75,000). The remaining $1,250,000 from the Street Improvement Fund, Electric Franchise Fund, and Storm Water Fund. The actual amounts from those three accounts were not specifically identified when the resolution was adopted.

Staff is now recommending the following designations to fund the $1,250,000 amount: $475,000 from the Street Improvement Fund; $475,000 from the Electric Franchise Fund; and $300,000 from the Storm Water Fund. The council action will assign the amounts by a motion to amend the CIP as shown on the new CIP page 8-8.

The payments to the Metropolitan Council are proposed to be paid in three equal amounts of $666,666 and would be due on or before March 2018, March 2019, and March 2020. As needed, the HRA funding support will be temporarily cash-flowed using the Special Assessment Construction Fund.
Other Design Considerations

Shady Oak Station storm water pond. The cities of Hopkins and Minnetonka continue to investigate the placement of a large project-related storm water pond on the western side of the new 17th Avenue extension near the Shady Oak Station area. The project office indicates that this location is the designated area for the pond. From a city perspective, the area should be considered for redevelopment rather than a large, open storm water pond. If the cities wish to consider movement of the pond, the additional costs would be required of the two cities. This issue can be resolved at a later time and would be considered a project change order, rather than a LRCI.

Opus bridge improvements. In 2016, the city applied for bridge bond money to assist with funding the replacement of ten pedestrian bridges in the Opus area. Three of the ten pedestrian bridges are required to be constructed concurrent with the SWLRT project; however, the bridge bond money has not yet been allocated by the state. An additional cost of $860,000 from the city’s Street Improvement Fund (see CIP page 8-7) will be required if state money is not received prior to the bidding and construction of these three bridges. If needed, the CIP for the Opus Area LRT – Infrastructure will be updated prior to bidding. Because the first three bridges are the only portion of this Opus Area project strictly associated with the SWLRT project, at this time, the remaining seven bridges are not planned to move forward to construction without state bridge bond money. Staff will make recommendations regarding full funding of the remainder of the project during the council’s next deliberation of the city’s capital program this spring.

CIP Amendment

The attached 2017-2021 CIP page 8-6 and new page 8-8 indicate the proposed changes in project costs and corresponding funding sources. Note that the 17th Avenue extension was fully funded in the CIP, and updated project costs provide approximately $400,000 in savings for this item. The other items are shown as additional funding needs; however, a review of the five-year fund balance projections would allow this amendment without delay of other currently scheduled projects.

Recommendation

Staff recommends the city council approve:

1) Subordinate Funding Agreements 4 and 5 with the Metropolitan Council; and
2) Amend page 8-6 and adopt new page 8-8 of the 2017-2021 CIP.
Submitted through:
   Geralyn Barone, City Manager
   Corrine Heine, City Attorney

Originated by:
   Alisha Gray, Economic Development and Housing Manager
   Julie Wischnack, AICP, Community Development Director
   Phil Olson, Engineering Project Manager
   Will Manchester, Director of Engineering
Project Category: Local Street Improvements

Project Title: Shady Oak Area LRT - Infrastructure

Total Estimated Cost: $1,500,000

Funding Priority: 3

Account Number: 4410.XXX.S17406 (Street)
5110.XXX.S17406 (Utility)
5600.XXX.S17406 (Storm)
2500.XXX.S17406 (Electric)

Source of Project Funding

<table>
<thead>
<tr>
<th>Source of Project Funding</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
</tr>
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<tbody>
<tr>
<td>Street Improvement Fund</td>
<td>$500,000</td>
<td>$300,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>$250,000</td>
<td>$320,000</td>
<td>$160,000</td>
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<tr>
<td>Utility Fund</td>
<td>$200,000</td>
<td>$200,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>70,000</td>
<td>90,000</td>
<td>50,000</td>
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<tr>
<td>Storm Water Fund</td>
<td>$100,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>30,000</td>
<td>30,000</td>
<td>20,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electric Franchise Fees</td>
<td>$100,000</td>
<td>$100,000</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>30,000</td>
<td>30,000</td>
<td>20,000</td>
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</tbody>
</table>

Justification:

Local share of improvements necessary to accommodate light rail within the Shady Oak/Excelsior Blvd. area.

Scheduling and Project Status:

2017-19: Construction of light rail and public road improvements necessary to connect station areas.

Relationship to General Plan and Other Projects:

The project will be connected to other redevelopment efforts and construction. The redevelopment will have to be coordinated and aligned with county construction of the line. And as the project approaches actual design stage, the breakdown of these local costs as they relate to non-tax levy sources, e.g., storm water fees will be clearer.

Effect on Annual Operations Costs:

Workload associated with this project may require dedicated personnel and increase annual operating costs.

If local road connections are created, maintenance of these facilities would be necessary.

Description:

When southwest light rail is constructed, local matching funds are required. The local match can be for road infrastructure to and from a station, trail connections, storm water improvements, etc. The matching portion will not be determined until the project completes final design and bidding.
**Project Category:** Local Street Improvements  

**Project Title:** City LRT Infrastructure  

**Total Estimated Cost:** $2,800,000  

**Funding Priority:** 3  

**Account Number:** 4410.XXXX.S16406

---

**Source of Project Funding**  

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street Improvement Fund</td>
<td>$210,000</td>
<td>$430,000</td>
<td>$290,000</td>
<td>$160,000</td>
<td></td>
</tr>
<tr>
<td>Storm Water Fund</td>
<td>60,000</td>
<td>180,000</td>
<td>140,000</td>
<td>100,000</td>
<td></td>
</tr>
<tr>
<td>Electric Franchise Fees</td>
<td>160,000</td>
<td>160,000</td>
<td>160,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HRA</td>
<td>250,000</td>
<td>250,000</td>
<td>250,000</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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**Justification:**  
The city committed to a local LRT match of $2,000,000 for project costs associated with infrastructure in Minnetonka, including but not limited to electric undergrounding, street lighting, storm water improvements, water quality protection, and general road construction. Additional infrastructure changes are also needed to meet the city’s fence standards, retaining wall color standards, and storm sewer casing standards.

**Scheduling and Project Status:**  
All work will be coordinated in conjunction with the southwest light rail improvements in the area.

---

**Description:**  
When southwest light rail is constructed, local matching funds are required including the city’s $2M project contribution and local match funds to meet city standards for road infrastructure, fencing, retaining wall colors, and storm sewer casings.

---

**Relationship to General Plan and Other Projects:**  
These improvements will be completed as part of the SWLRT project.

- 2017-19 Local Work (Fence, Wall Color, Casings)
- 2018-20 $2 M of Project Contribution

**Effect on Annual Operations Costs:**  
Agreements with SWLRT are required for maintenance of the fencing and wall color.
PROJECT: SOUTHWEST LIGHT RAIL TRANSIT PROJECT

MASTER AGREEMENT: Master Funding Agreement – City of Minnetonka

PARTIES TO AGREEMENT:
• Metropolitan Council (“Council”)
• City of Minnetonka (“City”)

SUBORDINATE FUNDING AGREEMENT
City of Minnetonka – 04 (Local Work - Construction)

This Subordinate Funding Agreement (“SFA”) with the City of Minnetonka is entered into by and between the above named Parties.

WHEREAS:

1. The Parties entered into a Southwest Light Rail Transit Project (“Project”) Master Funding Agreement (“MFA”) effective on January 29, 2015.

2. The Parties provided in the MFA that certain aspects of funding for the Project would be determined in subsequent SFAs.

3. The Project scope includes Locally Requested Capital Improvements, hereby referred to as “Local Work,” which the City will fund.

4. The Parties desire to enter into this SFA in order to provide funding for construction of the City’s Local Work.

NOW, THEREFORE, in reliance on the statements in these recitals, the Parties hereby agree as follows:

1. **Amount of Authorized Funding.** The total for all Local Work (described in Exhibit A) plus administration costs shall be in the amount of $1,571,478.

2. **Payment.** The funds shall be payable in full in accordance with the payment schedule set forth in Exhibit A. Any changes to the scope or budget needed to construct the Local Work will be addressed through change orders funded through a separate Change Order SFA to be entered into by the City and Council prior to award of the civil construction contract.
3. **Project Budget.** The budget for the Council’s activities described in this SFA is provided in Exhibit A. City funds provided for this SFA may only be used to fund the Council’s costs for activities to be directly incurred within the described Specific Description of Funding Authorization and as detailed in the MFA.

4. **Specific Description of Funding Authorization.** Activities to be performed by the Council’s construction contractor and funded by the City include construction of the Local Work identified on Exhibit A.

5. **Project Activity Periods.** The project activity period for the purposes of this SFA shall be effective upon execution and shall terminate on the later date of:

   a) all costs under this SFA have been paid,
   b) the City’s inspection and acceptance of the Local Work, in accordance with the procedures outlined in Exhibit B.

unless terminated earlier consistent with the terms of the MFA.

6. **Entry onto Easements.** The Parties hereby grant to each other the right to enter onto property and any easements and rights-of-way that the Parties may have obtained for construction of the Local Work in order to fulfill obligations under this SFA.

7. **Ownership/Maintenance.** Unless otherwise noted on Exhibit A, after substantial completion of the Local Work, the Local Work shall become property of the City and all associated warranties and guarantees provided by the Council’s contractor(s) performing work on the Local Work shall become the property of the City. Upon the City becoming the owner of the Local Work, the City will be responsible for operation and maintenance of the Local Work.

8. **Project Management.** Except for the City’s responsibilities outlined in Exhibit B, the Council shall perform, direct, and supervise all construction, contract administration, and inspection that the Council deems required or necessary and appropriate to complete the Local Work. All Local Work shall be performed by the Council or the Council’s contractors, as directed by the Council, in accordance with the Contract Documents, defined in Exhibit B, for the Project. The Council will actively pursue and manage each warranty identified for the duration of the warranty.

9. **Incorporation.** The terms, conditions, and definitions of the MFA are expressly incorporated into this SFA except as modified herein.
CITY OF MINNETONKA

By: __________________________

Its: _________________________

Date: _________________________

By: __________________________

Its: _________________________

Date: _________________________

METROPOLITAN COUNCIL

By: __________________________

Its: _________________________

Date: _________________________
### EXHIBIT A

Description of Local Work, Payment Schedule, and Budget Detail

<table>
<thead>
<tr>
<th>Local Work</th>
<th>Name</th>
<th>Description</th>
<th>Bid Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>12a</td>
<td>Extension of 17&lt;sup&gt;th&lt;/sup&gt; Avenue</td>
<td>Includes constructing roadway to connect existing K-Tel Drive with the proposed SWLRT construction of 17th Avenue South and installing a new traffic signal which is needed at the new intersection of 17th Avenue South/K-Tel Drive at the 5th Street intersection. As part of the roadway extension, the Cedar Lake LRT Regional Trail will need to be extended to the west. A new crossing will be introduced at the 17th Avenue South extension, and the trail will tie into existing further to the west. Plaza enhancements at Shady Oak Station consisting of additional pavement, trees, tree uplighting, and irrigation are also included.</td>
<td>$877,841</td>
</tr>
<tr>
<td>12b</td>
<td>Storm Sewer Casings</td>
<td>Provide storm sewer casings at 5 locations where the city storm sewer crosses LRT tracks.</td>
<td>$137,002</td>
</tr>
<tr>
<td>12c</td>
<td>Additional Colors on Retaining Walls&lt;sup&gt;1&lt;/sup&gt;</td>
<td>Includes an upgraded aesthetic treatment on specific retaining walls that includes additional colors (per the Minnetonka palette) and anti-graffiti coating. Walls with upgraded aesthetic treatment include: W301, W302A, W302C, W305, W306, W323, W324, W326, W327, W328, W329, W330, and wing walls, barriers and exposed surfaces of pedestrian underpasses 1, 2 and 5, and southeast faces of Feltl Road overpass wing walls and barriers.</td>
<td>$135,742</td>
</tr>
<tr>
<td>12d</td>
<td>Upgraded Railing/Fencing&lt;sup&gt;2&lt;/sup&gt;</td>
<td>Includes installing upgraded site fencing and railings within the City as shown in the Civil Contract documents.</td>
<td>$375,121</td>
</tr>
</tbody>
</table>

|               | Bid Total                                  | $1,525,706                                                                                                                                         |
|               | Administration (3%)                        | $45,772                                                                                                                                           |
|               | SFA Total                                  | $1,571,478                                                                                                                                          |

---

<sup>1</sup> The Council will own the retaining walls within the LRT corridor and at stations, and is responsible for structural maintenance of these walls, if necessary. The City, however, is responsible for maintaining the surface treatment on the retaining walls.

<sup>2</sup> The Council will own and maintain the fencing/railing within the LRT corridor and at stations. When necessary, however, the Council is not responsible for replacing this railing/fencing in-kind.
## EXHIBIT A

### Payment Schedule for Local Work

<table>
<thead>
<tr>
<th>Payment #</th>
<th>Payable on or before:</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>30 Days Following SWLRT Project Civil Contract Notice to Proceed</td>
<td>$392,870</td>
</tr>
<tr>
<td>2</td>
<td>February 1, 2018</td>
<td>$785,738</td>
</tr>
<tr>
<td>3</td>
<td>February 1, 2019</td>
<td>$392,870</td>
</tr>
</tbody>
</table>
Local Work 12a - Extension of 17th Avenue

Description:
Roadway construction to connect existing K-Tel Drive with the proposed SWLRT construction of 17th Avenue South and installing a new traffic signal at the new intersection of 17th Avenue South/K-Tel Drive and 5th Street. As part of the roadway extension the Cedar Lake LRT Regional Trail will be extended to the west. A new crossing will be introduced at the 17th Avenue South extension, and the trail will tie into the existing trail further to the west. Included in the Roadway work is the installation of a 10-inch water main and an 8-inch sanitary sewer. Plaza enhancements at Shady Oak Station consisting of additional pavement and trees, up lighting, and irrigation are also included.

Construction - Direct Cost

---

### Base Project

<table>
<thead>
<tr>
<th>Bid item</th>
<th>Description</th>
<th>Quantity</th>
<th>Units</th>
<th>Unit Price</th>
<th>Bid Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>Concrete Curb &amp; Gutter</td>
<td>-227</td>
<td>LF</td>
<td>$37.64</td>
<td>-$8,544.28</td>
</tr>
<tr>
<td>20</td>
<td>Road Paving</td>
<td>-510</td>
<td>SY</td>
<td>$37.08</td>
<td>-$18,910.80</td>
</tr>
<tr>
<td>25</td>
<td>Trail and Sidewalk</td>
<td>-1</td>
<td>LS</td>
<td>$4,733.84</td>
<td>-$4,733.84</td>
</tr>
<tr>
<td>70</td>
<td>Landscaping</td>
<td>-1</td>
<td>LS</td>
<td>$92.40</td>
<td>-$92.40</td>
</tr>
</tbody>
</table>

Total Cost: ($32,281)

### Extension of 17th Avenue

<table>
<thead>
<tr>
<th>Bid item</th>
<th>Description</th>
<th>Quantity</th>
<th>Units</th>
<th>Unit Price</th>
<th>Bid Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>Concrete Curb &amp; Gutter</td>
<td>1376</td>
<td>LF</td>
<td>$16.78</td>
<td>$23,089.28</td>
</tr>
<tr>
<td>200</td>
<td>Road Paving</td>
<td>1732</td>
<td>SY</td>
<td>$35.74</td>
<td>$61,901.68</td>
</tr>
<tr>
<td>250</td>
<td>Trail and Sidewalk</td>
<td>8366</td>
<td>SF</td>
<td>$5.15</td>
<td>$43,084.90</td>
</tr>
<tr>
<td>300</td>
<td>Utilities</td>
<td>1</td>
<td>LS</td>
<td>$71,654.67</td>
<td>$71,654.67</td>
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<tr>
<td>310</td>
<td>Cathodic Protection</td>
<td>1</td>
<td>LS</td>
<td>$37,489.24</td>
<td>$37,489.24</td>
</tr>
<tr>
<td>400</td>
<td>Drainage</td>
<td>1</td>
<td>LS</td>
<td>$17,777.01</td>
<td>$17,777.01</td>
</tr>
<tr>
<td>500</td>
<td>Erosion Control</td>
<td>578</td>
<td>LF</td>
<td>$4.35</td>
<td>$2,514.30</td>
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<tr>
<td>600</td>
<td>Earthwork</td>
<td>1</td>
<td>LS</td>
<td>$18,682.57</td>
<td>$18,682.57</td>
</tr>
<tr>
<td>700</td>
<td>Landscaping</td>
<td>1</td>
<td>LS</td>
<td>$24,997.47</td>
<td>$24,997.47</td>
</tr>
<tr>
<td>800</td>
<td>Street Light, Signs and Stri</td>
<td>1</td>
<td>LS</td>
<td>$42,750.60</td>
<td>$42,750.60</td>
</tr>
<tr>
<td>900</td>
<td>Traffic Signals</td>
<td>1</td>
<td>LS</td>
<td>$290,000.00</td>
<td>$290,000.00</td>
</tr>
</tbody>
</table>

Total Cost: $633,942

### Plaza

<table>
<thead>
<tr>
<th>Bid item</th>
<th>Description</th>
<th>Quantity</th>
<th>Units</th>
<th>Unit Price</th>
<th>Bid Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1250</td>
<td>Trail and Sidewalk</td>
<td>1</td>
<td>LS</td>
<td>$53,776.70</td>
<td>$53,776.70</td>
</tr>
<tr>
<td>1300</td>
<td>Utilities</td>
<td>1</td>
<td>LS</td>
<td>$16,556.39</td>
<td>$16,556.39</td>
</tr>
<tr>
<td>1600</td>
<td>Earthwork</td>
<td>1</td>
<td>LS</td>
<td>$6,227.52</td>
<td>$6,227.52</td>
</tr>
<tr>
<td>1700</td>
<td>Landscaping</td>
<td>1</td>
<td>LS</td>
<td>$19,059.19</td>
<td>$19,059.19</td>
</tr>
</tbody>
</table>

Total Cost: $95,620

Bid Risk 10%: $69,728

Construction Direct Cost (Base Year 2015): $767,008

---

### Construction - Indirect Costs

<table>
<thead>
<tr>
<th>Description</th>
<th>Percentage Increase</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inspection</td>
<td>2%</td>
<td>$15,340</td>
</tr>
<tr>
<td>Survey/Stake</td>
<td>2%</td>
<td>$15,340</td>
</tr>
<tr>
<td>Material Testing</td>
<td>1%</td>
<td>$7,670</td>
</tr>
</tbody>
</table>

Total Cost: $38,350
### Total Construction Costs

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Year Construction Cost</td>
<td>$805,359</td>
<td>Base Year (2015)</td>
</tr>
<tr>
<td>Construction Cost with Escalation to YOE (3% per year)</td>
<td>$877,841</td>
<td>YOE (2018)</td>
</tr>
</tbody>
</table>

### Administration

<table>
<thead>
<tr>
<th>Description</th>
<th>Percentage Increase</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration</td>
<td>3%</td>
<td>$26,335</td>
</tr>
</tbody>
</table>

Total Additional Cost for Local Work 12a - Extension of 17th Avenue: $904,176
Local Work 12b - Storm Sewer Casings

Description:
*Provide storm sewer casings at various locations where the city storm sewer crosses LRT tracks.*

**Construction - Direct Cost**

<table>
<thead>
<tr>
<th>Bid item</th>
<th>Description</th>
<th>Quantity</th>
<th>Units</th>
<th>Unit Price</th>
<th>Bid Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>42830030</td>
<td>30&quot; Steel Casing Pipe for RCP Storm</td>
<td>123</td>
<td>LF</td>
<td>$123.20</td>
<td>$15,153.60</td>
</tr>
<tr>
<td>42830060</td>
<td>60&quot; Steel Casing Pipe for RCP Storm</td>
<td>71</td>
<td>LF</td>
<td>$297.69</td>
<td>$21,135.99</td>
</tr>
<tr>
<td>42830066</td>
<td>66&quot; Steel Casing Pipe for RCP Storm</td>
<td>119</td>
<td>LF</td>
<td>$325.73</td>
<td>$38,761.87</td>
</tr>
<tr>
<td>42830072</td>
<td>72&quot; Steel Casing Pipe for RCP Storm</td>
<td>76</td>
<td>LF</td>
<td>$353.77</td>
<td>$26,886.52</td>
</tr>
<tr>
<td>45000000</td>
<td>Spacers for Steel Casing</td>
<td>1</td>
<td>LS</td>
<td>$6,884.43</td>
<td>$6,884.43</td>
</tr>
</tbody>
</table>

**Total Cost:** $108,822

Bid Risk 10% $10,882

**Construction Direct Cost (Base Year 2015):** $119,705

**Construction - Indirect Costs**

- Inspection: 2% $2,394
- Survey/Stake: 2% $2,394
- Material Testing: 1% $1,197

**Total Cost:** $5,985

**Total Construction Costs**

- **Description**
- **Cost** $125,690
- **Comments** Base Year (2015)
- **Construction Cost with Escalation to YOE (3% per year)** $137,002 YOE (2018)

**Administration**

- **Description** Administration
- **Percentage Increase** 3%
- **Cost** $4,110

**Total Additional Cost for Local Work 12b - Storm Sewer Casings:** $141,112
Local Work 12c - Additional Colors on Retaining Walls

Description:
Includes an upgraded aesthetic treatment on specific retaining walls that includes additional colors and a graffiti coating

Construction - Direct Cost

**Base Project**

<table>
<thead>
<tr>
<th>Bid item</th>
<th>Description</th>
<th>Quantity</th>
<th>Units</th>
<th>Unit Price</th>
<th>Bid Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1020</td>
<td>Retaining Wall W301 - Base Color</td>
<td>-609.000</td>
<td>SF</td>
<td>1.56</td>
<td>-950.04</td>
</tr>
<tr>
<td>1040</td>
<td>Retaining Wall W302A - Base Color</td>
<td>-6,435.000</td>
<td>SF</td>
<td>1.56</td>
<td>-10,038.60</td>
</tr>
<tr>
<td>1080</td>
<td>Retaining Wall W302C - Base Color</td>
<td>-3,165.000</td>
<td>SF</td>
<td>1.56</td>
<td>-4,937.40</td>
</tr>
<tr>
<td>1100</td>
<td>Retaining Wall W305 - Base Color</td>
<td>-3,258.000</td>
<td>SF</td>
<td>1.56</td>
<td>-5,082.48</td>
</tr>
<tr>
<td>1120</td>
<td>Retaining Wall W306 - Base Color</td>
<td>-879.000</td>
<td>SF</td>
<td>1.56</td>
<td>-1,371.24</td>
</tr>
<tr>
<td>1140</td>
<td>Retaining Wall W323 - Base Color</td>
<td>-2,250.000</td>
<td>SF</td>
<td>1.56</td>
<td>-3,510.00</td>
</tr>
<tr>
<td>1160</td>
<td>Retaining Wall W324 - Base Color</td>
<td>-7,446.000</td>
<td>SF</td>
<td>1.56</td>
<td>-11,615.76</td>
</tr>
<tr>
<td>1180</td>
<td>Retaining Wall W326 - Base Color</td>
<td>-531.000</td>
<td>SF</td>
<td>1.56</td>
<td>-828.36</td>
</tr>
<tr>
<td>1200</td>
<td>Retaining Wall W327 - Base Color</td>
<td>-8,784.000</td>
<td>SF</td>
<td>1.56</td>
<td>-16,703.04</td>
</tr>
<tr>
<td>1220</td>
<td>Retaining Wall W328 - Base Color</td>
<td>-1,326.000</td>
<td>SF</td>
<td>1.56</td>
<td>-2,068.56</td>
</tr>
<tr>
<td>1240</td>
<td>Retaining Wall W329 - Base Color</td>
<td>-10,509.000</td>
<td>SF</td>
<td>1.56</td>
<td>-16,394.04</td>
</tr>
<tr>
<td>1260</td>
<td>Retaining Wall W330 - Base Color</td>
<td>-6,618.000</td>
<td>SF</td>
<td>1.56</td>
<td>-10,324.08</td>
</tr>
</tbody>
</table>

Total Cost: \( \$80,824 \)

**Upgraded Railing & Fencing**

<table>
<thead>
<tr>
<th>Bid item</th>
<th>Description</th>
<th>Quantity</th>
<th>Units</th>
<th>Unit Price</th>
<th>Bid Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>RTW W301-Base+3 StainColors+GroutColor+Anti Gr</td>
<td>609.000</td>
<td>SF</td>
<td>3.70</td>
<td>2,253.30</td>
</tr>
<tr>
<td>2040</td>
<td>RTW W302A-Base+3 StainColors+GroutColor+Anti Gr</td>
<td>6,435.000</td>
<td>SF</td>
<td>3.70</td>
<td>23,809.50</td>
</tr>
<tr>
<td>2080</td>
<td>RTW W302C-Base+3 StainColors+GroutColor+Anti Gr</td>
<td>3,165.000</td>
<td>SF</td>
<td>3.70</td>
<td>11,710.50</td>
</tr>
<tr>
<td>2100</td>
<td>RTW W305-Base+3 StainColors+GroutColor+Anti Gr</td>
<td>3,258.000</td>
<td>SF</td>
<td>3.70</td>
<td>12,054.60</td>
</tr>
<tr>
<td>2120</td>
<td>RTW W306-Base+3 StainColors+GroutColor+Anti Gr</td>
<td>879.000</td>
<td>SF</td>
<td>3.70</td>
<td>3,252.30</td>
</tr>
<tr>
<td>2140</td>
<td>RTW W323-Base+3 StainColors+GroutColor+Anti Gr</td>
<td>2,250.000</td>
<td>SF</td>
<td>3.70</td>
<td>8,325.00</td>
</tr>
<tr>
<td>2160</td>
<td>RTW W324-Base+3 StainColors+GroutColor+Anti Gr</td>
<td>7,446.000</td>
<td>SF</td>
<td>3.70</td>
<td>27,550.20</td>
</tr>
<tr>
<td>2180</td>
<td>RTW W326-Base+3 StainColors+GroutColor+Anti Gr</td>
<td>531.000</td>
<td>SF</td>
<td>3.70</td>
<td>1,964.70</td>
</tr>
<tr>
<td>2200</td>
<td>RTW W327-Base+3 StainColors+GroutColor+Anti Gr</td>
<td>8,784.000</td>
<td>SF</td>
<td>3.70</td>
<td>32,500.80</td>
</tr>
<tr>
<td>2220</td>
<td>RTW W328-Base+3 StainColors+GroutColor+Anti Gr</td>
<td>1,326.000</td>
<td>SF</td>
<td>3.70</td>
<td>4,906.20</td>
</tr>
<tr>
<td>2240</td>
<td>RTW W329-Base+3 StainColors+GroutColor+Anti Gr</td>
<td>10,509.000</td>
<td>SF</td>
<td>3.70</td>
<td>38,883.30</td>
</tr>
<tr>
<td>2260</td>
<td>RTW W330-Base+3 StainColors+GroutColor+Anti Gr</td>
<td>6,618.000</td>
<td>SF</td>
<td>3.70</td>
<td>24,486.60</td>
</tr>
</tbody>
</table>

Total Cost: \( \$191,697 \)

Bid Risk 10% $11,087

Construction Direct Cost (Base Year 2015): \( \$121,961 \)

Construction - Indirect Costs

<table>
<thead>
<tr>
<th>Description</th>
<th>Percentage Increase</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inspection</td>
<td>2%</td>
<td>$2,439</td>
</tr>
<tr>
<td>Survey/Stake</td>
<td>2%</td>
<td>$2,439</td>
</tr>
<tr>
<td>Material Testing</td>
<td>1%</td>
<td>$1,220</td>
</tr>
</tbody>
</table>

Total Cost: \( \$6,098 \)
Total Construction Costs

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Year Construction Cost</td>
<td>$128,059</td>
<td>Base Year (2015)</td>
</tr>
<tr>
<td>Construction Cost with Escalation to YOE (3% per year)</td>
<td>$135,742</td>
<td>YOE (2017)</td>
</tr>
</tbody>
</table>

Administration

<table>
<thead>
<tr>
<th>Description</th>
<th>Percentage Incre</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration</td>
<td>3%</td>
<td>$4,072</td>
</tr>
</tbody>
</table>

Total Additional Cost for Local Work 12c - Additional Colors on Retaining Walls: $139,815
# LRCl #12d - Upgraded Railing & Fencing

**Originator:** City of Minnetonka  
**9-Dec-16**

**Description:**
Includes installing upgraded site fencing and railings within the City

## Construction - Direct Cost

### Base Project

<table>
<thead>
<tr>
<th>Bid item</th>
<th>Description</th>
<th>Quantity</th>
<th>Units</th>
<th>Unit Price</th>
<th>Bid Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>5030</td>
<td>RTW W301 Safety Mesh Fence</td>
<td>-99.000</td>
<td>LF</td>
<td>62.71</td>
<td>-6,208.29</td>
</tr>
<tr>
<td>5040</td>
<td>RTW W302A Safety Mesh Fence</td>
<td>-734.000</td>
<td>LF</td>
<td>62.71</td>
<td>-46,029.14</td>
</tr>
<tr>
<td>5050</td>
<td>RTW W323 Safety Mesh Fence</td>
<td>-158.000</td>
<td>LF</td>
<td>62.71</td>
<td>-9,909.76</td>
</tr>
<tr>
<td>5060</td>
<td>RTW W326 Safety Mesh Fence</td>
<td>-136.000</td>
<td>LF</td>
<td>62.71</td>
<td>-8,528.56</td>
</tr>
<tr>
<td>5070</td>
<td>Underpass #1 Safety Mesh Fence</td>
<td>-84.000</td>
<td>LF</td>
<td>62.71</td>
<td>-5,267.64</td>
</tr>
<tr>
<td>5080</td>
<td>Underpass #5 Safety Mesh Fence</td>
<td>-123.000</td>
<td>LF</td>
<td>62.72</td>
<td>-7,714.56</td>
</tr>
<tr>
<td>7010</td>
<td>Smetana Roadway Bridge Safety Mesh Fence</td>
<td>-136.000</td>
<td>LF</td>
<td>75.91</td>
<td>-10,323.76</td>
</tr>
<tr>
<td>7020</td>
<td>Feltle Roadway Bridge Safety Mesh Fence</td>
<td>-89.000</td>
<td>LF</td>
<td>75.91</td>
<td>-6,755.99</td>
</tr>
<tr>
<td>8000</td>
<td>Landscape Type B Fence</td>
<td>-1,021.000</td>
<td>LF</td>
<td>9.65</td>
<td>-9,852.65</td>
</tr>
</tbody>
</table>

**Total Cost:** ($110,590)

### Upgraded Railing & Fencing

<table>
<thead>
<tr>
<th>Bid item</th>
<th>Description</th>
<th>Quantity</th>
<th>Units</th>
<th>Unit Price</th>
<th>Bid Total</th>
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</thead>
<tbody>
<tr>
<td>1030</td>
<td>RTW W301 3' Ornamental Fence</td>
<td>99.000</td>
<td>LF</td>
<td>132.43</td>
<td>13,110.57</td>
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<td>1040</td>
<td>RTW W302A 3' Ornamental Fence</td>
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<td>1050</td>
<td>RTW W323 3' Ornamental Fence</td>
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<tr>
<td>1060</td>
<td>RTW W326 3' Ornamental Fence</td>
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<td>LF</td>
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<tr>
<td>1070</td>
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<td>234.000</td>
<td>LF</td>
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<td>26,580.06</td>
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<td>2010</td>
<td>Underpass #1 3'-6&quot; Ornamental Fence</td>
<td>168.000</td>
<td>LF</td>
<td>138.72</td>
<td>23,304.96</td>
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<td>2020</td>
<td>Underpass #5 3'-6&quot; Ornamental Fence</td>
<td>123.000</td>
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<td>138.72</td>
<td>17,062.56</td>
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<tr>
<td>3010</td>
<td>Smetana Roadway Bridge 4' Ornamental Fence - North</td>
<td>68.000</td>
<td>LF</td>
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<td>3012</td>
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<td>3020</td>
<td>Feltle Roadway Bridge 4' Ornamental</td>
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<td>3500</td>
<td>3' Ornamental R on Approach of Feltl and Smet</td>
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<td>132.43</td>
<td>12,978.14</td>
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<td>3502</td>
<td>2' Ornamental R on Approach of Feltl and Smet</td>
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<td>4000</td>
<td>Landscape 3' Ornamental Fence Type A5</td>
<td>1021.000</td>
<td>LF</td>
<td>122.68</td>
<td>125,256.28</td>
</tr>
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**Total Cost:** $416,987

**Bid Risk:** 10%  
**$30,640**

**Construction Direct Cost (Base Year 2015):** $337,036

## Construction - Indirect Costs

<table>
<thead>
<tr>
<th>Description</th>
<th>Percentage Increase</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inspection</td>
<td>2%</td>
<td>$6,741</td>
</tr>
<tr>
<td>Survey/Stake</td>
<td>2%</td>
<td>$6,741</td>
</tr>
<tr>
<td>Material Testing</td>
<td>1%</td>
<td>$3,370</td>
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</table>

**Total Cost:** $16,852
## Total Construction Costs

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Year Construction Cost</td>
<td>$353,888</td>
<td>Base Year (2015)</td>
</tr>
</tbody>
</table>

Construction Cost with Escalation to YOE (3% per year) $375,121 YOE (2017)

### Administration

<table>
<thead>
<tr>
<th>Description</th>
<th>Percentage Increase</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration</td>
<td>3%</td>
<td>$11,254</td>
</tr>
</tbody>
</table>

Total Additional Cost for LRC1 #12d - Upgraded Railing & Fencing: $386,375
EXHIBIT B

Procedures for Inspection & Acceptance of Local Work

The Council shall be responsible for constructing all Local Work at the sole cost and expense of the City, in accordance with the contract specifications, drawing, and change orders (“Contract Documents”). The City shall have the right to review and inspect, at its sole cost and expense exclusive of this SFA, the as-built condition of all Local Work for compliance with Contract Documents prior to the City’s acceptance of the Local Work from the Council.

Inspection Process:

a. The Council shall provide the City with seven (7) days advance notice of the date on which the Council anticipates reaching an inspection-point for any Local Work.

b. The Council shall notify the City of the date on which the inspection-point has been achieved and the Local Work is available for the City’s inspection. The City shall complete its inspection, at its sole cost and expense exclusive of this SFA, within seven (7) days from the date of such notice that the Local Work has reached an inspection-point.

c. The City shall provide the Council with written notice of any work that does not strictly conform to the Contract Documents (“Defective Work”) identified by the City in its inspection within seven (7) days from such inspection. The City’s notice of Defective Work must specify the reason(s) the Local Work is defective, and the actions which, in the opinion of the City, must be taken to make the Local Work conform to the Contract Documents. The Council shall in good faith take reasonable steps to address the Defective Work specified in the City’s notice.

d. If the Council concurs with the City’s opinion regarding Local Work, the Council shall require its contractor to make corrections. The Council shall notify the City when the Local Work identified by the City as Defective Work has been corrected, and the City shall have up to five (5) business days to conduct an inspection of the corrected Local Work. Upon such further inspection, the City shall either provide a further notice of Defective Work, or a notice that the Defective Work has been corrected. The process shall repeat until the Defective Work is in compliance with the Contract Documents. Disagreements between the Council and the City with respect to the existence of Defective Work shall be resolved in accordance with the Dispute Resolution process outlined in the Master Funding Agreement.

e. The City’s failure to inspect the Local Work within the time specified in this Exhibit shall be deemed to waive the City’s right to inspect the Local Work. The City’s failure to inspect the Local Work, or to notify the Council of Defective Work within the time specified in this Exhibit shall be deemed a waiver of the City’s right to request any further changes.
Substantial Completion and Acceptance:

a. The Council will provide the City with written notice of the substantial completion after the Council determines that all of the Local Work to be constructed pursuant to this SFA have progressed to the point it is sufficiently complete and in accordance with the Contract Documents. Together, the Parties will inspect the Local Work in accordance with the Inspection Process outlined above.

b. After the joint inspection, the City shall provide the Council written acknowledgment that the Local Work has been completed and are suitable for its intended use and the City’s maintenance responsibilities related to the Local Work will begin.
PROJECT: SOUTHWEST LIGHT RAIL TRANSIT PROJECT

MASTER AGREEMENT: Master Funding Agreement – City of Minnetonka

PARTIES TO AGREEMENT: • Metropolitan Council (“Council”)
• City of Minnetonka (“City”)

SUBORDINATE FUNDING AGREEMENT
City of Minnetonka – 05 (Local Funding Contribution)

This Subordinate Funding Agreement (“SFA”) with the City of Minnetonka is entered into by and between the above named Parties.

WHEREAS:

1. The Parties entered into a Southwest Light Rail Transit Project (“Project”) Master Funding Agreement (“MFA”) effective on January 29, 2015.

2. The Parties provided in the MFA that certain aspects of funding for the Project would be determined in subsequent SFAs.

3. On July 13, 2015, the City passed Resolution No. 2015-056, Resolution Supporting $2 Million in Local Funds to the Green Line Extension (Exhibit A), committing funding in an amount not to exceed $2,000,000 toward the Project.

4. The Parties desire to enter into this SFA in order to provide funding toward the Project.

NOW, THEREFORE, in reliance on the statements in these recitals, the Parties hereby agree as follows:

1. Amount of Authorized Funding. The total City funding commitment for the Project shall be in the amount of $2,000,000.

2. Payment. The funds shall be payable to the Council in accordance with the payment schedule set forth in Exhibit B.
3. **Project Budget.** City funds provided for this SFA may only be used to fund the Council’s costs for activities to be directly incurred within the described Specific Description of Funding Authorization and as detailed in the MFA.

4. **Specific Description of Funding Authorization.** Activities to be performed by the Council’s contractor and funded by the City include activities directly attributable to the Project.

5. **Project Activity Periods.** The project activity period for the purposes of this SFA shall be effective upon execution and shall terminate on the date all costs under this SFA have been paid, unless terminated earlier consistent with the terms of the MFA.

6. **Incorporation.** The terms, conditions, and definitions of the MFA are expressly incorporated into this SFA.

**CITY OF MINNETONKA**

By: ____________________________

Its: ____________________________

Date: ____________________________

By: ____________________________

Its: ____________________________

Date: ____________________________

**METROPOLITAN COUNCIL**

By: ____________________________

Its: ____________________________

Date: ____________________________
EXHIBIT A – City of Minnetonka Resolution 2015-056

Resolution No. 2015-056

Resolution supporting $2 Million in local funds to the Green Line Extension

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

Section 1. Background.

1.01. On June 23, 2014, the city of Minnetonka provided municipal consent for the Green Line Extension. The City of Minnetonka (City) has been working with the Metropolitan Council, host cities, public agencies, and public transit funders in planning for the proposed Southwest Light Rail Transit (SWLRT) Project (METRO Green Line Extension).

1.02. The proposed SWLRT Project is an approximately 14.4 mile extension of the METRO Green Line, which would operate from downtown Minneapolis through the cities of St. Louis Park, Hopkins, Minnetonka, and Eden Prairie.

1.03. On April 9, 2014, the Metropolitan Council adopted a SWLRT Project scope and budget, which was amended to $1.653 billion on July 9, 2014.

1.04. On April 27, 2015, the Metropolitan Council released an updated SWLRT Project cost estimate of $1.994 billion.

1.05. Because of the increased cost estimate, the Metropolitan Council, with input from the five host cities, Hennepin County, and public transit funders, identified certain elements to be eliminated or delayed that do not impact the proposed SWLRT Project’s overall functionality.

1.06. The Metropolitan Council on July 8, 2015, adopted a revised SWLRT Project scope and budget of $1.744 billion, which requires the Metropolitan Council to seek commitments from host cities and public agencies to fund the non-federal share of estimated costs above $1.653 billion.

1.07. The City, our residents, businesses, and workers would benefit from the SWLRT Project as it could provide an attractive transportation option for residents and workers along with increased redevelopment opportunities strengthening the City’s tax base; and

1.08. As one of the host cities for the proposed SWLRT Project, the City has been asked to contribute funds towards the SWLRT Project budget to maintain an SWLRT Project design and functionality that benefits the City, its residents, businesses, and workers.
Section 2. Council Action.

2.01. The City has identified $2 million as the appropriate contribution towards realizing the construction of the proposed SWLRT Project.

2.02. The City understands that the SWLRT Project is undergoing state and federal environmental review and that this identification of funds is not intended to prejudice or compromise any of these environmental review processes or any decisions made under them.

2.03. After appropriate examination and due consideration, the governing body of the City of Minnetonka hereby commits $2 Million towards SWLRT Project construction activities anticipated to occur between 2017-2020. After all necessary state and federal environmental review has taken place and the SWLRT Project receives a Record of Decision (ROD) and Determination of Adequacy, the City will address the terms and conditions of this commitment through subsequent resolutions regarding appropriation of funds through one or more subordinate funding or other agreements with the Metropolitan Council.

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

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

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

David E. Maeda, City Clerk.
EXHIBIT B – Payment Schedule for Funding Contribution

<table>
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<tr>
<th>Payment #</th>
<th>Payable on or before:</th>
<th>Contribution Amount</th>
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<tbody>
<tr>
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<td>$666,666.67</td>
</tr>
<tr>
<td>2</td>
<td>March 1, 2019</td>
<td>$666,666.67</td>
</tr>
<tr>
<td>3</td>
<td>March 1, 2020</td>
<td>$666,666.66</td>
</tr>
</tbody>
</table>

Funding Contribution Total: $2,000,000
City Council Agenda Item #14B
Meeting of January 9, 2017

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

Recommendation  Adopt the resolution reaffirming the previous approval

Background

On May 18, 2015, the city council approved final site and building plans for construction of the Music Barn Apartments, a 27-unit affordable housing project. By city code, approval of final site and building plans expire on December 31 of the year following approval unless: (1) a building permit has been issued and substantial work performed on the project; or (2) the city grants a time extension. As the council is aware, a building permit has not been issued for construction of the apartment building. Staff intended to place an extension request on the council’s December 19, 2016 meeting agenda with the economic assistance extension but legal notification requirements could not be met prior to that meeting. As such, the Music Barn Apartment site and building plan approval expired on December 31, 2016.

Reaffirmation

The city has occasionally reaffirmed previous approvals – rather than requiring a proposal go through a full review process again – when: (1) there have been no changes to the previously approved plans; (2) when there have been no changes to city code or policy that could affect the previous approvals; and (3) when reaffirmation would not adversely affect the interests of neighboring property owners.

Staff finds that reaffirmation of the previous Music Barn Apartments site and building plan approval is reasonable, as:

(1) Other than changes required to meet conditions of the 2015 approval, there have been no substantive changes to the previously approved plans;

(2) There have been no changes to city code or policy that would affect the previous approval; and

(3) In staff’s opinion, reaffirming the 2015 approval would not adversely affect the interests of neighboring property owners. Rather, reaffirmation would simply allow the project to continue as previously approved.

One public comment was received regarding concerns about the project. Most of the concerns are for the developer to address. One item related to tree preservation has been previously addressed during the formal project review. Only necessary tree removals will occur to allow grading and construction of the building, parking lot and access drives.
Recommendation

Staff recommends the city council adopt the resolution reaffirming the previous approval of final site and building plans, subject to previous conditions of approval.

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: Music Barn Apartments
Applicant: Community Housing Corp of America, Shelter Corp.
Address: 5740 & 5750 Shady Oak Rd

This map is for illustrative purposes only.
GRADING, DRAINAGE & EROSION CONTROL NOTES

1. All grading operations shall be done to the exact specifications or contours shown on the plans prepared by the Contractor. The Contractor, at its own cost, shall make any re-grading necessary to avoid property damage to adjacent properties during the construction phase of this project. The Contractor shall be held responsible for any damage to adjacent properties occurring during the construction phase of this project.

2. The Contractor shall be responsible for providing and maintaining traffic control devices, such as traffic cones, diagonal warning signs, directional signs, flags, lights, etc., to control the movement of traffic. Devices shall be approved by the Engineer prior to placement. Traffic control devices shall be removed and replaced by the Contractor upon the timely completion of the work in accordance with generally accepted traffic control practices. The Contractor shall be solely and completely responsible for conditions on the job site, including safety of all persons and property during the performance of the work, the requirement of all traffic control signs and lights, and the safety of the public. The Contractor shall be responsible for any damages to adjacent properties occurring during the construction phase of this project.

3. Dust must be adequately controlled. Being reset to paved areas must meet owner's requirements for traffic notifications as required by the City.

4. Before beginning construction, the Contractor shall install a temporary rock entrance pad at all points of vehicle exit from the project site. Said rock entrance pad shall be installed in accordance with generally accepted construction practices, the Contractor will be solely and completely responsible for conditions on the job site, and that rock entrance pad shall be approved by the Engineer prior to placement. Traffic control devices shall be approved by the Engineer prior to placement. Traffic control devices shall be removed and replaced by the Contractor upon the timely completion of the work in accordance with generally accepted traffic control practices. The Contractor shall be solely and completely responsible for conditions on the job site, including safety of all persons and property during the performance of the work, the requirement of all traffic control signs and lights, and the safety of the public. The Contractor shall be responsible for any damages to adjacent properties occurring during the construction phase of this project.

5. All entries on the City Street shall be performed per the requirements of the City. The Contractor shall be responsible for all permits and inspections as required by the City.

6. Active streets and alleys may be closed for temporary use by the Contractor, subject to inspection and approval from the City. The Contractor shall be responsible for all permits and inspections as required by the City.

7. Erosion and sedimentation control devices shall be approved and installed as shown on the project plans and in accordance with the Minnesota Department of Natural Resources, Department of Transportation, City requirements and the details shown on Sheet C8-1 of the project plans.

8. All disturbed paved areas and roadways that are not to be paved shall be maintained by the Contractor for the duration of the project. See details shown on Sheet C3-2 of the project plans.

9. The Contractor will be responsible for providing and maintaining traffic control devices, such as traffic cones, diagonal warning signs, directional signs, flags, lights, etc., to control the movement of traffic. Devices shall be approved by the Engineer prior to placement. Traffic control devices shall be removed and replaced by the Contractor upon the timely completion of the work in accordance with generally accepted traffic control practices. The Contractor shall be solely and completely responsible for conditions on the job site, including safety of all persons and property during the performance of the work, the requirement of all traffic control signs and lights, and the safety of the public. The Contractor shall be responsible for any damages to adjacent properties occurring during the construction phase of this project.

10. All entries on the City Street shall be performed per the requirements of the City. The Contractor shall be responsible for all permits and inspections as required by the City.

11. Active streets and alleys may be closed for temporary use by the Contractor, subject to inspection and approval from the City. The Contractor shall be responsible for all permits and inspections as required by the City.

12. Erosion and sedimentation control devices shall be approved and installed as shown on the project plans and in accordance with the Minnesota Department of Natural Resources, Department of Transportation, City requirements and the details shown on Sheet C8-1 of the project plans.

13. All disturbed paved areas and roadways that are not to be paved shall be maintained by the Contractor for the duration of the project. See details shown on Sheet C3-2 of the project plans.

14. Dust must be adequately controlled. Being reset to paved areas must meet owner's requirements for traffic notifications as required by the City.

15. Before beginning construction, the Contractor shall install a temporary rock entrance pad at all points of vehicle exit from the project site. Said rock entrance pad shall be installed in accordance with generally accepted construction practices, the Contractor will be solely and completely responsible for conditions on the job site, and that rock entrance pad shall be approved by the Engineer prior to placement. Traffic control devices shall be approved by the Engineer prior to placement. Traffic control devices shall be removed and replaced by the Contractor upon the timely completion of the work in accordance with generally accepted traffic control practices. The Contractor shall be solely and completely responsible for conditions on the job site, including safety of all persons and property during the performance of the work, the requirement of all traffic control signs and lights, and the safety of the public. The Contractor shall be responsible for any damages to adjacent properties occurring during the construction phase of this project.

16. Active streets and alleys may be closed for temporary use by the Contractor, subject to inspection and approval from the City. The Contractor shall be responsible for all permits and inspections as required by the City.

17. Erosion and sedimentation control devices shall be approved and installed as shown on the project plans and in accordance with the Minnesota Department of Natural Resources, Department of Transportation, City requirements and the details shown on Sheet C8-1 of the project plans.

18. All disturbed paved areas and roadways that are not to be paved shall be maintained by the Contractor for the duration of the project. See details shown on Sheet C3-2 of the project plans.

19. Safety of all persons and property during the performance of the work, the requirement of all traffic control signs and lights, and the safety of the public. The Contractor shall be responsible for any damages to adjacent properties occurring during the construction phase of this project.

20. Active streets and alleys may be closed for temporary use by the Contractor, subject to inspection and approval from the City. The Contractor shall be responsible for all permits and inspections as required by the City.

21. Erosion and sedimentation control devices shall be approved and installed as shown on the project plans and in accordance with the Minnesota Department of Natural Resources, Department of Transportation, City requirements and the details shown on Sheet C8-1 of the project plans.

22. All disturbed paved areas and roadways that are not to be paved shall be maintained by the Contractor for the duration of the project. See details shown on Sheet C3-2 of the project plans.

23. All grading operations shall be done to the exact specifications or contours shown on the plans prepared by the Contractor. The Contractor, at its own cost, shall make any re-grading necessary to avoid property damage to adjacent properties during the construction phase of this project. The Contractor shall be held responsible for any damage to adjacent properties occurring during the construction phase of this project.
### UTILITY PLAN NOTES

1. **All sanitary sewer, storm sewer, and water mains shall be furnished and installed per the requirements of the specifications. The city and the owner shall be responsible for the proper installation of all sanitary sewer, storm sewer, and water mains.**

2. All street trees and sidewalk tree plantings shall be furnished and installed per the specifications. The city and the owner shall be responsible for the proper installation of all street trees and sidewalk tree plantings.

3. All utilities, including but not limited to, sanitary sewer, storm sewer, water mains, and other utilities, shall be furnished and installed per the requirements of the specifications, the City of Minneapolis, and the owner.

4. All existing sanitary sewer, storm sewer, and water mains shall be furnished and installed per the requirements of the specifications. The city and the owner shall be responsible for the proper installation of all existing sanitary sewer, storm sewer, and water mains.

5. The Contractor shall notify Gopher State One Call at least 48 hours prior to performing any excavation or underground work.

6. All existing underground conduits, cables, and wires shall be furnished and installed per the requirements of the specifications. The city and the owner shall be responsible for the proper installation of all existing underground conduits, cables, and wires.

7. All existing underground conduits, cables, and wires shall be furnished and installed per the requirements of the specifications. The city and the owner shall be responsible for the proper installation of all existing underground conduits, cables, and wires.

8. All existing underground conduits, cables, and wires shall be furnished and installed per the requirements of the specifications. The city and the owner shall be responsible for the proper installation of all existing underground conduits, cables, and wires.

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14. All existing underground conduits, cables, and wires shall be furnished and installed per the requirements of the specifications. The city and the owner shall be responsible for the proper installation of all existing underground conduits, cables, and wires.

### PROPOSED PIPE MATERIALS:

- **DIP Class 53**
- **RCP**
- **PVC SDR 26**
- **Aluminized CSP**
- **36" Diameter**
- **12" Diameter**
- **6" to 12" Diameter**
- **8" Diameter**
- **8" Diameter**

### DURING CONSTRUCTION AT NO COST TO THE OWNER.

### WARNING:

The Contractor shall be responsible for calling for locating all existing conduits and wires. The Contractor shall be responsible for any damage to existing conduits and wires and for any damage to the Contractor's equipment or property.
WARNING:

THE CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING FOR LOCATIONS OF ALL EXISTING UTILITIES IN ADVANCE OF DIGGING. THE CONTRACTOR SHALL PREPARE A CALL-Before-Dig NOTICE NOT LESS THAN 48 HOURS PRIOR TO DIGGING. THE CONTRACTOR SHALL PROVIDE EACH UTILITIES COMPANY WITH A BEFORE-DIG NOTICE AT LEAST 48 HOURS IN ADVANCE OF DIGGING. THE CONTRACTOR SHALL HAVE THE LOCATIONS OF ALL EXISTING UTILITIES MARKED ON A STAND-UP NOEL AND PROVIDE IT TO THE OWNER.

THE CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING FOR THE LOCATIONS OF ALL UNDERGROUND WIRES, CABLES, CONDUITS, PIPES, MANHOLES, VALVES OR OTHER BURIED STRUCTURES BEFORE DIGGING. THE CONTRACTOR SHALL REPAIR OR REPLACE THE ABOVE WHEN DAMAGED DURING CONSTRUCTION AT NO COST TO THE OWNER.
Resolution No. 2015-039

Resolution approving final site and building plans for the
Music Barn Apartments at 5740 and 5750 Shady Oak Road

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

Section 1. Background.

1.01 Community Housing Corporation of America/Shelter Corporation has
requested approval of final site and building plans for the Music Barn
Apartments.

1.02 The properties are located at 5740 and 5750 Shady Oak Road. They are
legally described on EXHIBIT A of this resolution.

1.03 On May 7, 2015, the planning commission held a hearing on the proposal.
The applicant was provided the opportunity to present information to the
commission. The commission considered all of the comments received and
the staff report, which are incorporated by reference into this resolution. The
commission recommended that the city council approve the final site and
building plans.

Section 2. Site and Building Plan Standards and Findings.

2.01 City Code §300.27, Subd. 5, outlines several items that must be considered
in the evaluation of site and building plans. Those items are incorporated by
reference into this resolution.

2.02 The proposal would meet site and building plan standards outlined in the
City Code §300.27, Subd.5.

1. The proposal would result in a medium-density residential
development consistent with the site’s comprehensive guide plan
designation. Further, the proposal has been reviewed by city
planning, engineering, and natural resources staff and found to be
generally consistent with the city’s development guides, including the water resources management plan.

2. The proposal is consistent with zoning ordinance standards.

3. The proposal would preserve much of the site in its natural state. The proposed building and associated parking would be appropriately situated at the base of the significant wooded slope on the site. There would be little encroachment into the steepest portions of the slope and, correspondingly, removal of just 19% of the site’s high-priority trees.

4. The proposal would result in a harmonious relationship of buildings and open space. Much of the site’s open space would be preserved.

5. The proposal has been designed to complement the site’s existing barn and to evoke the historical farm-use of the property.

6. As new construction, the building code would require use of energy saving features.

7. The proposal would visually and physically alter the site and the immediate area. However, it does not follow that visual change is unreasonable. In designing the proposal, the applicant has given consideration to natural resources and has taken visual “cues” from the existing site. The result is a thoughtfully designed development, which would contribute to the city’s affordable housing goals and expectations.


3.01 City Code §300.28, Subd. 20, outlines several standards for construction within code-defined steep slopes. Those standards are incorporated by reference into this resolution.

3.02 The proposal would meet the standards outlined in the City Code §300.28, Subd.20.

1. The property is physically suitable for the design and siting of the proposed development. The proposal will preserve significant natural features by minimizing disturbance to existing topographical forms.

   a) The proposal includes little grading outside of the building footprint and parking and driveway areas.
b) Retaining walls would be used as an alternative to banks of cut-and-fill.

c) The proposal would concentrate development on the least sensitive portion of the site to maximize the preservation of trees and natural features.

2. The development would not result in soil erosion, flooding, severe scarring, reduced water quality, inadequate drainage control, or other problems.

   a) Impervious surface would be minimized.

   b) Construction would occur at the base of the slope.

   c) The proposal would avoid building on areas of the existing slope that has an average grade of 30 percent or more.

3. The proposed development provides adequate measures to protect public safety.

   a) The slope of the private driveway would be less than 10 percent.

Section 4. City Council Action.

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

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

   a) Grading plan dated September 26, 2014
   b) Utility plan dated September 26, 2014
   c) Landscape plan dated September 26, 2014
   d) Building elevations received March 31, 2015 and May 4, 2015

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

   a) The following must be submitted for the grading permit to be considered complete.
1) An electronic PDF copy of all required plans and specifications.

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

3) 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 stormwater management plan must meet the requirements of the city’s Water Resources Management Plan, Appendix A. Design.

   b. Final utility plan must:

      1. Provide evidence of connection to an 8-inch watermain.

      2. Provide evidence of connection to an 8-inch sanitary sewer stub.

      3. Illustration location of a new hydrant to the site. The gate valve controlling service to the building must be located beyond the hydrant so the hydrant can remain operational in the event that water to the building is shut off.

      4. Include an 18-inch gate valve on the south side of connection point for isolation purposes.

      5. Confirm acceptance of storm casing under the building.

      6. Replace CSP pipe within the proposed stormwater facility with a city-approved material.

      7. Include a SAFL baffle or similar device used in conjunction with the proposed sump.
c. Final landscaping and tree mitigation plans must:

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

2. Include an itemized plant material list to illustrate that the landscape value will meet city code requirement.

3. Any deciduous trees must be planted at least 15 feet behind the edge of trail or curb and evergreen trees at least 20 feet behind the edge of trail or curb.

4) A stormwater maintenance agreement for the review and approval of the city attorney.

5) 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 showing floodplain alteration;

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

- Vegetated ground cover has been established; and

- Required landscaping or vegetation has survived one full growing season.
6) A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance.

7) A copy of the approved MPCA NPDES and MDH permits.

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

9) All required administration and engineering fees.

10) Evidence that an erosion control inspector has been hired to monitor the site through the course of construction. This inspector must provide weekly reports to natural resource staff in a format acceptable to the city. At its sole discretion, the city may accept escrow dollars, in amount to be determined by natural resources staff, to contract with an erosion control inspector to monitor the site throughout the course of construction.

11) 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.

b) Prior to issuance of the grading permit:

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

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

c) Permits may be required from other outside agencies including, Hennepin County, the Nine-Mile Creek Watershed District, and the MPCA. It is the applicant’s responsibility to obtain any necessary permits.

3. Prior to issuance of a building permit:

a) Submit the following documents:

1) Proof of subdivision registration and transfer of NPDES permit.

2) A snow removal and salting application rate plan.

3) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance. If the builder is the same entity doing grading work on the site, the construction management plan submitted at the time of grading permit may fulfill this requirement.

b) Submit 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 new hook-up fees and any outstanding hook-up fees.

4. Retaining walls on the site must be engineered.

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

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

7. The site plan term of approval outlined in City Code §300.27 Subd.10 is waived. The approval will expire on December 31, 2016.

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 18, 2015.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this Resolution:

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

Voted against:
Abstained:
Absent:
Resolution adopted.
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on May 18, 2015.

David E. Maeda, City Clerk
EXHIBIT A

Parcel 1:
That part of the East 30.00 acres of the Southeast Quarter of the Northeast Quarter of Section 35, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the Southeast corner of said Southeast Quarter of the Northeast Quarter, thence on an assumed bearing of South 87 degrees 06 minutes 28 seconds West along the South line of said Southeast Quarter of the Northeast Quarter a distance of 972.80 feet; thence North 2 degrees 53 minutes 46 seconds West a distance of 448.09 feet, said last described line if extended would intersect the North line of said Southeast Quarter of the Northeast Quarter at a point 1096.03 feet West of the Northeast corner of said Southeast Quarter of the Northeast Quarter; thence North 97 degrees 00 minutes 28 seconds East a distance of 97.56 feet to the point of beginning of the land to be described; thence South 26 degrees 34 minutes 09 seconds East a distance of 160.00 feet; thence North 03 degrees 26 minutes 51 seconds East a distance of 208.59 feet to the Southeasternly right of way line of County Road Number 61; thence Northwesterly along said right of way line to its intersection with a line bearing North 63 degrees 25 minutes 51 seconds East to the point of beginning; thence South 63 degrees 25 minutes 51 seconds West to the point of beginning.

Hennepin County, Minnesota
Abstract Property

Parcel 2:
That part of the East 30 acres of the Southeast Quarter of the Northeast Quarter of Section 35, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the East Quarter corner of Section 35; thence South 87 degrees 06 minutes 28 seconds West, assumed bearing, along the South line of said Southeast Quarter of the Northeast Quarter, 996.01 feet; thence North 1 degree 19 minutes 39 seconds West 388.02 feet; thence North 06 degrees 20 minutes 14 seconds East 12.59 feet, which point is marked by a Judicial Landmark; thence South 2 degrees 53 minutes 46 seconds East; thence North 87 degrees 06 minutes 28 seconds East 97.56 feet; thence North 63 degrees 25 minutes 51 seconds East 168.14 feet to the Southeasternly right-of-way line of County Road 61 (also known as Shady Oak Road); thence North 04 degrees 35 minutes 25 seconds West, along said right-of-way, 248.72 feet; thence North 06 degrees 25 minutes 15 seconds West, along said right of way, 173.07 feet, to its intersection with a line which bears North 50 degrees 06 minutes 57 seconds East from the point of beginning; thence South 50 degrees 06 minutes 57 seconds West, along said line, 42.72 feet to the point of beginning.

Hennepin County, Minnesota
Abstract Property
Many concerns remain prior to the re-approval of this Affordable Apartment Building. This neighborhood was established and has been as-is over the past 25 years. We all purchased our homes and have lived in quiet enjoyment accordingly. Introducing a PUD, as presented, would cause any taxpaying resident concerns of how this new building would function and be operated. We have identified the major concerns we still have, that we think are necessary to be answered, before the City Council takes another vote. They include:

1) Will there been an On-Site Manager available 24/7? If not, how will this building be managed?

2) What is the planned maximum number of occupants for the building?

3) Snow Storage where: With minimal parking, I would assume an area has been designated for the storage of snow. Where is the snow to be stored?

4) Play Area: Where on the exterior site, has a safe area been designated for children to play. I would assume the leasing people would be informing leasers of such a space.

5) Animal Area: Where will the tenants be directed to have their animals relieve themselves, and how often will this space be cleaned up by whom? Rodents thrive on animal waste.

6) Garbage Storage: Where will the garbage and recycles be stored (inside & exterior), and picked up how often?

7) Parking: Number of inside and exterior spaces. These spaces are designated how: Tenant & Visitor. Will overnight parking of trailers & Recreation Vehicles be allowed?

8) Back area retaining wall: What type of structural design with a warranty has been approved to ensure all structural integrity has been considered?

9) Tree Preservation: What type of study has been conducted to ensure only the necessary trees are removed versus the trees that would be nice to have removed?

We are still concerned about traffic through Beachside II, access from north bound Shady Oak Road traffic trying to turn into this Affordable Apartment, Pedestrian traffic to the Sundial Center from the Affordable Apartments, Headlights form the exterior parking being directed to the homes along Shady Oak Road, and Vehicles sliding down the north parking access into southbound Shady Oak Road.

As local residents, I believe these concerns should all be addressed by the City, prior to another vote. I’m thinking this is not a unique list, and if properly planned the answers should have already
been considered. Please provide us these answers and re-consider our concerns. I will be at the meeting on January 9, 2016 and would like to hear these answers at that meeting or as a direct response to this request.

Larry Rose  
5651 Sanibel Drive,  
Minnetonka, MN  55343
Resolution No. 2017-_____

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

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

Section 1. Background.

1.01 On May 18, 2015, the city council adopted Resolution No. 2015-039, approving final site and building plans for the Music Barn Apartments at 5740 and 5750 Shady Oak Road. The properties are legally described on Exhibit A of this resolution.

1.02 The approval granted under Resolution No. 2015-039 expired on December 31, 2016.

1.03 Community Housing Corporation of America/Shelter Corporation has requested reaffirmation of the 2015 approval.

Section 2. Findings.

2.01 Reaffirmation of final site and building plan approval is appropriate for three reasons:

1. Other than changes required to meet conditions of Resolution 2015-039, there have been no substantive changes to the previously approved plans.

2. There have been no changes to city code or policy that would affect the previous approvals.

3. Reaffirmation of the previous approval is not anticipated to adversely affect the interests of neighboring property owners.
Section 3. City Council Action

3.01 Resolution 2015-039, including all findings and conditions, is reaffirmed.

3.02 This reaffirmed approval will expire on December 31, 2017 unless: (1) a building permit has been issued for the Music Barn Apartments; or (2) a time extension is granted.

Adopted by the City Council of the City of Minnetonka, Minnesota, on January 9, 2017.

__________________________________
Terry Schneider, Mayor

Attest:

__________________________________
David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on January 9, 2017.

__________________________________
David E. Maeda, City Clerk
EXHIBIT A

Parcel 1:

That part of the East 30.03 acres of the Southeast Quarter of the Northeast Quarter of Section 35, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the Southeast corner of said Southeast Quarter of the Northeast Quarter; thence on an assumed bearing of South 87 degrees 06 minutes 26 seconds West along the South line of said Southeast Quarter of the Northeast Quarter a distance of 972.80 feet; thence North 2 degrees 53 minutes 45 seconds West a distance of 448.09 feet, said last described line if extended would intersect the North line of said Southeast Quarter of the Northeast Quarter at a point 1008.65 feet West of the Northeast corner of said Southeast Quarter of the Northeast Quarter; thence North 87 degrees 06 minutes 26 seconds East a distance of 97.56 feet to the point of beginning; thence South 26 degrees 34 minutes 09 seconds East a distance of 160.00 feet; thence North 63 degrees 25 minutes 51 seconds East a distance of 208.69 feet to the Southwesternly right-of-way line of County Road Number 61; thence Northwesterly along said right-of-way line to its intersection with a line bearing North 63 degrees 25 minutes 51 seconds East to the point of beginning; thence South 63 degrees 26 minutes 51 seconds West to the point of beginning.

Hennepin County, Minnesota
Abstract Property

Parcel 2:

That part of the East 30 acres of the Southeast Quarter of the Northeast Quarter of Section 35, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the East Quarter corner of Section 35; thence South 87 degrees 06 minutes 26 seconds West, assumed bearing, along the South line of said Southeast Quarter of the Northeast Quarter, 596.01 feet; thence North 1 degree 19 minutes 39 seconds West 388.92 feet; thence North 86 degrees 20 minutes 14 seconds East 12.59 feet, which point is marked by a Judicial Landmark; thence North 2 degrees 53 minutes 46 seconds West 460.27 feet to the point of beginning of the land to be described, which point is marked by a Judicial Landmark; thence South 2 degrees 53 minutes 46 seconds East, along the last described line, 460.27 feet; thence North 87 degrees 06 minutes 26 seconds East 97.56 feet; thence North 63 degrees 25 minutes 51 seconds East 196.14 feet to the Southwesterly right-of-way line of County Road 61 (also known as Shady Oak Road); thence North 34 degrees 35 minutes 25 seconds West, along said right-of-way, 248.72 feet; thence North 59 degrees 23 minutes 16 seconds West, along said right-of-way, 173.57 feet, to its intersection with a line which bears North 50 degrees 09 minutes 52 seconds East from the point of beginning; thence South 50 degrees 09 minutes 52 seconds West, along said line, 42.72 feet to the point of beginning.

Hennepin County, Minnesota
Abstract Property
City Council Agenda Item #14C
Meeting of January 9, 2017

**Brief Description**

Items concerning Crest Ridge Senior Living at 10955 Wayzata Boulevard:

1) Comprehensive guide plan amendment;

2) Major amendment to an existing master development plan; and

3) Site and building plan review.

**Recommendation**

Adopt the ordinance and resolutions approving the proposal.

**Background**

In August 2016, The Opus Group submitted a concept plan for construction of a four-story senior rental building at 10955 Wayzata Boulevard. A neighborhood meeting was held to discuss the concept. Several area residents were in attendance indicating general support for the residential land use. However, residents also expressed desire for screening and mitigation of any perceived nuisance issues such as noise and light. Both the planning commission and city council generally expressed support for the concept.

In November 2016, The Opus Group submitted formal plans to develop the vacant site. The plans reflect the concept reviewed in August 2016. As proposed, a four-story, 147-unit senior rental building would be constructed. The building would be managed by Ebenezer. (See attached.)

In December 2016, The Opus Group hosted an additional neighborhood meeting to discuss the formal plans to area residents. Those in attendance continued to indicate general support for the residential land use and further noted general support for the plans as presented.

**Planning Commission Hearing**

The planning commission considered the proposal on December 15, 2016. The staff report from that meeting and various plans and documents describing the proposal are attached. Staff recommended approval, suggesting:

1) The proposed land use is reasonable. The residential use represents an overall decrease in land use intensity from the office and medical office uses previously approved for the site. This is particularly true with regard to vehicle trips and general activity levels.
2) The proposed site and building plans are reasonable. While the applicant used the previously approved site design to inform the current design, from staff’s perspective, the current proposal offers several improvements. Notably: (1) building setbacks are increased from all property lines; and (2) a secondary driveway access is removed from Wayzata Boulevard, minimizing potential conflicts on the frontage road.

3) The anticipated site impacts are acceptable. The vacant site was “prepped” for development in 2008; rough grading and tree removal occurred at that time. The current proposal would result in slightly more grading and tree removal along the east property line than was anticipated for either the previously approved office/parking ramp or the medical office/parking ramp construction. However, in staff’s opinion, the resulting lower-intensity residential use and significant landscaping would compensate for these removals.

At the commission meeting, a public hearing was opened to take comment. However, no comments were received.

Planning Commission Recommendation

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

Since Planning Commission Hearing

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

Staff Recommendation

Staff recommends the city council adopt the following:

1) A resolution amending the comprehensive guide plan designation from office to high-density residential;

2) An ordinance repealing and replacing the existing Crest Ridge Corporate Center master development plan as it pertains to the subject property; and

3) A resolution approving final site and building plans for Crest Ridge Senior Living.

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

Originator:  Susan Thomas, AICP, Assistant City Planner
MINNETONKA PLANNING COMMISSION  
December 15, 2016

**Brief Description**  
Items concerning Crest Ridge Senior Living at 10955 Wayzata Boulevard:

1) Comprehensive guide plan amendment;

2) Major amendment to an existing master development plan; and

3) Site and building plan review.

---

**Background**

The southeast quadrant of the I-394/Hopkins Crossroad interchange has been part of land use discussion for many years. Though then occupied by several single-family homes, in 1973 the area was generally designated for *office* redevelopment. The 1981 Comprehensive Guide Plan designated the area for *office* and *medium-density residential* uses and the 1999 Comprehensive Guide Plan suggested a completely *office* designation. (See attached plans.)

In the mid-2000, 16 residential lots in the area – totaling roughly 14 acres – were acquired by The Opus Group for the purpose of redevelopment consistent with the “office” land use designation.

In January 2008, the city council approved a master development plan for what has become the properties at 11055 and 10955 Wayzata Boulevard. The approved Crest Ridge Corporate Center plan included construction of two, three-story office buildings, associated parking structures, and surface parking lots. An office building and parking ramp were constructed on the 11055 Wayzata Boulevard site shortly after approval. The building is currently occupied by Syngenta. The 10955 Wayzata Boulevard site remained vacant. (See attached.)

In January 2013, the city council approved a major amendment to the master development plan. Under the amended plan, the building and parking ramp at 10955 Wayzata Boulevard would be constructed as previously approved. However, rather than an office user, the site would be occupied by ambulatory care medical uses. The building and parking ramp were not constructed and the site remains vacant. (See attached.)

In August 2016, The Opus Group submitted a concept plan for construction of a four-story senior rental building on the vacant site. A neighborhood meeting was held to discuss the concept. The several area residents in attendance indicated general support for the residential land use. However, residents also expressed desire for screening and
mitigation of any perceived nuisance issues such as noise and light. Both the planning commission and city council generally expressed support for the concept. (See attached.)

The Opus Group has now submitted formal plans to develop the vacant site. The plans reflect the concept reviewed in August 2016. As proposed, a four-story, 147-unit senior rental building would be constructed. The building would be managed by Ebenezer. (See attached.)

Proposal Summary

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

- **Existing Site Conditions.**

  Following the 2008 master development plan approval, existing homes on the seven-acre subject property were removed, as were the majority of site’s existing trees, and basic grading occurred. The removals and grading, which were allowed, were intended to prepare the site for future office building and parking ramp construction.

  As currently configured, the highest points of the property are two knolls, one located on the east property line and one near the entrance to the adjacent Syngenta parking lot. Grades generally fall in all directions from these knolls. A variety of mature trees are located along the northerly and easterly perimeter of the site. A portion of a large, shared stormwater pond is located in the southeasterly corner of the site. The remainder of the property is open. (See attached survey.)

- **Proposed Use.**

  The proposed residential building would include a total of 147 units comprised of 127 independent/assisted living units and 20 memory care units. Non-memory care units would be located on all four floors of the building and would consist of studio, one bedroom, one-plus bedroom and two bedroom units. Under an “age in place” concept, residents may begin living in an independent unit and add services as they become necessary, essentially converting their independent living unit into an assisted living unit. Common areas – including dining room, community room, “club” room, salon, fitness center, and chapel – would be located on the first floor. Memory care units would all be located in a one-story wing on the north side of the first floor. These units would be organized around a larger memory care activity and dining space.

  Outdoor site amenities would include walking paths – with connection to area sidewalks – and a variety of active “outdoor living” and passive garden spaces.
Resident, staff, and visitor parking would be located in an 88-stall underground parking garage and a 68-stall surface parking lot.

- **Site impacts.**

  To accommodate the proposed building, parking areas, and installation of required utility and stormwater management practices, significant grading of the site would occur and several perimeter trees would be removed or impacted. The proposal includes extensive planting of new trees and plants following site work and construction. (See attached landscape plan.)

**Primary Questions and Analysis**

A land use proposal is comprised of many details. In evaluating a proposal, staff first reviews these details and then aggregates them into a few primary questions or issues. The following outlines both the primary questions associated with the proposed Crest Ridge Senior Housing and staff’s findings.

- **Is the proposed land use reasonable?**

  Yes. The proposed residential land use is reasonable for several reasons.

  1) As a general land use planning principal, higher-density residential uses are appropriately located adjacent to higher volume roadways. The site is located in close proximity to both a major county road and interstate highway.

  2) Similarly, higher-density residential uses are appropriate located in proximity to retail and services use. The site is located less than one-half mile from the retail and service use of Westridge Market and less than one mile from the Ridgedale village center.

  3) The proposed residential use represents an overall decrease in land use intensity from the previously approved office and medical office uses. This is particularly true with regard to vehicle trips and general activity levels.

- **Is the proposed site and building design reasonable?**

  Yes. While the applicant used the previously approved site design to inform the current design, from staff’s perspective, the current proposal offers several improvements. Notably: (1) building setbacks are increased from all property lines; and (2) a secondary driveway access is removed from Wayzata Boulevard, minimizing potential conflicts on the frontage road.
• **Are the anticipated site impacts acceptable?**

Yes. The vacant site was “prepped” for development in 2008; rough grading and tree removal occurred at that time. The current proposal will result in slightly more grading and tree removal along the east property line than was anticipated for either the previously approved office/parking ramp or the medical office/parking ramp construction. However, in staff’s opinion, the resulting lower-intensity residential use and significant landscaping will compensate for these removals.

**Summary Comments**

The Crest Ridge Senior Living proposal represents both an appropriate use of the subject property and reasonable “completion” of a long-standing redevelopment site. Staff supports and recommends approval of the proposal.

**Staff Recommendation**

Recommend that the city council adopt the following, all pertaining to 10955 Wayzata Boulevard:

1. A resolution amending the comprehensive guide plan designation from office to high-density residential;

2. An ordinance repealing and replacing the existing Crest Ridge Corporate Center master development plan as it pertains to the subject property; and

3. A resolution approving final site and building plans for Crest Ridge Senior Living.

Originator: Susan Thomas, AICP, Assistant City Planner
Through: Loren Gordon, AICP, City Planner
Supporting Information

Surrounding
Northerly: Wayzata Boulevard and multi-family residential building

Land Uses
Easterly: Single-family homes
Southerly: Syngenta office building and single-family homes
Westerly: Hopkins Crossroad and MetroTransit Park and Ride

Planning
Guide Plan designation: Office
Existing Zoning: Planned I-394 District, PID

City Actions
The proposal necessitates the following applications:

- **Comprehensive Guide Plan Amendment.** The 2030 Comprehensive Guide Plan designates the site for office land uses. The proposal requires an amendment to high-density residential.

- **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.

- **Final Site and Building Plans.** By city code, site and building plan review is required for construction of any new building of the proposed size.

Residential Units
The proposed rental building would include a total of 147 units comprised of 127 independent/assisted living units and 20 memory care units. Non-memory care units would be located on all four floors of the building and would consist of studio, one bedroom, one-plus bedroom and two bedroom units. Memory care units would be located within one wing of the first floor.

Setbacks, Etc.
The existing master development plan constitutes the development standards of the site. The following chart outlines those standards.

<table>
<thead>
<tr>
<th>Approved MDP</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Area*</td>
<td>121,000 sq.ft.</td>
</tr>
<tr>
<td>Structure Setback North</td>
<td>20 ft (parking ramp)</td>
</tr>
</tbody>
</table>
Meeting of December 15, 2016

Subject: Crest Ridge Senior Living, 10955 Wayzata Boulevard

<table>
<thead>
<tr>
<th>Surface Parking Setback</th>
<th>East</th>
<th>West</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>50 ft (parking ramp)</td>
<td>153 ft</td>
</tr>
<tr>
<td></td>
<td>70 ft (building)</td>
<td>17 ft (drive aisle)</td>
</tr>
<tr>
<td>North</td>
<td>55 ft (parking)</td>
<td>38 ft</td>
</tr>
<tr>
<td>West</td>
<td>80 ft</td>
<td>22.5 ft</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Building Height</th>
<th>Code Defined</th>
<th>Greatest Exposure</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>50.4 ft</td>
<td>60.4 ft</td>
</tr>
<tr>
<td>Crest Ridge Senior Living</td>
<td>53.5 ft</td>
<td>74 ft</td>
</tr>
<tr>
<td>Syngenta</td>
<td>48 ft</td>
<td>70.5 ft</td>
</tr>
<tr>
<td>Applewood Point</td>
<td>50 ft</td>
<td>60 ft</td>
</tr>
<tr>
<td>The Exchange</td>
<td>61.5 ft</td>
<td>85.5 ft</td>
</tr>
<tr>
<td>St. Therese</td>
<td>55.5 ft</td>
<td>81 ft</td>
</tr>
</tbody>
</table>

*numbers do not include parking

### Building Height

The proposed building would have a code-defined height of just over 50 feet. The following chart is intended for comparison purposes.

<table>
<thead>
<tr>
<th></th>
<th>Code-Defined</th>
<th>Greatest Exposure*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crest Ridge Senior Living</td>
<td>53.5 ft</td>
<td>74 ft</td>
</tr>
<tr>
<td>Syngenta</td>
<td>48 ft</td>
<td>70.5 ft</td>
</tr>
<tr>
<td>Applewood Point</td>
<td>50 ft</td>
<td>60 ft</td>
</tr>
<tr>
<td>The Exchange</td>
<td>61.5 ft</td>
<td>85.5 ft</td>
</tr>
<tr>
<td>St. Therese</td>
<td>55.5 ft</td>
<td>81 ft</td>
</tr>
</tbody>
</table>

* measured from grade to highest point of the building or, in the case of Syngenta, the screen wall

The visible portion of the proposed building would differ based on the location from which it was being viewed. When viewed from the north, east, and west, the building would have a four-story appearance. From the south, four stories of living space and a portion of the underground parking area would be exposed. The 74 feet outlined in the table above is as measured from grade on the south side of the building to the peak of the proposed roof.

The difference in code-defined height between the existing Syngenta building and the proposed building is essentially a difference in roof line and the fact that, by city code, height is measured differently for flat and pitched roofs. While height is measured to the top of the parapet wall for a flat-roofed building, it is measured to the midpoint of a pitched roof building.
The top of that parapet wall at the flat-roofed Syngenta is roughly 45 feet above first floor grade. The eave elevation – or the “start” of the pitched roof – of the proposed rental building is 43 feet above first floor grade and this first floor grade is three feet lower than that of Syngenta. If the applicant’s proposal included a flat, rather than pitched roof, the building’s height would be nearly identical to Syngenta. Interestingly, due to the difference between floor to ceiling heights in office and residential buildings, the buildings would be of similar height even though Syngenta is a three-story building and the proposed senior residential building would be four stories.

3-Story Restriction
During the concept plan review, a question was raised regarding a code restriction limiting construction to three-stories. City Code contains two different sections related to properties in the I-394 corridor: (1) section 300.31 – Planned I-394 District, which essentially outlines allowed uses and development standards; and (2) section 300.32 – Planned I-394 Redevelopment Overlay District, which outlines potential redevelopment areas and redevelopment expectations. Both sections 300.31 and 300.32 were written and adopted in 1988; other than addition of regulations pertaining to outdoor storage and building materials, there have been very few substantive changes to either section over the last 28 years.

The southeast quadrant of the I-394/Hopkins Crossroad interchange was identified in the overlay ordinance; the ordinance states that redevelopment should be at no more than three stories. As was previously noted in this report, redevelopment of the several then single-family properties in the quadrant was approved in 2008 and a master development plan adopted for the site. The approved master development plan now serves as the governing development standard for the property. While the applicant’s proposal is for a four-story building rather than a three-story building, no variance is required from section 300.32, as redevelopment has already occurred and the master development plan governs. Rather, the current proposal requires an amendment to the master development plan. Staff recognizes that section 300.32 should be updated, removing this and other areas where redevelopment has already occurred.

Natural Resources: To accommodate a high-density residential project site changes will be necessary.

- **Topography and Grading.** As proposed, excavation would generally occur in the area of the knoll on the
southwest corner of this site – up to 14 feet – and at the
knoll along the east property line – up to 4 feet. In some
areas at the center of the site there would be
approximately eight feet of fill.

- **Trees.** Trees located along the north and east perimeter
of the site would be removed or significantly impacted by
grading associated with construction of the building. In
addition, grading for a portion a proposed trail connection
and infiltration basin would also result in some tree lots.
Staff has included conditions of approval associated with
the trail and stormwater, in order to reduce grading to the
greatest extent practical.

**Stormwater**

There is a larger stormwater pond located in the southeast corner
of the larger site. This pond was designed to handle runoff from
the previously approved two office buildings, two parking ramps,
and associated surface parking areas. However, since the 2008
approval, both the city and the Bassett Creek Watershed District
have implemented stormwater infiltration requirements. To
accommodate infiltration from the site’s new impervious surface,
two new infiltration basins are proposed, one in the northwest
corner of the site adjacent to Wayzata Boulevard and one located
east of the existing pond.

Staff has some reservation regarding the location of the basin
east of the pond. While it may comply with engineering
requirements, staff is concerned about: (1) removal of trees – per
city code an area of new or compensatory water storage may not
be located where there are woodland preservation areas or high
priority trees; and (2) the appearance of the basin, particularly
given its proximity to single-family homes. To address this
concern, staff has included a variety of conditions of approval:

- The specific location and shape of the basin, and associated
  grading, must be adjusted to preserve healthy, high-priority
  trees.
- A specific landscape plan must be submitted for the basin.
- The basin must be included in the landscape maintenance
  agreement for the site.

Staff would suggest, but not necessarily require, that the
applicant consider the feasibility of adjusting the northerly portion
of the existing stormwater pond to accommodate infiltration.
Landscaping  The applicant proposes significant landscaping around the building, within resident garden areas, around the perimeter of the site, and within the stormwater basin. The proposal includes planting of over 540 new trees and plants.

As part of the proposed landscaping, a looped trail system would be added to the site and linked to the existing trails on the adjacent office property and the public sidewalk along Wayzata Boulevard.

Utilities  Public utilities are available to the site from Wayzata Boulevard. The staff-drafted resolutions include a variety of conditions related to final utilities plans and removals of existing/abandoned utility lines.

Traffic  The city commissioned a traffic study to understand:

1) Anticipated trip generation;

2) The differences between trip generation anticipated for the previously approved office building, previously approved medical center, and the proposed senior residential building; and

3) Whether the current proposal would require any roadway improvements.

The study concluded:

1) The proposed senior residential building would generate significantly fewer p.m. peak and daily vehicles trips than the previous approvals for the site. Specifically, it is anticipated to generate 395 fewer p.m. peak trips and 3,873 daily trips as suggested by the Institute of Transpiration Engineers. (ITE)

2) Given the lesser trip generation than previously assumed and provided for, no further analysis or infrastructure improvements are necessary.

Parking  By city code a senior residential building must provide a minimum of one parking stall for every unit and 50 percent of this total requirement must be enclosed.

ITE has a more specific senior residential land use classification, Continuing Care Retirement Community (CCRC). A CCRC is
defined as a land use that provides multiple elements of senior adult living, including various “combinations of senior adult, congregate care, assisted living and skilled nursing care – aimed at allowing the resident to live in one community as their medical needs change.” ITE further notes that such communities “may contain special services such as medical, dining, recreational and some limited, supporting retail facilities.”

The applicant’s proposal would include 88 underground parking spaces and 68 surface spaces, for a total of 156 spaces. This number would meet both city code and ITE standards.

<table>
<thead>
<tr>
<th>Rate</th>
<th>Number of Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Code Requirement</td>
<td>1 space per unit</td>
</tr>
<tr>
<td>ITE Anticipated Demand</td>
<td>0.49 – 0.83 spaces per unit</td>
</tr>
<tr>
<td><strong>PROPOSED</strong></td>
<td>156</td>
</tr>
</tbody>
</table>

**Outside Agencies**  
The applicant’s proposal has been submitted to various outside agencies for review, including Hennepin County and Bassett Creek Watershed District. In addition, as required for any comprehensive guide plan amendment, the proposal was submitted to all of Minnetonka’s adjacent communities and the Hopkins School District.

**Neighborhood Comments**  
The applicant has hosted two neighborhood meetings and the city has sent notice to 151 area property owners. The city has received no written comments to date.

**Pyramid of Discretion**

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1 Institute of Transportation Engineers (2004). Parking Generation 3rd Edition
The planning commission has four options:

1. Concur with the staff recommendation. In this case a motion should be made recommending the city council adopt the ordinance and various resolutions approving the proposal.

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

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

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

The city council’s final approval requires affirmative votes as follows:

- Comprehensive Guide Plan amendment: 5 votes
- Master Development Plan amendment: 4 votes
- Site and Building Plans: 4 votes

March 6, 2017
Project: Crest Ridge Senior Housing
Address: 10955 Wayzata Blvd
Project No. 16034.16a

This map is for illustrative purposes only.
BACKGROUND INFORMATION
The community development guide plan is but one step in the process of planning for the future development of Minnetonka, Minnesota. It has no force of law but is intended to reflect the City’s policies toward future development. This plan may be changed from time to time to keep it current with changing city policies.

This Community Development Guide Plan was developed by the citizens of the City of Minnetonka with the assistance of Hodne-Stageberg Partners, Inc.
Figure IV-15
2030 Land Use Plan

Source: City of Minnetonka
2008 APPROVED MASTER DEVELOPMENT PLAN
CURRENT PROPOSAL
PROJECT NARRATIVE

Crest Ridge Senior Living
Southeast quadrant of Hopkins Crossroad and I-394, Minnetonka, Minnesota

Project Team:
Owner/Developer
The Opus Group
10350 Bren Road West
Minnetonka, MN 55343
Contact: Matt Rauenhorst
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Email: Mathew.Rauenhorst@opus-group.com

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email: Ed.Gschneidner@opus-group.com

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email: eric@sra-mn.com

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Design Builder
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Phone: 952-656-4444
Email: Tom.Becker@opus-group.com

Facility Operator
Ebenezer
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Minneapolis, MN 55407
Contact: Jill Nokelby Kaiser
Phone: 612-874-3460
Email: jkaiser7@fairview.org
PROJECT SITE DATA

Parcel Basics
The existing site is currently an undeveloped lot totaling 306,783 sq. ft., or 7.04 acres, identified as Crest Ridge Corporate Center, Block 1, Lot 1. The property is bounded by Wayzata Boulevard South Frontage Road to the west, multi-family housing to the north, single family housing to the east, and Crest Ridge Corporate Center Phase 1 and storm water pond to the south.

Project Land Use Data
The project site falls under the Planned I-394 District, and covers various underlying districts. The site would be proposed to be re-guided [R-5 High Density Residential] to accommodate the proposed development.

Under the residential land use for the parcel, together with the I-394 planning district zoning requirements, the site would have a minimum 60% green space requirement and 1.0 FAR. Additionally, setback requirements would be 35 feet from the right-of-way at the front yard, 1-1/2 times the building height at the side and rear yards.

<table>
<thead>
<tr>
<th>Required</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Green Space</td>
<td>60.0%</td>
</tr>
<tr>
<td>F.A.R.</td>
<td>1.0 maximum</td>
</tr>
<tr>
<td>Building Setback - Front</td>
<td>35’</td>
</tr>
<tr>
<td>Building Setback - Side</td>
<td>1-1/2 X building ht.</td>
</tr>
<tr>
<td>Building Setback - Rear</td>
<td>1-1/2 X building ht.</td>
</tr>
<tr>
<td>Parking Setback – Front</td>
<td>20’</td>
</tr>
<tr>
<td>Parking Setback – Side</td>
<td>50’</td>
</tr>
<tr>
<td>Building Height</td>
<td>65’</td>
</tr>
</tbody>
</table>

City ordinance requires 1 parking space for each senior living unit, plus parking for visitors and staff. Refer to the matrix below for a parking summary illustrating required and provided parking.

<table>
<thead>
<tr>
<th>Parking</th>
<th>Required</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senior Housing</td>
<td>1 per unit = 147</td>
<td>88 (70% of non-memory care)</td>
</tr>
<tr>
<td>Staff</td>
<td>No requirement</td>
<td>24</td>
</tr>
<tr>
<td>Guests &amp; Visitors</td>
<td>As determined by city</td>
<td>44</td>
</tr>
</tbody>
</table>

**TOTAL PARKING**
147 + Staff and Visitors 156

The site will have a total of 68 surface parking spaces for staff, visitors and resident overflow parking. This is configured as a single parking field on the west side of the site spaces directly in front of the main building entrance, together with a small section of surface parking adjacent to the underground parking entrance. The structure will also have 88 underground parking spaces for resident use [57.1% of total parking is inside].
In an effort to increase site’s total vehicular capacity, opportunities for additional surface parking was explored following the preliminary concept review, and minor modifications in hardscape and green space have yielded ten additional on-site parking spaces.

Twenty of the units in the building count are located within a memory care wing, and these residents will not contribute to the site’s parking and traffic load. Additionally, only one-third of the assisted living units are anticipated to house residents with vehicles. This further reduces the on-site parking demand by as many as seventeen additional cars, and this margin in parking ratio will be used to satisfy necessary staff and visitor parking needs.

Other changes to the project development plan since it was last presented to the Planning Commission and City Council in the concept review process include a detailed plan for the memory garden and patio, as well and the project’s central gardens and terraces, introduction of a mini orchard in the middle of the site, refinements to the site trail plan, and new storm water infiltration areas designed to meet the updated watershed district requirements. Additionally, the building design has been clarified and fully coordinated with the interior plans and unit designs and includes masonry veneer exteriors in combination with manufactured siding, panels and trims. Finish colors are light neutral colors that are complimentary to the existing neighboring structures, and fit comfortably into the area context.

**PROJECT DEVELOPMENT DATA**

**Program**
The site will be developed and finished to accommodate a 147-unit, senior housing structure whose primary focus will be to provide independent living, assisted living and memory care [20 units] to senior citizens together with a full continuum of care allowing the residents to comfortably age in place, while supported by the full range of additional services provided by Ebenezer, the facility operator.

The site will also include a series of both interior and exterior amenities for the residents as well. These amenities include community spaces, club room, chapel, restaurant-style dining, salon, fitness room, patios, gardens, and walking paths. The walking paths will also connect to the existing site circulation as well as the public sidewalk along Wayzata Boulevard.

**Site**
The existing site is currently undeveloped, roughly graded for future development, and contains only volunteer vegetation, with the exception of its north and east boundaries which are densely planted. Under this development plan, the site will be substantially re-graded to accommodate the planned building construction and required infrastructure. Since the concept review phase, and through the process of on-going design development, the entire design team expended great effort to site the proposed building neatly into the existing grade and context, and preserve every possible existing tree. However, some existing trees will be lost or relocated from the east property perimeter during the process of site re-grading. Refer to the tree conservation plan and landscape plans in the project submittal for additional details on tree replacement and new boundary plantings.
As illustrated in the summary matrix below, the green space requirement is met.

<table>
<thead>
<tr>
<th>Developed property area:</th>
<th>306,783 SF</th>
<th>7.04 Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building footprints:</td>
<td>47,273 SF</td>
<td>1.1 Acres</td>
</tr>
<tr>
<td>Total impervious surface area:</td>
<td>69,166 SF</td>
<td>22.5% of Site</td>
</tr>
<tr>
<td>Total green surface area:</td>
<td>190,344 SF</td>
<td>62.0% of Site</td>
</tr>
</tbody>
</table>

**Building Design**
The main building will be a four-story wood frame structure over a concrete and precast basement. The basement level will house utility, storage and inside parking for the residents. The structure will be capped by a unique combination of flat and hipped roof structures, and total 60’ to the highest ridgeline above entrance grade (51’-6” to centerline of slope as measured by the City of Minnetonka).

The facility will welcome residents and visitors through a covered main entrance and into a grand two-story lobby. This first level will also encompass the commercial kitchen and dining rooms, and access to the rest of the development amenities including the primary health care functions, guest suite, community rooms, activity spaces and chapel. A closed 20-suite memory care wing, and fifteen (15) of the 127 independent and assisted living apartment units will be on the first level.

Levels two, three and four will contain another one hundred and twelve (112) resident apartments varying in size from 448 SF studios to 1,351 SF, two-bedroom, two-bath residences. Selected residences are provided with balconies and other in-unit amenities. Each floor also contains spaces for health care attendants, and common area functions such as storage and laundry (to supplement washer/ dryers available in most units).

Exterior building materials will be masonry and pre-finished siding, and as mentioned above, the structure will have both flat roofs and sloped shingle roofs. Gutters and downspouts will discharge on grade and into catch basins that will flow through storm water treatment areas on grade, or be captured for re-use on site through irrigation and on-site water features. Storm water that is not reused on site will be held in infiltration areas or exit the site through traditional methods. Refer to the full drawing submittal and civil engineering plans for additional storm water handling and treatment. Simultaneous with City of Minnetonka review, a complete storm water management plan for this development proposal has been submitted to the Basset Creek Watershed District for review and approval.

**Miscellaneous Building Components**
Mechanical screening as required by city ordinance is very limited as most of the mechanical systems are contained within the structure. Limited screening, where required, will be achieved by roof screens designed to coordinate with the building architecture.

Site trash enclosure is not illustrated in the development plan and will not be used. Interior trash rooms are utilized in the facility plan, dumpsters will be rolled out on collection days, and back inside to trash rooms following pick up.
Site deliveries, move-in/move-out, and building service are all achieved on the west inside corner of the building main level. Trash collection will be completed on the lower level adjacent to the garage access point. This service entry point and its access drive are the most remote from neighboring residents and away from all neighborhood traffic and views.

**Neighborhood Meeting**
An open neighborhood meeting was held the evening of August 2, 1016 at the Minnetonka Public Library to introduce the project concept to area residents, summarize the development parameters, review preliminary designs and project images, and answer questions. The proposed development was very well received by those in attendance and the development team listened closely to the neighboring residents’ questions and concerns, and revisited their comments throughout the subsequent design development stages.

The project will be presented once again in its final form, together with all of the site details and parcel improvements, to another open neighborhood meeting, prior to the Planning Commission meeting in mid-December.

**Traffic Study**
A traffic study update has been completed for the site. The main objectives of this study was to review existing project parameters within the study area, evaluate the traffic impacts to the adjacent roadway network, and recommend any necessary improvements to accommodate the proposed development. Since residential uses typically generate lower traffic volumes when compared to commercial properties, especially senior housing projects, it was not surprising that the updated study for this project and location reinforced this standard.

**FACILITY OPERATIONS**
**Ebenezer- Proposed Operator**
The proposed operator for Crest Ridge Senior Living is Ebenezer, an affiliate of the M-Health/Fairview Health System. This affiliation provides substantial programmatic support and care options for Ebenezer community residents. We expect rapid change in senior care over the next 5 – 10 years as senior housing continues to evolve from a focus on simply housing and hospitality to a more integrated delivery of medical and social care. Ebenezer will provide Crest Ridge Housing with the highest quality care alternatives for our residents.

Ebenezer is the second largest provider of senior living in Minnesota, and had $72.7 million of total operating revenue in 2013. Ebenezer operates 60 communities and manages more than 5,000 units throughout its portfolio in Minnesota. The portfolio includes Independent Living Communities, Assisted Living Communities, Memory Care Communities, Skilled Nursing Facilities, Transitional Care Centers, Adult Day Programs, and Child Care Programs.
For more than 90 years, Ebenezer has helped older adults make their lives more independent, healthful, meaningful and secure by creating opportunities for residents to live vibrantly, and participate in the daily fabric of life.

**Public Benefits of Senior Housing**
The proposed senior community will benefit the public by providing senior housing for the area so that seniors who have spent their lives in Minnetonka and the surrounding communities may remain in the area. Many seniors are attracted by the health benefits of a senior housing community as an attractive alternative to the isolation of living alone and the burden of maintaining a home. The proposed facility will help to meet the current housing needs of seniors in the immediate area while also helping to meet the anticipated needs of unmet demand in the near future as projected by a recent independent market study.

Senior Housing is a great community partner – not only creating a place where people come to volunteer, but also housing people who are interested in contributing back to their surrounding community. Senior Housing residents participate in local churches, volunteer opportunities, and engage in the greater community. Senior Housing, and specifically the programs and activities promoted by Ebenezer, also support local economic development since seniors typically prefer to shop in their familiar community. In addition, Ebenezer brings stable, high quality jobs to the communities in which they operate.

There is also no better neighbor than a senior citizen. They are light on the land, streets and park systems, yet senior communities create significant tax base without burdening infrastructure and school systems.

Larger senior housing communities like this project proposed for Crest Ridge Senior Living provides operational efficiencies when compared to smaller ones. Some of the operating benefits of a larger building are listed below:

1. A larger facility can afford to offer a broader range of healthcare services, options, and amenities to Minnetonka seniors while limiting disruptive moves from one facility to another for additional care.
2. Creating a larger pool of care staff helps to support stable services for the residents. More hours of care and therefore staffing can be offered to provide more consistent employment, rather than a lot of part-time positions that are more difficult to fill with qualified care givers. This is expected to be increasingly important if the current shortage of qualified nurses continues, as we expect, as our population ages.
3. A larger building allows for more competitive wages and benefits at all levels of staff which typically translates to better care for our residents.
4. A larger facility offers more apartment options, which reduces the chance that families have to split up (i.e. one spouse needs Memory Care and the other can live in an Independent Unit, all under one roof)
On this specific site, the relatively low traffic and higher density offers the ideal transitional use between the corporate office to the south, and the existing lower density residential occupancies to the north and east.

Finally, in addition to construction jobs, Crest Ridge Senior Living is expected to employ many people on site as care is provided to the residents 24 hours a day. The building is projected to employ over 25 individuals (FTEs) in a combination of full and part time positions.
1. All dimensions are rounded to the nearest tenth foot.
2. All dimensions shown are to the face of curb to face of curb unless otherwise noted.
3. Coordinate with grading contractor.
4. All areas are rounded to the nearest square foot.
5. All parking stalls to be 9' in width and 18' in length unless otherwise indicated.
6. Contractor shall refer to architectural plans for exact locations and dimensions of
   exit porches, ramps, precise building dimensions and exact building utility entrance
   locations.
7. Refer to the photometric plan and fixture cut sheets for additional details.
8. All gradients on sidewalks along the ADA route shall have a maximum longitudinal slope
   of 5% (1:20), except at curb ramps (1:12), and a maximum cross slope of 2.08% (1:48). The
   maximum slope in any direction on an ADA parking stall or access aisle shall be 2.08% (1:48).
   The contractor shall review and verify the gradient in the field along the ADA routes
   prior to placing concrete or bituminous pavement. The contractor shall notify the
   engineer immediately if there is a discrepancy between the gradient in the field versus the
   design gradient and coordinate with grading contractor.
9. "No Parking" signs shall be placed along all driveways as required by city.

LEGEND
EASEMENT
CURB & GUTTER
BUILDING
RETAINING WALL
SAWCUT LINE
NUMBER OF PARKING
STALLS PER ROW
SIGN
STANDARD DUTY
ASPHALT PAVING
HEAVY DUTY
ASPHALT PAVING
CONCRETE PAVING
PROPERTY LIMIT
EXISTING
PROPOSED
KEY NOTES
A. BUILDING, STOOPS, STAIRS SEE ARCHITECTURAL PLANS
B. B-612 CONCRETE CURB AND GUTTER
C. ACCESSIBLE SIGNAGE
D. CONCRETE APRON
E. FLAT CURB SECTION
F. SEGMENTAL BLOCK RETAINING WALL WITH RAILING (DESIGN BY OTHERS)
G. TRASH ENCLOSURE (SEE ARCHITECTURAL PLANS)
H. TRANSFORMER (FINAL LOCATION TO BE DETERMINED)
I. 5' BITUMINOUS TRAIL
J. 6' CONCRETE SIDEWALK
K. STAIRS - (18) - 6.5" RISERS (DESIGN BY OTHERS)
L. MEMORY CARE PATIO & GARDENS (SEE LANDSCAPE PLANS)
M. RESIDENT PATIO & GARDENS (SEE LANDSCAPE PLANS)
N. SITE SIGNAGE (SEE ARCHITECTURAL PLANS)
O. Poured CONCRETE RETAINING WALL (DESIGN BY OTHERS)
P. ACCESSIBLE RAMP
Q. CROSSWALK STRIPING

DEVELOPMENT SUMMARY

<table>
<thead>
<tr>
<th>Description</th>
<th>Existing</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Line</td>
<td>7.05 AC</td>
<td>7.05 AC</td>
</tr>
<tr>
<td>Surface Parking Stalls Provided</td>
<td>156</td>
<td>156</td>
</tr>
<tr>
<td>Garage Parking Stalls Provided</td>
<td>68</td>
<td>68</td>
</tr>
<tr>
<td>Total Parking Stalls Provided</td>
<td>224</td>
<td>224</td>
</tr>
</tbody>
</table>

THE SUBSURFACE UTILITY INFORMATION SHOWN ON THESE PLANS IS A UTILITY QUALITY LEVEL D. THIS QUALITY LEVEL WAS DETERMINED ACCORDING TO THE GUIDELINES OF ASCE/CI 38-02, TITLED "STANDARD GUIDELINES FOR THE COLLECTION AND DEPICTION OF EXISTING SUBSURFACE UTILITY DATA." THE CONTRACTOR AND/OR SUBCONTRACTORS SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK, BY CONTACTING THE NOTIFICATION CENTER (GOPHER STATE ONE FOR MINNESOTA). THE CONTRACTOR AND/OR SUBCONTRACTOR AGREE TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES, WHICH MIGHT BE OCCASIONED BY HIS OR HER FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UTILITIES (UNDERGROUND AND OVERHEAD). IF THE CONTRACTOR ENCOUNTERS ANY DRAIN TILE WITHIN THE SITE, HE OR SHE SHALL NOTIFY THE ENGINEER WITH THE LOCATION, SIZE, INVERT AND IF THE TILE LINE IS ACTIVE. NO DRAIN TILE SHALL BE BACKFILLED WITHOUT APPROVAL FROM THE PROJECT ENGINEER. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO RELOCATE ALL EXISTING UTILITIES WHICH CONFLICT WITH THE PROPOSED IMPROVEMENTS SHOWN ON THE PLANS.
HIS OR HER FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UTILITIES (UNDERGROUND AND OVERHEAD). CONTRACTOR AND/OR SUBCONTRACTOR AGREE TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES, WHICH MIGHT BE OCCASIONED BY SUBSURFACE UTILITY DATA. THE CONTRACTOR AND/OR SUBCONTRACTORS SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING

1. 2.

IN CONFORMANCE WITH THE PLANS AND SPECIFICATIONS.

REQUIREMENTS OF THE NEW WORK.

FINISHED GRADING SHALL BE COMPLETED, CONTRACTOR SHALL UNIFORMLY GRADE AREAS WITHIN LIMITS OF GRADING, INCLUDING ADJACENT TRANSITION.

FOOT VERTICAL (2:1).

FENCE SHALL BE FURNISHED AND PLACED ALONG THE PERIMETER OF THE TRENCH BORROW AREA WHERE THE SLOPES EXCEED 2 FOOT HORIZONTAL TO 1.

INCIDENTAL TO THE GRADING CONSTRUCTION AND NO SPECIAL PAYMENT WILL BE MADE.

DAMAGE TO THE TREE. NO TREES SHALL BE REMOVED WITHOUT AUTHORIZATION BY THE ENGINEER. COSTS FOR TRIMMING SERVICES SHALL BE CONSIDERED

BREAKING OF ANY LIMBS, THE BROKEN LIMBS SHOULD BE REMOVED IMMEDIATELY AND CUTS SHALL BE PROPERLY PROTECTED TO MINIMIZE ANY LASTING

PROFESSIONAL TREE TRIMMING SERVICE TO TRIM THE TREES PRIOR TO THE BEGINNING OF OPERATION. SHOULD CONTRACTOR'S OPERATIONS RESULT IN THE

NEEDLESS BE OPERATED UNDER NEARBY TREES AND EXTREME CAUTION SHALL BE EXERCISED WHEN WORKING ADJACENT TO TREES. SHOULD ANY PORTION

EXISTING TREES AND OTHER NATURAL VEGETATION WITHIN THE PROJECT AND/OR ADJACENT TO THE PROJECT ARE OF PRIME CONCERN TO THE

PROPOSED CONTOURS ARE TO FINISHED SURFACE ELEVATION. SPOT ELEVATIONS ALONG PROPOSED CURB DENOTE GUTTER GRADE.

OF THE TREE BRANCHES REQUIRE REMOVAL TO PERMIT OPERATION OF THE CONTRACTOR'S EQUIPMENT, CONTRACTOR SHALL OBTAIN THE SERVICES OF A

CERTIFIED ENGINEERING DRAWINGS, DESIGN CALCULATIONS AND SOIL BORINGS. THE CERTIFIED ENGINEER FOR THE RETAINING WALL(S) SHALL PROVIDE

COMPACTED IN ACCORDANCE WITH REQUIREMENTS OF THE QUALITY COMPACTION METHOD AS OUTLINED IN MN/DOT SPECIFICATION 2105.3F2. SNOW

CONTRACTOR'S OPERATIONS AND SHALL BE A RESTRICTED AREA. CONTRACTOR SHALL PROTECT TREES TO REMAIN AT ALL TIMES. EQUIPMENT SHALL NOT

13.

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15.

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19.

20.

OF THE TREE.

PRESCRIBED ELEVATION AT ANY POINT WHERE MEASUREMENT IS MADE.

LOCATIONS AND TOPOGRAPHY.

PREPARATORY WORK SHALL INCLUDE THE FOLLOWING AND SHALL BE COMPLETED UNDER THE DIRECT SUPERVISION OF THE OWNER'S

BEFORE COMMENCING WITH ANY EXCAVATION CONTRACTOR SHALL COMPLETE ALL PREPARATORY WORK REGARDING TREE REMOVAL, ROOT

RESTRICTED AREAS SHALL INCLUDE ALL DESIGNATED TREED AREAS OUTSIDE OF THE DESIGNATED CONSTRUCTION ZONE. ALL VEGETATION WITHIN

CONTRACTOR SHALL RESTRICT ALL GRADING AND CONSTRUCTION ACTIVITIES TO AREAS DESIGNATED ON THE PLANS. ACTIVITIES WITHIN THE

AREAS WHICH ARE TO RECEIVE TOPSOIL SHALL BE GRADED TO WITHIN 0.30 FOOT ABOVE OR BELOW THE REQUIRED ELEVATION, UNLESS DIRECTED

AREAS TO BE SEEDED FOR EROSION CONTROL PURPOSES WITHIN THE CONSTRUCTION ZONE ARE TO BE DETERMINED BY THE OWNER'S

APPROVED BY THE ENGINEER. THE EXCAVATION SHALL COMMENCE A MINIMUM OF 10 FEET FROM THE LIMIT OF THE BUILDING PAD. THE EXCAVATION FROM

TOPSOIL IN AREAS WHERE TURF IS TO BE ESTABLISHED TO A MINIMUM DEPTH OF 6 INCHES.

SALVAGE ENOUGH TOPSOIL FOR RESPREADING ON THE SITE AS SPECIFIED. EXCESS TOPSOIL SHALL BE PLACED IN EMBANKMENT AREAS, OUTSIDE OF BUILDING

THIS REQUIREMENT WILL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS. THE DUTY OF THE ENGINEER OR THE DEVELOPER TO

CONTRACTOR SHALL BE RESPONSIBLE FOR PROVIDING AND MAINTAINING VEHICULAR AND PEDESTRIAN TRAFFIC CONTROL DEVICES SUCH AS BARRICADES,

CONDUCT CONSTRUCTION REVIEW OF THE CONTRACTOR'S PERFORMANCE IS NOT INTENDED TO INCLUDE REVIEW OF THE ADEQUACY OF THE CONTRACTOR'S

COORDINATE ALL WORK WITH PAVING CONTRACTOR.
IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO RELOCATE ALL EXISTING UTILITIES WHICH CONFLICT WITH THE PROPOSED.

IF THE CONTRACTOR ENCOUNTERS ANY DRAIN TILE WITHIN THE SITE, HE OR SHE SHALL NOTIFY THE ENGINEER WITH THE LOCATION, SIZE, AND CONSTRUCTION MATERIALS.

HIS OR HER FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UTILITIES (UNDERGROUND AND OVERHEAD) BEFORE COMMENCING WORK, BY CONTACTING THE NOTIFICATION CENTER (GOPHER STATE ONE FOR MINNESOTA). THE CONTRACTOR AND/OR SUBCONTRACTOR AGREE TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES, WHICH MIGHT BE OCCASIONED BY THE SUBSURFACE UTILITY DATA. THE CONTRACTOR AND/OR SUBCONTRACTORS SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BASED ON THE GUIDELINES OF ASCE/CI 38-02, TITLED "STANDARD GUIDELINES FOR THE COLLECTION AND DEPICTION OF EXISTING UTILITY INFORMATION"

THE UNDERSIGNED CONTRACTOR AGREES TO BE RESPONSIBLE FOR THE CONSTRUCTION OF ALL UTILITIES SHOWN ON THE ATTACHED PLANS AND DRAWINGS. THE SUBSURFACE UTILITY INFORMATION SHOWN ON THESE PLANS IS A UTILITY QUALITY LEVEL D. THIS QUALITY LEVEL WAS DETERMINED BASED ON THE PRACTICES, CONTRACTOR WILL BE SOLELY AND COMPLETELY RESPONSIBLE FOR CONDITIONS ON THE JOB SITE, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY DURING PERFORMANCE OF THE WORK.

THE CONTRACTOR SHALL SUBMIT 2 COPIES OF SHOP DRAWINGS FOR MANHOLE AND CATCH BASIN COORDINATE ALL BUILDING SERVICE CONNECTION LOCATIONS AND INVERT ELEVATIONS. A minimum vertical separation of 18 inches and horizontal separation of 10-feet between outside pipe diameter is required at all watermain and sewer main crossings. All watermain to be ductile iron - class 52, unless noted otherwise. All sanitary sewer to be PVC SDR-35, unless noted otherwise. All materials shall comply with the requirements of the city.

All building service connections (storm, sanitary, water) with five feet or less cover are to be insulated from building to point where 5-feet of cover is achieved. All storm sewer pipe to be smooth interior dual wall HDPE pipe with water tight gaskets, unless noted otherwise. All sanitary sewer services to building shall be PVC SCH 40 conforming to ASTM D2665. All watermain to have 7.5-feet of cover over top of watermain. All watermain for roof drain services to building shall be PVC SCH 40 conforming to ASTM D2665. Rip rap shall be Mn/DOT Class 3. A minimum vertical separation of 18 inches and horizontal separation of 10-feet between outside pipe diameter is required at all watermain and sewer main crossings. All watermain to be ductile iron - class 52, unless noted otherwise. All sanitary sewer to be PVC SDR-35, unless noted otherwise. All materials shall comply with the requirements of the city.

The utility improvements for this project shall be constructed in accordance with the "standard utilities specifications" as published by the city engineers association of minnesota. The utility construction notes shall be restored in kind. Sodded areas shall be restored with 6 inches of topsoil placed beneath the sod. The utility backfill construction shall comply with the requirements of the soils engineer. The utility backfill construction shall comply with the requirements of the soils engineer. All soils testing shall be completed by an independent soils engineer. Excavation for the utility contractor shall not open, turn off, interfere with, or attach any pipe or hose to service to the public are the liability of contractor. Contractor shall not open, turn off, interfere with, or attach any pipe or hose to service to the public are the liability of contractor. Contractor shall not open, turn off, interfere with, or attach any pipe or hose to service to the public are the liability of contractor.

The soils engineer. The utility backfill construction shall comply with the requirements of the soils engineer. Contractor shall be responsible for coordinating all required soils tests and inspections with the soils engineer. The soils engineer. Contractor shall be responsible for coordinating all required soils tests and inspections with the soils engineer. Contractor shall be responsible for coordinating all required soils tests and inspections with the soils engineer. Contractor shall be responsible for coordinating all required soils tests and inspections with the soils engineer. Contractor shall be responsible for coordinating all required soils tests and inspections with the soils engineer. Contractor shall be responsible for coordinating all required soils tests and inspections with the soils engineer.
ROOM SCHEDULE - SECOND FLOOR

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ROOM SCHEDULE - FOURTH FLOOR

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<td>4053</td>
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**IMPROVEMENTS SHOWN ON THE PLANS.**

**IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO RELOCATE ALL EXISTING UTILITIES WHICH CONFLICT WITH THE PROPOSED.**

**IF THE CONTRACTOR ENCOUNTERS ANY DRAIN TILE WITHIN THE SITE, HE OR SHE SHALL NOTIFY THE ENGINEER WITH THE LOCATION, SIZE, HIS OR HER FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UTILITIES (UNDERGROUND AND OVERHEAD). CONTRACTOR AND/OR SUBCONTRACTOR AGREE TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES, WHICH MIGHT BE OCCASIONED BY SUBSURFACE UTILITY DATA."** THE CONTRACTOR AND/OR SUBCONTRACTORS SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING ACCORDING TO THE GUIDELINES OF ASCE/CI 38-02, TITLED "STANDARD GUIDELINES FOR THE COLLECTION AND DEPICTION OF EXISTING

**10.**

**PREPARATORY WORK SHALL INCLUDE THE FOLLOWING AND SHALL BE COMPLETED UNDER THE DIRECT SUPERVISION OF THE OWNER'S REPRESENTATIVE:**

- **10.a.** RESTRICTED AREAS SHALL INCLUDE ALL DESIGNATED TREED AREAS OUTSIDE OF THE DESIGNATED CONSTRUCTION ZONE. ALL VEGETATION WITHIN

- **10.f.** PREPARATORY WORK SHALL INCLUDE THE FOLLOWING AND SHALL BE COMPLETED UNDER THE DIRECT SUPERVISION OF THE OWNER'S REPRESENTATIVE:

  - **10.f.a.** VEHICULAR TRAFFIC CONTROL: CONTRACTOR SHALL PROVIDE APPROPRIATE TRAFFIC CONTROL DEVICES SUCH AS BARRICADES, WORK ZONE SIGNS, WORK ZONE LIGHTS, AND WORK ZONE TENTED WARNING SIGNS. CONTRACTOR SHALL INSTALL APPROPRIATE TRAFFIC CONTROL DEVICES AT THE SITE ENTRANCE AND EXIT TO CONTROL VEHICULAR TRAFFIC AND EROSION. CONTRACTOR SHALL PROVIDE A SMOOTH FINISHED SURFACE WITHIN SPECIFIED TOLERANCES, WITH UNIFORM LEVELS OR SLOPES BETWEEN POINTS WHERE ELEVATIONS

  - **10.f.b.** EROSION CONTROL: CONTRACTOR SHALL PROVIDE ALL NECESSARY EROSION CONTROL MEASURES TO PREVENT EROSION OF ALL AREAS DISTURBED BY THE CONTRACTOR'S OPERATIONS AND SHALL BE A RESTRICTED AREA. CONTRACTOR SHALL PROTECT TREES TO REMAIN AT ALL TIMES. EQUIPMENT SHALL NOT

  - **10.f.c.** STUMP REMOVAL: AT SUCH TIME THAT ROOTS HAVE BEEN PROPERLY SEVERED, STUMPS MAY BE REMOVED. WHERE REMOVAL OF CERTAIN

  - **10.f.d.** TREE PRUNING: CONTRACTOR SHALL PROVIDE A PROFESSIONAL TREE TRIMMING SERVICE TO TRIM THE TREES PRIOR TO THE BEGINNING OF OPERATION. SHOULD CONTRACTOR'S OPERATIONS RESULT IN THE BREAKING OF ANY LIMBS, THE BROKEN LIMBS SHOULD BE REMOVED IMMEDIATELY AND CUTS SHALL BE PROPERLY PROTECTED TO MINIMIZE ANY LASTING

  - **10.f.e.** MAINTENANCE OF WEEDS AND INVASIVE PLANTS: CONTRACTOR SHALL MAINTAIN THE AREA FREE OF WEEDS AND INVASIVE PLANTS AND SHALL NOT USE還有未定义的公式
Memorandum
SRF No 0169369

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

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

Date: October 24, 2016

Subject: Crest Ridge Traffic Study Update

Introduction

SRF has completed an updated traffic study for the proposed Crest Ridge development located in the southeast quadrant of the Hopkins Crossroad and I-394 South Frontage Road intersection in Minnetonka (see Figure 1: Project Location). Several previous studies have been completed for this site, which included the Opus Crossroad Corporate Center Traffic Study Update (January 2011) and the Proposed Opus Crest Ridge Corporate Center Parking Study (December 2012). The original traffic study, completed in October 2007 with an addendum in January 2008, was developed for the current Syngenta development.

Phase I of the proposed development (Syngenta) was constructed in 2009 and included 110,000 square feet of office space. Phase II of the proposed development was not constructed, but was originally planned as a 125,000 square foot general office building. A subsequent development revision and study assessed a 121,000 square foot medical-office building for Phase II. However, Phase II is now proposed as a senior living facility. Therefore the main objectives of this study are to review historical and existing traffic volumes within the study area, evaluate the trip generation difference between the proposed development and previous assumptions, and recommend any necessary improvements to accommodate the proposed development. The following information provides the assumptions, analysis, and recommendations offered for consideration.

Traffic Volumes

Data Collection

Existing turning movement counts at the South Frontage Road/ Syngenta Driveway intersection were reviewed to establish a comparison with previous counts conducted at this location. Intersection turning movement counts were collected the week of September 26, 2016 at the South Frontage Road/ Syngenta Driveway intersection during the weekday a.m. and p.m. peak hours. The purpose of the counts was to identify existing site trip generation and general area travel patterns. In addition, historical volumes along Hopkins Crossroad and I-394 ramp detector data was collected in order to identify any trends in vehicular volume within the study area.
Volume Trends

Results of the turning movement count comparison shown in Figure 2, indicate that traffic volumes along the South Frontage Road have increased by approximately 25 percent. This increase is primarily attributed to adjacent development that has occurred since 2011. Alternatively, traffic volumes in/out of the Syngenta development have decreased by 35 to 40 percent since 2011. A combination of factors could be contributing to this decrease, including the time of the year data was collected (November 2011 versus September 2016), an increase in telecommuting, and variations in employment start/end times. Based on review of the daily traffic volumes along Hopkins Crossroad and the I-394 ramp detector data since 2011, volumes have generally been increasing within the study area. This is likely from a combination of background growth and development within the area. The only decrease in the study area is the westbound on-ramp from Hopkins Crossroad to I-394. This can be attributed to the opening of the I-394 westbound on-ramp at Ridgedale Drive.

Proposed Development

The proposed development, shown in Figure 3, would encompass Phase II of the Crest Ridge site. The proposed development consists of 145 senior living units, which is divided into independent living, assisted living, and memory care units. Access to the proposed development is not expected to change, with one access along Wayzata Boulevard. It should be noted that 145 parking spaces are provided. Previous land use assumptions for Phase II development have included a 121,000 square foot general office and medical-office building.

Trip Generation

To identify the difference in expected trips, a trip generation estimate for the weekday a.m. and p.m. peak hours as well as on a weekday daily basis was developed. This trip generation estimate, shown in Table 1, was developed using a combination of existing traffic counts collected at similar type facilities and the [Institute of Transportation Engineers (ITE) Trip Generation Manual, Ninth Edition](https://www.ite.org). For the previously assumed land use, SRF collected trip generation data for a similar facility in 2008. Both the ITE and collected data are presented in the comparison table.

<table>
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<tr>
<th>Land Use Type (ITE Code)</th>
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<th>AM Peak Hour Trips</th>
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<td>In</td>
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Volume Comparison
Crest Ridge Traffic Study Update
City of Minnetonka
SITE KEYNOTES

1. EXISTING CREST RIDGE PHASE ONE CORPORATE OFFICE BUILDING
2. EXISTING PARKING STRUCTURE
3. SITE ENTRANCE
4. NEW SURFACE PARKING LOT FOR CREST RIDGE SENIOR LIVING.  
   51 TOTAL SURFACE SPACES.
5. NEW 145-UNIT SENIOR HOUSING STRUCTURE  
   4-STORY WOOD FRAME OVER LOWER LEVEL PARKING  
   75 INDEPENDENT LIVING UNITS  
   50 ASSISTED LIVING UNITS  
   20 MEMORY CARE UNITS
6. UNDERGROUND PARKING ACCESS AND TRASH COLLECTION POINT
7. SITE WALKING PATH
8. RESIDENT PATIOS AND GARDENS
9. MEMORY CARE PATIO AND GARDENS
10. RETAINING WALL WITH SITE SIGNAGE
11. PEDESTRIAN CONNECTIONS TO PUBLIC WALKS
Results of the trip generation estimate for the updated Phase II development indicates the proposed development is expected to generate 29 weekday a.m. peak hour, 37 weekday p.m. peak hour, and 499 weekday daily trips to/from the site. In comparison to the previously assumed land uses, the proposed Phase II development is expected to generate 260 fewer a.m. peak hour, 395 fewer p.m. peak hour, and 3,873 fewer daily trips. In comparison to the West Health collected data, the proposed Phase II development is expected generate 209 fewer a.m. peak hour, 154 fewer p.m. peak hour, and 2,901 fewer daily trips. It should be noted that the West Health collected data was previously assumed as the trip generation for Phase II, and was carried forward into the previous intersection capacity analysis. Due to the decrease in trips expected to be generated, an intersection capacity analysis was not completed for future build conditions as part of this update.

Summary and Conclusions

The following study conclusions and recommendations are offered for consideration:

1) Traffic volumes along Wayzata Boulevard have increased while volumes in/out of the Syngenta development have decreased significantly since 2011.

2) Traffic volumes along Hopkins Crossroad and the I-394/Hopkins Crossroad Interchange ramps have increased within the study area since 2011.
   a. The only decrease is the westbound on-ramp from Hopkins Crossroad to I-394, which is due to the opening of the new I-394 westbound on-ramp at Ridgedale Drive.

3) The proposed development consists of 145 senior living units, which is divided into independent living, assisted living, and memory care units.

4) The proposed development is expected to generate an additional 29 weekday a.m. peak hour, 37 weekday p.m. peak hour, and 499 weekday daily trips to/from the site.

5) In comparison to the previously assumed land uses, the proposed Phase II development is expected to generate 260 fewer a.m. peak hour, 395 fewer p.m. peak hour, and 3,873 fewer daily trips compared to the previously assumed land use based on ITE trip generation.

6) In comparison to the West Health collected data, the proposed Phase II development is expected generate 209 fewer a.m. peak hour, 154 fewer p.m. peak hour, and 2,901 fewer daily trips.

7) Since the proposed development is expected to generate less trips than previously assumed, no further analysis or improvements were identified.
O’Connell supports staff’s recommendation.

O’Connell moved, second by Powers, to recommend that the city council adopt the attached resolution with modifications provided in the change memo dated December 15, 2016 which grants preliminary plat approval to Woodlands at Linner a four-lot subdivision with variances at 1555 Linner Road.

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

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

Chair Kirk 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.

Matt Rauenhorst, Opus Development, 10350 Bren Road West, applicant, stated that Thomas did a great job providing background on the project. The proposal has been able to accommodate many of the comments received. He was available for questions. He is comfortable with staff’s recommendations.

O’Connell asked when the proposal would be completed. Mr. Rauenhorst estimated the summer of 2018. A significant number of trees would be added to the site to provide screening. The neighbors are now comfortable with the proposal. Thomas noted that there were no neighbors in the audience and gave the applicant credit for meeting with neighbors and adding substantial screening to the proposal. The photometrics plan for the site indicates that the light reading at the property line would be zero footcandles.

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

Powers complemented the applicant for addressing the neighbors’ concerns.

Odland moved, second by Calvert, to recommend that the city council adopt the following pertaining to 10955 Wayzata Boulevard:

1. A resolution amending the comprehensive guide plan designation from office to high-density residential.
2. An ordinance repealing and replacing the existing Crest Ridge Corporate Center master development plan as it pertains to the subject property.

3. A resolution approving final site and building plans for Crest Ridge Senior Living.

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

9. Adjournment

Odland moved, second by Calvert, to adjourn the meeting at 8:40 p.m. Motion carried unanimously.

By: ____________________________

Lois T. Mason
Planning Secretary
Resolution No. 2017-____

Resolution approving a comprehensive guide plan amendment from office to high-density residential at 10955 Wayzata Boulevard

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

Section 1. Background.

1.01 The Opus Group has submitted a proposal to construct a four-story, 147-unit senior residential building on a property designated for office land uses in the 2030 Comprehensive Guide Plan.

1.02 The subject property is located at 10955 Wayzata Boulevard. It is legally described as: Lot 1, Block 1, Crest Ridge Corporate Center.

1.03 The proposal requires that the site’s land use designation be changed from office to high-density residential.

Section 2. Criteria.

2.01 The 2030 Comprehensive Guide Plan outlines that the following criteria should be used to evaluate amendment requests:

1. The change would be consistent with the policies, strategies, or other elements of the 2030 Comprehensive Guide Plan and the city’s Strategic Framework, including those for certain long term planning areas.

2. The change would not create an adverse impact on public facilities and services that could not be mitigated with proposed improvements. Public facilities and services include roads, sewers, water supply, drainage, schools and parks.

3. Development resulting from the change would not create an undue impact to surrounding properties.
a) Such development would be consistent with the physical character of the surrounding neighborhood or would upgrade and improve its viability.

b) Physical character includes land use type, building height and size, relationship to the street, roof lines, and landscaping.

c) Viability includes stabilization or enhancement of property values or removing blighting influences.

d) An effective and reasonable buffer may be established and maintained on a continual basis in locations where the land use change is to a non-residential use such as commercial and is adjacent to an established residential neighborhood. The buffer may be established by utilizing the following techniques: extraordinary setbacks to residential properties from hardsurface areas (buildings, driving lanes, parking areas, etc.) and other areas or features of development that result in impacts to residential properties, such as lighting, sufficient berming of a height and design to screen non-residential activities, use of structures such as non-accessible building walls or other effective barriers, use and incorporation of existing topography and vegetation into the overall development, new landscaping materials, of sufficient height and size to provide a year round screen, or a combination of the above features and techniques.

4. The change would allow a more viable transition to the planned uses on adjacent properties than the current land use.

5. The change would not have an adverse impact on the natural environment, including trees, slopes and wetlands, or the impact could be mitigated by improvements on the site or in the same vicinity.

6. There has been a change in city policies or neighborhood characteristics since the city adopted the original plan that would justify a change.

7. The change would correct an error made in the original plan.

8. There is a community or regional need identified in the comprehensive plan for the proposed use or service.

9. The change would help the city meet its housing goals.
10. The change would not adversely impact any landmarks or other historically significant structures or properties unless mitigated through relocation, commemoration or dedication.

11. In the event a land use change includes numerous properties, such as a neighborhood area, the following factors should be considered:
   a) Determination of changed conditions on the properties or within the area surrounding the properties.
   b) The condition of the buildings on the property.
   c) If residential, the need to preserve the housing stock to meet city housing goals, or if non-residential, the ability of the proposed new land use(s) to meet city housing goals.
   d) The ability of the assembled properties to allow for a unified development that meets the appropriate development criteria for the area in which it is located, and
   e) The timing of intended development allows for any necessary roadway or other public infrastructure improvements to accommodate traffic from the proposed development.

Section 3. Findings

3.01 The requested amendment would meet various amendment criteria outlined in the 2030 Comprehensive Guide Plan.

1. One of the primary themes of the comprehensive plan is the support and encouragement of housing options that appeal to a variety of residents, at a variety of ages and income levels. The requested amendment would be consistent with this theme.

2. The requested amendment has been reviewed by planning, building, engineering, natural resources, fire, and public works staff. It is not anticipated to create an adverse impact on public infrastructure or services.

3. The amendment would not create an undue impact on surrounding properties. Rather, the residential use would represent an overall decrease in land use intensity from the office and service uses previously approved for the site. This is particularly true with regard to vehicle trips and general activity levels.
4. The amendment would result in an appropriate transition between existing office, high-density residential, and low-density residential uses.

5. In 2008, the subject property was prepped for office development and construction consistent with the site’s current guide plan designation. As little natural topography or native vegetation currently exists on the site, the requested amendment would not have an adverse impact on the existing natural environment.

Section 4. City Council Action

4.01 The above described guide plan amendment is approved based on the findings outlined in section 3 of this resolution. Approval is subject to, and only effective upon, the review and approval of the Metropolitan Council as provided by state statute.

Adopted by the City Council of the City of Minnetonka, Minnesota, on January 9, 2017.

________________________
Terry Schneider, Mayor

Attest:

________________________
David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on January 9, 2017.

________________________
David E. Maeda, City Clerk
Ordinance No. 2017-

An ordinance repealing and replacing the existing Crest Ridge Corporate Center master development plan as it pertains to the property at 10955 Wayzata Boulevard

The City Of Minnetonka Ordains:

Section 1.

1.01 The subject property is located at 10955 Wayzata Boulevard. It is legally described as: Lot 1, Block 1, Crest Ridge Corporate Center.

1.02 In 2008, the city approved the Crest Ridge Corporate Center master development plan for two properties at 10955 and 11055 Wayzata Boulevard. The approved plan generally included construction of a three-story office building and associated parking ramp on each site. Shortly after approval, a building and parking ramp were constructed on the 11055 Wayzata Boulevard property. The subject property remained vacant.

1.03 In 2013, the city amended the master development plan as it pertained to the subject property. As amended, the building and parking ramp would be constructed as previously approved. However, rather than an office user, the site would be occupied by an ambulatory-care medical use. This building and parking ramp were not constructed and the site remains vacant.

1.04 The Opus Group has now submitted plans to develop the vacant subject property. As proposed, a four-story senior rental building would be constructed. The building would include a total of 147 units comprised of 127 independent/assisted living units and 20 memory care units.

1.05 To facilitate development of the site, this ordinance hereby repeals and replaces the Crest Ridge Corporate master development plan as it pertains to the subject property.
Section 2.

2.01 This ordinance is based on the findings that the proposed development would not negatively impact public health, safety, or welfare.

2.02 This ordinance is subject to the following conditions:

1. The site must be developed and maintained in substantial conformance with the following plans, which constitute the master development plan for the subject property:
   - Site Plan, dated November 16, 2016
   - Grading Plan, dated November 16, 2016
   - Utility Plan, dated November 16, 2016
   - Landscape Plan, dated November 16, 2016
   - Building Elevations, dated November 16, 2016

2. The development must further comply with all conditions outlined in City Council Resolution No. 2017-xx, adopted by the Minnetonka City Council on _____________, 2017.

Section 3. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on January 9, 2017.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

**Action on this ordinance:**

Date of introduction: December 5, 2016
Date of adoption: January 9, 2017
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 January 9, 2017.

David E. Maeda, City Clerk
Resolution No. 2017-

Resolution approving final site and building plans for Crest Ridge Senior Living
at 10955 Wayzata Boulevard

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

Section 1. Background.

1.01 The Opus Group has requested approval of final site and building plans for
construction of a four-story, 147-unit senior rental building.

1.02 The subject property is located at 10955 Wayzata Boulevard. It is legally
described as: Lot 1, Block 1, Crest Ridge Corporate Center.

1.03 On December 15, 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 building plans.

Section 2. Standards

2.01 City Code §300.27 Subd. 5, outlines several items that 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 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
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 site and building plan standards outlined in the City Code §300.27, Subd.5.

1. The proposal has been reviewed by planning, building, engineering, natural resources, fire, and public works staff. With approval of the
requested comprehensive guide plan amendment from office to high-density residential, the proposal would be generally consistent with the city’s development guides.

2. The proposed site and building changes would be generally consistent with the master development plan that was previously approved for, and that governs development of, the site.

3. The subject property was prepped for development and construction following the 2008 redevelopment approvals. Little natural topography or native vegetation currently exists on the site.

4. The proposal would result in an intuitive and attractive development of the site. While not specifically reflecting the architectural components of the adjacent office building, the proposal would result in a complementary development.

5. As new construction, the proposed building would meet minimum energy standards.

6. The proposal would not negatively impact neighboring land uses. Rather, the residential use would represent an overall decrease in land use intensity from the office and service uses previously approved for the site. This is particularly true with regard to vehicle trips and general activity levels.

Section 4. City Council Action.

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

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

   - Site Plan, dated November 16, 2016
   - Grading Plan, dated November 16, 2016
   - Utility Plan, dated November 16, 2016
   - Landscape Plan, dated November 16, 2016
   - Building Elevations, dated November 16, 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 demolition, 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 demolition plan must:

      1. Illustrate removal of the existing valley gutter and sidewalk from east and west limits of curb removal.

      2. Indicate the locations, sizes, and material types of private water lines and sewer lines, including abandoned lines, and hydrants. Note if lines are being removed or will remain in place.

   b. Final site plan must:

      1. Include a fire truck turning radius within the parking lot to ensure maneuverability.

      2. Illustrate wider sidewalks in those areas that directly abut parking stalls to ensure pedestrians may use the sidewalks in the event automobiles “overhang” sidewalk area. As an alternative, bollards must be installed to ensure sidewalks are passable.

      3. Revise note B to read B618 curb and gutter.

      4. Illustrate either flared connections at the trail connection to concrete sidewalk or a perpendicular connection.
c. Final grading plan must:

1. Minimize grading east of the existing stormwater pond to the greatest extent practical.

2. Remove the easterly connection from the new trail to the existing trail that circumnavigates the existing pond, as per the staff grading exhibit included in the staff report, and adjust grades accordingly.

3. Adjust the specific location and shape of the southeasterly infiltration basin and associated grading to preserve healthy, high-priority trees. Reconfiguration of the northern portion of the existing pond may allow for required infiltration.

d. Final stormwater management plan must meet the requirements of the city's Water Resources Management Plan, Appendix A. Design. The plan must:

1. Rate Control.
   
   • Include calculations/modeling to show that the proposed stormwater facilities meet the city’s rate control criteria. There may be no increase in rate at all points were stormwater leaves the site.

2. Volume Control.
   
   • Include calculations/modeling to show one inch of abstraction over the entire site’s impervious surface. Sequencing credit will not be given.

   • Calculations must use the "bioretention systems with
underdrain” equations as outlined in Appendix A, not “subsurface storage” as shown on the MIDS report.

- Infiltration Rates within the volume control calculations must not exceed 0.8 inches per hour.

- If the existing stormwater pond will be used to meet volume capacity, information must be submitted indicating the facility has sufficient capacity to capture the additional volume.

3. Soil borings are required in the proposed biofiltration areas to confirm there is three feet of separation between the bottom of the pond and the seasonally high groundwater table.

e. Final utility plan must:

1. Change proposed hydrant location. On current plans, a fire hydrant is shown on 2.5 feet behind curb. Either: (1) the hydrant must be pushed back to five feet behind curb; or (2) bollards must be installed at the curb to protect the hydrant.

2. Include the locations, sizes, and material types of private water lines and sewer lines, including abandoned lines, and hydrants.

3. Include a new valve at the property line or the location where maintenance responsibilities will change.

4. Confirm sanitary sewer capacity needs. As proposed, an 8-inch service line is tied into a 6-inch line. If an 8-inch line is
required, the remainder of the pipe to the main must be upsized.

5. Confirm adequate clearance cover between the proposed retaining wall and the storm sewer between CBHM400 and EX STMH 300.

f. Final landscaping and tree mitigation plans must:

1. Meet minimum landscaping value of two percent total project value as outlined in city code. At the sole discretion of natural resources staff, landscaping and mitigation may be adjusted based on site conditions.

2. Include a specific planting plan for the infiltration basins.

3. If short prairie seed mix is to be used, a qualified restoration contractor must be hired to seed and monitor its establishment, which may take five to seven years, and its on-going maintenance.

4. Indicate landscaping will not be installed within three feet of required fire hydrants.

5. Indicate all deciduous trees to be planted no closer than 15 feet, and evergreen trees no closer than 20 feet behind the curb of the public streets.

6. Include rain sensors on any irrigation systems.

4) Plans from a licensed structural engineer for proposed retaining wall and confirm that the wall is designed to withstand lateral pressures to support the driveway.

5) A snow removal and salting plan.
6) The following documents for the review and approval of the city attorney:

   a. A shared access agreement or easement with the property at 11055 Wayzata Boulevard. The agreement/easement must state the maintenance responsibilities of each owner.

   b. Private water, sanitary sewer, and storm sewer easements with the property at 11055 Wayzata Boulevard. The agreement/easement must state the maintenance responsibilities of each owner.

   c. A private fire hydrant agreement.

   d. Stormwater maintenance agreement over the proposed stormwater management facilities.

   e. Revised or amended conservation easement and landscape maintenance agreement reflecting approved plans. The revised/amended documents are intended to supersede County Doc. No. 4505689 and Doc No. 4505690 respectively as they pertain to the subject property.

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

   a. A final as-built survey has been submitted;

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

   c. Vegetated ground cover has been established; and
d. Required landscaping or vegetation has survived one full growing season.

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

a. 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

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

9) 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.

10) All required administration and engineering fees.

b) Prior to issuance of the grading permit:

1) Obtain and submit a sanitary sewer extension permit from the Minnesota Pollution Control Agency or submit documentation from the agency that no such permit is required.

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

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

4. Prior to issuance of a building permit:
a) Submit the following documents:

1) Proof of subdivision registration and transfer of NPDES permit.

2) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance. If the builder is the same entity doing grading work on the site, the construction management plan submitted at the time of grading permit may fulfill this requirement.

b) Submit a final material and color palate board for staff review and approval.

c) Submit a plan for fence or other type of demarcation along portions of the east property line that is mutually acceptable to applicant, city, and adjacent residential property owners.

d) 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:

1) 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

2) 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.

e) Submit all required hook-up fees.

7. During construction the street must be kept free of debris and sediment.
8. The property owner is responsible for replacing any required landscaping that dies.

9. The property owner is responsible for maintaining records and continuing to locate abandoned, in-place utility facilities.

10. This resolution does not approve any signs. Separate sign permit applications must be submitted.

11. The approvals granted under this resolution will expire on December 31, 2018 unless: (1) a building permit has been issued for the proposal as outlined; or (2) the city has received and approved a written request for extension of the approvals.

Adopted by the City Council of the City of Minnetonka, Minnesota, on January 9, 2017.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on January 9, 2017.
David E. Maeda, City Clerk
City Council Agenda Item #14D  
Meeting of January 9, 2017

Brief Description  
Resolution approving preliminary plat, with variances, for WOODLANDS AT LINNER at 1555 Linner Road

Recommendation  
Adopt the resolution approving the request

Background

In the mid-1980s the city envisioned and developed a concept plan for a looped road system which would allow for thoughtful and orderly development of several large lots along the east side of Linner Road. (Diagram shown to the right.)

The subdivision directly to the south of the subject property, CHESTNUT HILLS (Pondview Terrace), was reviewed and approved during this time. Through dedication of public right-of-way, the CHESTNUT HILLS plat was designed to allow for the future extension of the looped road system to the north and a road connection to Deerhill Drive to the southeast. Construction of the future road system could not occur until the adjacent properties to the north and south developed and so the CHESTNUT HILLS subdivision was, and continues to be, served by a temporary cul-de-sac. (Diagram to the lower right.) In subsequent years, development of the property immediately south of CHESTNUT HILLS eliminated the possibility of a roadway connection to Deerhill Drive.

Beginning in 1989, a property owner submitted several proposals to redevelop the former property at 1551 Linner Road. The then-property included the northerly portion of the subject property. In 1992 a subdivision was approved. As a condition of approval, a 50-foot right-of-way easement was required to accommodate a future thru-street. This thru-street would allow for the redevelopment of the parcels between this right-of-way and CHESTNUT HILLS. This plan for a thru-street was required to be included in the chain of title for all affected parcels. (Diagram shown on next page.)
Since the 1992 approval, Parcel A (currently 1551 Linner Road) and Parcel B (currently 1555 Linner Road) were issued driveway permits by the city to allow for a private use within a public right-of-way. Additionally, Parcel B was combined with several properties to the south creating the current configuration of the 1555 Linner Road property.

Proposal

HP Holdings, LLC is requesting approval of WOODLANDS AT LINNER preliminary plat. As proposed, the existing home would be reconstructed and three, new, single-family homes would be constructed. All four lots would comply with minimum lot area standards and would range in size from 24,800 square feet to 111,700 square feet. Two of the homes would take access via a new public cul-de-sac to the north, one lot would have direct access on Linner Road, and the southern lot would have access onto the Pondview Terrace cul-de-sac.

Planning Commission Hearing

The planning commission considered the request on December 15, 2016. The commission report and associated plans are attached. Revisions to the staff report and resolution were included in the change memo. This memo has also been attached to this report.

Staff recommended approval of the preliminary plat, with lot width at right-of-way and wetland buffer width variances, noting that the subdivision was reasonable, as:

1. At the time the city developed the looped road system concept, the subject property was a series of large, individually-owned parcels. The city anticipated that the thru-street would be needed to allow for the development of the parcels. However, as many of the larger parcels have since been combined to form the current subject property configuration, the thru-street is not as vital as it was previously. Additionally, staff finds that the connectivity benefits of the thru-street would not outweigh the anticipated site impacts likely associated with the street construction.

2. But for the lot width at right-of-way variance for Lot 3, the proposed lots would meet the city’s minimum lot standards. The requested variance is the result of the temporary cul-de-sac not being platted as permanent right-of-way in the 1980s. The temporary cul-de-sac was intended to serve the CHESTNUT HILLS subdivision until the thru-street was constructed. Were the cul-de-sac platted as permanent right-of-way, Lot 3 would meet minimum standard and no variance would be necessary.
3. The proposed wetland buffer width reduction is for an existing retaining wall along the driveway for the existing home. Staff does not find that the variance would allow for a lesser separation or protection of the wetland than what exists today.

At the meeting, a public hearing was opened to take comment. Five area residents addressed the commission. These residents generally:

1. Expressed concern related to the conversion of the existing driveway located within the public right-of-way to a public cul-de-sac.

2. Expressed concern related to possible environmental impacts associated with the proposal; specifically, possible grading, tree removal, and wetland impacts.

Following the public hearing, the commission asked questions and discussed the proposal. The commissioners asked questions related to the existing driveway within the right-of-way and the temporary Pondview Terrace cul-de-sac. Staff explained that the city required the northern right-of-way extension in the early 1990s anticipating that a thru-street would be constructed. The concept plan, which illustrates the thru-street, was recorded against the affected properties to notify future property owners. At the time, the city issued driveway permits to 1551 and 1553 Linner Road to allow private use within the right-of-way. However, these permits specifically state that the property owners do not assume any ownership rights of the area.

The commissioners then discussed the plan and requested variances.

**Planning Commission Recommendation**

On a 5-0 vote, the commission recommended that the city council approve the proposal. Meeting minutes and the change memo from that meeting are attached.

**Since Planning Commission Hearing**

The staff report provided to the planning commission noted that the developer would prepare the site for the construction of the east-west water main. However, as part of the change memo, staff removed the requirement to allow additional time to review the location and installation method of the water main.

Since the planning commission meeting, staff has determined the most suitable location for the main and has identified directional boring as the preferred installation method. Nevertheless, consistent with the commission’s change memo, no site prep work would occur until the time of water main installation.

**Staff Recommendation**

Staff recommends the city council adopt the resolution approving the preliminary plat of WOODLANDS AT LINNER, with variances.
Through:  Geralyn Barone, City Manager
         Julie Wischnack, AICP, Community Development Director
         Loren Gordon, AICP, City Planner

Originator:  Ashley Cauley, Senior Planner
Brief Description
Preliminary plat, with variances, for WOODLANDS AT LINNER at 1555 Linner Road

Recommendation
Recommend the city council approve the proposal.

Background
In the mid-1980s the city envisioned and developed a concept plan for a looped road system which would allow for thoughtful and orderly development of several large lots along the east side of Linner Road. This concept plan is attached. (Diagram to right.)

CHESTNUT HILLS – the subdivision directly to the south of the subject property - was reviewed and approved during this time. The developer of CHESTNUT HILLS worked with city staff to develop a plan for the development that would allow for the future extension of the looped road to the north and a southern road connection to Deerhill Drive. Construction of the future road system could not occur until the adjacent properties to the north and south developed and so the CHESTNUT HILLS subdivision was and continues to be served by a temporary cul-de-sac. (Diagram to lower right.) With approval and the redevelopment of the property to the south, a connection to Deerhill Drive is no longer a viable option.

Beginning in 1989, a property owner submitted several proposals to redevelop the former property at 1551 Linner Road. The then-property included the northerly portion of the current subject property. In 1992 a subdivision was approved. A 50-foot right-of-way easement was required as a condition of approval to accommodate a future thru-street, which would allow for the redevelopment of the parcels between this right-of-way and CHESTNUT
HILLS. This plan for a thru-street was required to be included in the chain of title for all affected parcels.

Since the 1992 approval, parcel A (currently 1551 Linner Road) and Parcel B (currently 1555 Linner Road) were issued driveway permits by the city to allow for a private use within a public right-of-way. Additionally, Parcel B was combined with properties to the south creating the current configuration of 1555 Linner Road Property.

Proposal Summary

The following information is intended to summarize the proposal submitted by HP Holdings, LLC. Additional information associated with the proposal can be found in the “Supporting Information” section of this report.

- **Existing Site Conditions.** The subject property is approximately 5.5 acres in size. The property is currently improved with a 6,800 square foot home and several private recreational amenities. The site generally slopes “downwards” from the south and west property lines and is encumbered by two wetlands. The site does not include a woodland preservation area but does contain approximately 400 regulated, mature trees primarily of the oak, maple, basswood, and fir varieties.

- **Proposed Lots.** As currently proposed, the existing home would be reconstructed and three, new, single-family homes would be constructed. All four lots would comply with minimum lot area standards and would range in size from 24,800 square feet to 111,700 square feet. Two of the homes would have access via a new public cul-de-sac to the north; one lot would have access onto Linner Road and the southern lot would have access onto the Pondview Terrace cul-de-sac.

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<td>Buildable *</td>
<td>ROW</td>
</tr>
<tr>
<td>CODE</td>
<td>22,000 sf</td>
<td>3,500 sf</td>
<td>80 ft</td>
</tr>
<tr>
<td>1</td>
<td>111,741 sf</td>
<td>25,490 sf</td>
<td>242 ft</td>
</tr>
<tr>
<td>2</td>
<td>24,795 sf</td>
<td>8280 sf</td>
<td>136 ft</td>
</tr>
<tr>
<td>3</td>
<td>58,987 sf</td>
<td>13,500 sf</td>
<td>69 ft (v)</td>
</tr>
<tr>
<td>4</td>
<td>29,966 sf</td>
<td>14,345 sf</td>
<td>165 ft</td>
</tr>
</tbody>
</table>

* rounded to the nearest 5 sf
(v) requires variance
Primary Questions and Analysis

A land use proposal is comprised of many details. In evaluating a proposal, staff first reviews these details and then aggregates them into a few primary questions or issues. The following outlines both the primary questions associated with WOODLANDS AT LINNER and staff’s findings.

- **Are the proposed lots and lot variance reasonable?**

  Yes. The city’s subdivision ordinance outlines minimum area and dimensional standards for single-family residential lots. While the proposed lots would far exceed the city’s minimum R-1 requirements for lot area, one of the proposed lots would require a lot width at right-of-way variance. When a subdivision requires a variance, the city has a broad discretion in the approval or denial of the proposal. The subdivision ordinance states that variances “may be granted but not mandated” when the applicant meets the burden of proof proving that:

  **Reasonableness and Unique Circumstance:** The city’s development concept for the area was to allow for improved roadway connectivity. At the time of the concept, the subject property was a series of individual – albeit larger – parcels. It was envisioned that the thru-street would be needed to allow for the development of these parcels. Since many of the larger parcels were combined to form the current 1555 Linner Road, staff finds that the thru-street is not as vital today to the redevelopment of the area as it would have been previously.

  Nonetheless, several of the surrounding parcels have developed such that the future street could be constructed. One of these parcels is CHESTNUT HILLS – directly to the south of the subject property – which was developed with a right-of-way extension for the future street. To serve the subdivision in the interim, a temporary cul-de-sac was constructed.

  The requested variance to reduce the lot width at right-of-way for Lot 3 is the result of the temporary cul-de-sac not being platted as a permanent cul-de-sac in the early 1980s. Were the cul-de-sac platted as permanent right-of-way, Lot 3 would meet minimum standard and no variance would necessary. This is a very unique circumstance that is not common to other similarly zoned properties.

  The ordinance allows the city to consider variances to lots with substandard lot widths when the property could be developed in a manner that would meet all minimum lot requirements. At the request of staff, the developer submitted a conforming exhibit with a thru-street for consideration. While the exhibit would generally meet the city’s ordinances, the thru-street construction would result in an increase in grading.

  **Character of the neighborhood:** The variance would not adversely affect or alter the character of the neighborhood. The proposed lots would range in size from
24,000 to 111,000 square feet. These lots would be similar in size to existing lots within the Linner Road neighborhood.

- **Does the proposal align with the city’s development concept?**

  Yes. The purpose of the design concept was to provide for orderly and thoughtful redevelopment of the larger parcels along Linner Road. At the time of the concept, there were several large parcels east of Linner Road. The city anticipated the various property owners would develop at various times. Those parcels have since been consolidated into 1555 Linner Road, the subject property. While a thru-street could potentially provide for improved connectivity in the area, the benefits of the thru-street are not as significant as they were previously. In evaluating the proposal, staff weighed the public benefits of the through street compared with the site impacts needed to construct the street. Staff does not find that the benefits of the thru connection would outweigh the anticipated site impacts. Staff also evaluated whether the proposed development would preclude the northern connection shown on the concept plan, which would allow for development of properties between the subject property and Wayzata Boulevard to the north. Staff finds that the proposal would not preclude the future development of these parcels.

- **Are the proposed site impacts acceptable?**

  Yes. While the proposal would result in a significant amount of tree removal, the proposal generally meets the tree protection ordinance. The proposed subdivision would result in a density of less than one lot per acre. By ordinance, such subdivisions are exempt from the maximum 35% tree removal limits set out in the ordinance. As such, while the proposal would result in a 37% tree removal, the proposal would comply with the ordinance. Staff has included conditions of approval to reduce the grading impacts to several trees. In doing so, the amount of tree removal would be reduced.

- **Is the proposed wetland buffer width reduction reasonable?**

  Yes. The intent of minimum buffer widths is to ensure the physical protection and visual aesthetic of the wetlands. The buffer width variance is for an existing retaining wall along the driveway for the existing home. Staff finds that the requested variance would still allow for adequate separation from and protection of the wetland.

**Staff Recommendation**

Recommend the city council adopt the attached resolution which grants preliminary plat approval to WOODLANDS AT LINNER a four lot subdivision, with variances, at 1555 Linner Road.

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

Project No. 16029.16a

Property 1555 Linner Road

Applicant HP Holdings, LLC

Surrounding Land Uses All surrounding properties are zoned R-1 and are improved with single family homes.

Planning Guide Plan designation: low density residential
Zoning: R-1

Lot Standards But for the lot width at right-of-way variance, the proposal would meet the R-1 standards.

Original Plan Initially the developer submitted a four-lot plan for the site which required four lot width variances. Staff worked with the developer to identify the proposed alternative which better aligns with the city’s development concept for the area and the current subdivision ordinance.

Natural Resources Trees. A remnant oak forest exists on the property south of the existing drive and an area north of the drive is transitioning into a maple-basswood forest. While cumulatively the two woodlands exceed 2 acres in size, independently neither woodland area is large enough to be regulated as woodland preservation area.

The tree protection ordinance establishes a maximum amount of tree removal to occur as a result of a subdivision. However, development properties which develop at less than one unit per acre are exempt from this maximum removal requirement.

The proposal would result in a removal of 53 of the site’s 145 high priority trees and 98 of the site’s 234 significant trees. Included as a condition of approval, is a mitigation plan for review. This plan must show mitigation for 296 inches and 430 feet of mitigation. In addition the plan must include 10, 10-inch trees.

Wetland. There are two wetlands on the property.

- North wetland: Currently, the northern wetland accepts drainage from a large area west of the property. To improve water quality of the area, the city will work with
the developer to collect and treat this excess drainage within the proposed stormwater pond.

- South wetland: The city’s Water Resources Management Plan (WRMP) classifies the wetland as a Manage 2 wetland. However, staff believes the wetland may actually be a Manage 1 wetland. If it is confirmed that the classification is different than the WRMP, the city council must approve an update to the WRMP.

**Utilities**

It has long been the city’s practice to identify and establish water main connections to provide better service to residents. The proposed development would allow for looping of several water mains:

- North – South Connection: This connection would connect the water main within the northern right-of-way to the water main in Pondview Terrace. Staff worked with the developer to identify a location for the main that would have the least amount of impact to the site’s natural resources.

- East – West Connection: On several past occasions the city has unsuccessfully attempted to obtain the necessary easements across the subject property to connect the water main from Pondview Terrace to Oakways Court. These easements would allow for the connection as the city already has the necessary easements to construct the main from Oakways Court to the subject property line. As part of the development, the developer would dedicate the necessary easements on the subject property.

**Water Quality**

To improve water quality, the city would work with the developer to construct a new storm sewer system which would direct stormwater from an area to the west of Linner Road to the stormwater proposed pond. The city will pay the developer for the work after the submission of an invoice for the construction costs associated with the overage.

**Traffic**

Since the submission of the proposal, the city received a number of calls related to traffic safety along Linner Road. The city engineer has reviewed the design of Linner Road and has found it to be acceptable. Additionally, police records indicate that four accidents have occurred along Linner Road within the last 10
years, two of which were weather related. The remaining two accidents were the result of impaired driving and traffic violations.

**Neighborhood Meeting**
On November 30, 2016 the developer held a neighborhood meeting. Approximately 10 people attended the meeting and generally expressed support for the proposal. Some of those who attended the meeting inquired about proposed site impacts and tree removal.

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

**Neighborhood Comments**
The city sent notices to 58 area property owners and received five comments. Those comments are attached.

**Pyramid of Discretion**

![Pyramid Diagram]

This application

**Motion Options**
The planning commission has three options in making recommendation to the city council:

1) Concur with staff’s recommendation. In this case, a motion should be made approving the preliminary plat and variances.

2) Disagree with staff’s recommendation. In this case, a motion should be made directing staff to prepare a resolution for denying the preliminary plat and variances. This motion should include findings for denial.
3) Table the proposal. In this case, a motion should be made to table the item. The motion should include a statement as to why the proposal is being tabled with direction to staff, the applicant or both.

**Voting Requirement**

The planning commission will make a recommendation to the city council. Since the proposal includes variances, a recommendation for approval requires four votes.

The city council's final approval requires five affirmative votes.

**Deadline for Decision**

February 1, 2017
Location Map

Project: The Woodlands at Linner
Applicant: HP Holdings, LLC
Address: 1555 Linner Rd
Project No. 16029.16a

This map is for illustrative purposes only.
Minimum Lot Area: 22,000 SF

Minimum Lot Width at Setback: 110 FT

Minimum Lot Width at Row: 80 FT, but 65 FT at Cul-de-Sac Bulb

Minimum Lot Depth: 125 FEET

Minimum Buildable Area: 3,500 SF

Buildable Area Dimensions: Minimum of 4 sides and 40 FEET per side

Minimum Front Yard Setback: 35 FEET from Neighborhood or 50 FEET from Major Collector or Arterial Roadways

Minimum Side Yard Setback: Minimum 10 FT; Aggregate Total of 30 FEET

Minimum Rear Yard Setback: 40 FEET or 20% of Lot Depth Whichever is Less

Minimum Setbacks for Lot Behind Lots or Lots with Substandard Frontage on to a Public Street: 40 FEET or 20% of the Distance Between Opposing Lot Lines

Maximum Impervious Surface: Impervious Surface is Only Regulated Within the Shoreland Overlay District for R-1 Properties. Within the Shoreland Overlay District, the Maximum Impervious Surface for the Area within 150 Feet of a OHWL is 30%; Other Land within the Shoreland Overlay District But Outside the OHWL is 20%.

Sheet Index
1. Cover Sheet & Preliminary Site Plan
2. Legend Sheet
3. Existing Conditions
4. Preliminary Plat
5. Preliminary Removal Plan
6. Preliminary Restoration Plan
7. Preliminary Grading Plan
8. Preliminary Erosion Control Plan
9-10. Preliminary Grading Details
11. Preliminary Utility Plan
12. Preliminary Wetland Plan

T1-2. Tree Preservation Plan
1. MINIMUM LOT AREA: 22,000 SF
2. MINIMUM LOT WIDTH AT SETBACK: 110 FT
3. MINIMUM LOT WIDTH AT ROW: 80 FT, BUT 65 FT AT CUL-DE-SAC BULB
4. MINIMUM LOT DEPTH: 125 FEET
5. MINIMUM BUILDABLE AREA: 3,500 SF
6. BUILDABLE AREA DIMENSIONS: MINIMUM OF 4 SIDES AND 40 FEET PER SIDE
7. MINIMUM FRONT YARD SETBACK: 35 FEET FROM NEIGHBORHOOD OR 50 FEET FROM MAJOR COLLECTOR OR ARTERIAL ROADWAYS
8. MINIMUM SIDE YARD SETBACK: MINIMUM 10 FT; AGGREGATE TOTAL OF 30 FEET
9. MINIMUM REAR YARD SETBACK: 40 FEET OR 20% OF LOT DEPTH WHICHEVER IS LESS
10. MINIMUM SETBACKS FOR LOT BEHIND LOTS OR LOTS WITH SUBSTANDARD FRONTAGE ONTO A PUBLIC STREET: 40 FEET OR 20% OF THE DISTANCE BETWEEN OPPOSITE LOT LINES, WHICHEVER IS LESS BUT NO LESS THAN 25 FEET.
11. MAXIMUM IMPERVIOUS SURFACE: IMPERVIOUS SURFACE IS ONLY REGULATED WITHIN THE SHORELAND OVERLAY DISTRICT FOR R-1 PROPERTIES. WITHIN THE SHORELAND OVERLAY DISTRICT, THE MAXIMUM IMPERVIOUS SURFACE FOR THE AREA WITHIN 150 FEET OF A OHWL IS 30%; OTHER LAND WITHIN THE SHORELAND OVERLAY DISTRICT BUT OUTSIDE THE OHWL IS 10%.
Neighborhood Development Concept plan from the 1980s
Developer submitted conforming exhibit
Tree Inventory

Total Trees Located on Site = 393 Trees
  "High Priority Tree" Located on Site = 94 Trees
  "Significant Tree" Located on Site = 299 Trees

Total Trees to be Saved = 229 Trees

Total Trees to be Removed = 68 Trees
  "High Priority Tree" to be Removed = 33 Trees (35%)
    Allowed to remove 35% of "High Priority Trees" (33 Trees)
  "Significant Tree Area" to be removed = 71,226 sq ft (53%)

*Total Significant Tree Area = 139,149 sq ft
  Allowed to remove 25% of the Significant Area (34,787 sq ft)

*Significant tree area shown on plan is an estimate.
  City to determine final significant tree area.

X - 3155 = tree to be saved
M - 3156 = tree to be removed
c - 2156 = tree located off site

Tree Protection Detail

SEE SHEET 2 FOR A DETAILED TREE LIST
Neighborhood Feedback
December 6, 2016

Ms. Ashley Cauley  
Senior Planner  
City of Minnetonka  
14600 Minnetonka Blvd.  
Minnetonka, MN 55345

Re: The Woodlands at Linner  
Our File No. 086044-000

Dear Ms. Cauley:

We are counsel to Homestead Partners and this correspondence is written in support of the application for approval of the referenced plat.

I understand that neighbors to the north of the site, Pat and Marcia Carlson, have expressed concerns with respect to the street and utility improvements that are proposed to be constructed in the public right of way that is designated on the preliminary plat as "Street A." While it is true that those neighbors currently use Street A for private access pursuant to a license for such use that was granted by the City, a review of the recorded agreements concerning this right of way confirms that the City's right to revoke this private license and to arrange for the construction of street and utility improvements is this public right of way were intended and specifically reserved when the license was granted, and that the City's exercise of these rights in this matter does not impair or infringe upon any property right that the Carlsons may have.

The pertinent documents are as follows:

(a) On May 4, 1992, the City approved a subdivision to create "Street A" as a separate legal parcel (Resolution 92-9379) (Document 5928205) (the "Subdivision Resolution"). This Subdivision Resolution also subdivided an adjoining northerly parcel (which is now owned by the Carlsons, that was referred to in the Resolution as Parcel A, and that will be referred to herein as the "Northerly Parcel") and an adjoining southerly parcel (which is now owned by the Applicant, that was referred to in the Resolution as Parcel B, and that will be referred to herein as the "Southerly Parcel").

(b) As required by the Subdivision Resolution, a Declaration of Restrictive Covenants dated May 18, 1992 was recorded against the titles for both the Northerly Parcel and the Southerly Parcel to provide notice that a future public roadway may be constructed in Street A in the event of the development of the Southerly Parcel.
As further required by the Subdivision Resolution, on that same day, May 18, 1992, the owners of Street A, the Northerly Parcel and the Southerly Parcel granted a perpetual easement for public right of way purpose over the entirety of Street A (Document 59-28206) (the “Right-Of-Way Easement”). This easement remains in full force and effect today.

As also required by the Subdivision Resolution, following the grant of the Right-Of-Way Easement, the City executed a Permit Agreement for the benefit of the Northerly Parcel and the Southerly Parcel to enable the owners of those parcels to use Street A as a private driveway (Document No. 5928208). This Permit Agreement is freely revocable by the City so long as the revocation does not eliminate a right of access to either parcel. The terms of this Permit and the City's revocation rights, are fully consistent with applicable provisions of City Ordinances (Section 1125.015).

In short, this record shows clearly that Street A was intended to be improved as a public right-of-way in conjunction with the subdivision and development of the Applicant's property, both affected owners had clear notice of these rights, and there is nothing about the City’s approval of the referenced plat or the construction of street and utility improvements in Street A that violates any rights of the owner of the Northerly Parcel.

Thanks you for your attention to this matter.

Very truly yours,

[Signature]

Gary C. Eidson

GCE/nmp
cc:  Ms. Corrine Heine
     Mr. Tom Bakritges
Hi Ashley and Brad - My husband and I recently purchased the home at 1553 Linner Road (one of the properties bordering the new lots proposed by HP Holdings LLC). We will be attending the Dec. 15 meeting and have some questions we'd like addressed, please:

- Are they planning on building a new cul-de-sac at the end of what's currently a private drive to the north of our property with driveways off of it for 1555 and new house #2? What's the rationale for doing that instead of putting their driveways off of the existing road?
- What changes in elevation are planned for the three new lots? E.g., will the lot for new house 2 be filled in so it is ~level with our property at 1553 or will there still be a slope down to that house (goes into the woods now). Same question for the lot to our south for new house #4 on the tennis court.
- What compensation plans are in place in case of damage to our property during tree removal, construction, etc.?
- What measures will be taken to ensure the trees marked save are not damaged during removal of surrounding trees, construction, etc.
- We have several pine trees on our southern property line between our house and the tennis courts. We believe them to be on our property and wanted to make sure they would be saved. They are not tagged.
- What will be the logistics for construction? When will the project commence? How long will it likely last? What hours during the day will construction take place (e.g., typically 8am-5pm)? Where will the heavy machinery park during work hours and at night?

Thank you,
Julie Heaser

=================================+
This email is confidential and may be privileged. If you have received it in error, please notify us immediately and then delete it. Please do not copy it, disclose its contents or use it for any purpose.
+=================================
Dear Ms. Cauley and Mr. Wiersum,

I am a homeowner at 1714 Pondview Terrace and I am writing regarding the OP Holdings, LLC application to subdivide the property at 1555 Linner Road. Unfortunately, I am not able to attend the planned meeting on December 15th due to a work travel commitment nor was I able to attend the developer meeting held on November 30th.

I respectfully submit the following request, questions and concerns to the Planning Committee:

1. Currently a wrought iron and chainlink fencing runs between my property and the development. My expectation is that the fencing will not be disrupted and am requesting the Planning Division and developer support and confirm. I have two large dogs that are managed by the fence and I have safety concerns.

2. The proposal specifies the price range for the homes, but does not include any guidance on the size or style of home. Can the builder please specify? Obviously having a home located in close proximity changes the quality of life and the potential marketability and value to the adjoining properties.

3. Based upon the Preliminary Plat provided by the developer, it appears that Lot/Homes #3 and #4 will be within 20-30 feet of the property line. I am concerned about the privacy as well as the number of mature hardwood trees that would be at risk. Can you please provide additional detail on how close the lot will be from the property line? In addition, provide more specificity about the trees that are planned to be removed.

4. I am very concerned about Lot 3 accessing from Pondview Terrace and wonder if you considered the Lot access coming from Linner Road. I am specifically concerned that Pondview Terrace would be an access point for construction vehicles and be very disruptive to the neighborhood during the construction period. Please confirm where construction workers will access the development?

5. Will the homes be constructed and then sold or will the lots be sold and construction be timed based on the lot sale. I would appreciate any insight as living with construction over an extended period is disruptive to me and quality of life.

6. There has been considerable development and increased traffic on Linner Road. I have made numerous calls to the police and to the city to understand the City’s plans to address the increased traffic and disregard to speed limits. I would strongly encourage the City consider new measures to make the changing environment safer to pedestrians to enjoy the neighborhood.

Thank you for your consideration.

Sincerely,

Linda Engels
1714 Pondview Terrace
Minnetonka, MN 55391
December 9, 2016

VIA EMAIL AND US MAIL

The City of Minnetonka Planning Commission
14600 Minnetonka Blvd.
Minnetonka, MN 55345
c/o Ashley Cauley

RE: Concerns with The Woodlands at Linner
　City Project No. 16029.16a

Dear Honorable Members of the Planning Commission:

This letter is to request that the Planning Commission table the review of The Woodlands at Linner project (“Project”) so that various concerns of surrounding landowners can be addressed prior to taking any action by the Commission. My clients, Jared and Julie Greenbaum (“Greenbaum’s”), live directly south of the proposed Project and the applicant, HP Partners, LLC (the “Applicant”) has failed to provide adequate measures to assure that it can and will prevent damage and restore the Greenbaum’s Property.

There are several inconsistencies with the Applicant’s project, plans and submittals that must be addressed before the Commission should proceed, including:

1. HP Partners, LLC is not the owner of the Property in question, as required by City Code to make an application for the approvals requested. Based on the Hennepin County Web Site, the property is owned by Randy Gene Koch. Pursuant to City Code and State Law the Applicant must show some interest in the property which has not been shown.

2. Furthermore, the Applicant is not entitled to a variance. The variance requested is not in harmony with the general purposes and intent of the City Zoning ordinance. Nor would this project pass the test outlined in Krummenacher v. City of Minnetonka, file A08-1988 (Minnesota Supreme Court, June 24, 2010). The Applicant has not shown that “the property in question cannot be put to any reasonable use” without the variance.

3. Lastly, the plans and drawings submitted by the Applicant do show how the structural integrity, drainage and aesthetics of the Greenbaum’s property would be maintained during the development. The mere verbal
representations of the Applicant are not enough and the Greenbaum’s mere want these assurances agreed to in writing by the Applicant.

For these reasons, on behalf of the Greenbaums’ we are writing to oppose approval of the applications and seek merely for the Commission to table its evaluation on the project until a written agreement can be worked out with the Applicant.

If you have any questions or concerns please contact me.

Sincerely,

MESSERLI & KRAMER, P.A.

[Signature]

Daniel S. Schleck
Shareholder

C. Clients
G Eidson – Counsel for HP Partners.
Dear Ashley,

This is Graham on 1701 Pondview Ter. I am writing in regards to the 1555 Linner Rd project.

I purchased the property in 2014, on the very first day the property was listed. We love our property because of the cul-de-sac and the pond next to my property. We also loved the neighborhood because of the tree/wooded area, and the large lots. Our family’s strong preferences are:

1.) We prefer that the cul-de-sac be kept. I did not know that it was a "temporary cul-de-sac" when we purchased the property. I have 3 younger children (7, 6, and 2 weeks old), and they spend a lot of time in the cul-de sac. The other two neighbors that share the cul-de sac also have younger children.

2.) We prefer that as many trees be kept as possible. I understand that the plans include a water line that will be added between my property and the pond. I only ask that as many large trees be kept as possible.

3.) The developer has commented to us that the range of homes will be at $1.2m-$2m. We hope that they are held accountable to that if possible. Given that my home is older, I do not think my home will benefit from the new development. Instead, I am worried about supply and demand. With so many new homes being added (including the Meeting street project), I worry that my home’s property value would be negatively affected by the increased supply.

Thank you for forwarding my comments to the commission.

Sincerely,

Graham Wong
December 15th Planning Commission Meeting
ITEM 8B – Woodlands at Linner

1. Since the distribution of the packet, staff has discussed the east-west connection in more detail. Please include the following change to Page 7 of the report:

Utilities

It has long been the city’s practice to identify and establish water main connections to provide better service to residents. The proposed development would allow for looping of several water mains:

- North – South Connection: This connection would connect the water main within the northern right-of-way to the water main in Pondview Terrace. Staff worked with the developer to identify a location for the main that would have the least amount of impact to the site’s natural resources.

- East – West Connection: On several past occasions the city has unsuccessfully attempted to obtain the necessary easements across the subject property to connect the water main from Pondview Terrace to Oakways Court. These easements would allow for the connection as the city already has the necessary easements to construct the main from Oakways Court to the subject property line. As part of the development, the
developer would dedicate the necessary easements on the subject property, and do the site preparation work to allow for the construction of the water main by the city in the near-future.

2. Please review the attached resolution, which includes minor changes to the resolution since the distribution of the packet. Changes are on pages 4, 5, 9 and 11. This resolution should be referenced if a motion is made to recommend approval of the proposal.
Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01 HP Holdings, LLC has requested preliminary plat approval for WOODLANDS AT LINNER, a four lot subdivision with a lot width at right-of-way variance. (Project 16029.16a).

1.02 The property is located at 1555 Linner Rd. It is legally described on Exhibit A of this resolution.

1.03 On December 15, 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 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.

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

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

Section 3. Findings.

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

3.02 The proposed preliminary plat would meet the variance standards as outlined in City Code §400.055:

1. Reasonableness and Unique Circumstance:

   a) The city’s development concept for the area was to allow for improved roadway connectivity. At the time of the concept, the subject property was a series of individual – albeit larger – parcels. It was envisioned that the thru-street would be needed to allow for the development of these parcels. Since many of the larger parcels have been combined to form the current 1555 Linner Road, the thru-street is not as vital today to the redevelopment of the area as it would have been previously.

   Nonetheless, several of the surrounding parcels have developed such that the future street could be constructed. One of these parcels is CHESTNUT HILLS – directly to the south of the subject property – which was developed with a right-of-way extension for the future street. However to serve the subdivision in the interim, a temporary cul-de-sac was

The striken language is deleted; the underlined language is inserted.
constructed.

The requested variance to reduce the lot-width-at-right-of-way for Lot 3 is the result of the temporary cul-de-sac not being platted as a permanent cul-de-sac in the early 1980s. This is a very unique circumstance that is not common to other similarly zoned properties.

b) The ordinance allows the city to consider variances to lots with substandard lot widths when the property could be developed in a manner that would meet all minimum lot requirements. At the request of staff, the developer submitted a conforming exhibit with a thru-street for consideration. While the exhibit would generally meet the city’s ordinances, the thru-street construction would result in an increase in grading.

2. Neighborhood Character: The variance would not adversely affect or alter the character of the neighborhood. The proposed lots would range in size from 24,000 to 111,000 square feet. These lots would be similar in size to existing lots within the Linner Road neighborhood.

The proposal meets the variance standard outlined in City Code §300.07 Subd. 1(a):

1. Purpose and Intent: The intent of wetland minimum buffer widths is to ensure the physical protection and visual aesthetic of these natural resources. The requested buffer width variance would meet this intent. The variance is for an existing retaining wall and would not negatively impact the wetland’s physical function or visual aesthetic.

2. Consistent with the Comprehensive Plan: One of the primary goals of the comprehensive plan is to balance natural resource protection efforts with individual property rights. The requested variance would be consistent with this goal. The variance is for an existing retaining wall on a single-family residential property.

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

   a. Reasonableness and Unique Circumstance: The proposed buffer width is reasonable as it is for an existing retaining wall. The wall does not have a negative impact on the function of the wetland and would not change the current visual

The stricken language is deleted; the underlined language is inserted.
aesthetic. This also presents a unique circumstance not common to other similarly zoned residential properties.

b. Character of Locality: The proposed buffer widths would not negatively impact the character of the area, as it an existing condition.


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

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

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

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

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

         b. Per City Code §400.03 Subd 3(c) the property lines at the intersection of the cul-de-sac bulb and the straight portion of a street must be rounded at a radius of not less than 20 feet.

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

         d. If the existing sump easement will not be vacated, the easement must be shown on the plat.

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

The stricken language is deleted; the underlined language is inserted.
2) Confirm if the water feature serves as an emergency overflow for Wetland 1 and 2. If it does not, a drainage and utility easement is not required.

3)2) Documents for the city attorney’s review and approval. These documents must be prepared by an attorney knowledgeable in the area of real estate.

a. Title evidence that is current within thirty days before release of the final plat. This title work must show that the conveyance of the 50-foot parcel from 1553 Linner Road is valid.

b. Conservation easements over both wetland buffer areas and a drawing of the easements. In addition:

1. The easement must cover a minimum 25 foot buffer around Wetland 1 and 2.

2. The buffer may be reduced to no less than 10 feet directly adjacent to the existing retaining wall northwest of the existing drive to the existing home.

3. The buffer may be reduced to no less than 15 feet to the northern corner of the existing weir northwest of the bridge.

c. Submit a maintenance agreement to address the retaining wall and the water within drainage and utility easements. If this is done by a homeowner’s association, the document establishing a homeowner’s association must be submitted. Documents establishing a homeowners’ association. The association must be responsible for maintaining any common areas, 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.

d. Declaration and restrictive covenants. This document must:

- Cover all mitigated wetland areas per the WCA.

- Establish maintenance responsibilities of the property owners for existing and proposed retaining walls within drainage and utility easements.

- Establish maintenance responsibilities of the property owners for the water feature.

e. A Contract for Residential Development (or Developers Agreement) if the applicant or developer is constructing any public improvements. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements.

f. Pay all pending assessments on the property.

2. Prior to final plat approval:

a) This resolution must be recorded with Hennepin County.

b) The documents outlined in section 4.01(1)(a)(2) above must be approved by the city attorney.

3. Prior to release of the final plat for recording:

a) Submit the following:

1) Two sets of mylars for city signatures.

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

The stricken language is deleted; the underlined language is inserted.
3) Park dedication fee of $15,000.

b) If the developer is petitioning the city to construct the public improvements, an appropriate petition must be submitted and the city council must order the improvements.

c) The city council must approve an update to the Water Resources Management Plan to reflect the wetland classification change to the south wetland.

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

- Site plan date-stamped November 21, 2016
- Preliminary restoration plan date-stamped November 21, 2016
- Grading plan date-stamped November 21, 2016
- Utility plan date-stamped November 21, 2016
- Wetland plan date-stamped November 21, 2016
- Tree preservation plan dated date-stamped November 21, 2016

5. 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) Evidence of filing the final plat at Hennepin County and copies of all recorded easements and documents as required in section 4.01(1)(a)(2) of this resolution.

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

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

4) Final site, grading, drainage, utility, landscape, and tree mitigation plans, and a stormwater pollution prevention plan (SWPPP) for staff approval.

The stricken language is deleted; the underlined language is inserted.
a. The approved wetland delineation must be shown on all plan sheets and surveys. All proposed improvements must meet wetland setbacks and no wetland impacts are allowed.

b. Final site plan must:
   • Confirm whether the offsite irrigation for the property at 1708 Pondview Terrace will be preserved per the preservation plan or removed as per the site plan. If the irrigation must be relocated, the developer must work with the property owner.
   • Indicate that all structures would meet wetland setbacks and no wetland impacts would occur.
   • Remove the retaining walls from city right-of-way.
   • Shift the house pad and associated grading for Lot 2 as far east as possible to reduce tree impacts.

c. Final restoration plan must:
   • Be consistent with the construction limits.

d. Final grading plan must:
   • Include grading impacts related to the reconstruction of Pondview Terrace.
   • Include driveway connection details for the property at 1551 Linner Road. The driveway connection must comply with the city’s driveway policy. Permission from the property owner is required for any work that extends onto the adjacent property.

The striken language is deleted; the underlined language is inserted.
• Include a geotechnical report with a roadway design for the new cul-de-sac. The report must contain borings and the design is required to be specific to the site conditions. A typical section detail plate is required to be added to the plan.

• Include roadway profiles.

• Include the emergency overflow elevation for Wetland 1 and 2.

• Ensure the hydrologic connection between Wetland 1 and 2 is maintained to allow for a continued overflow.

• Culverts and rip-rap must not be located within the wetland.

• Grading within the tree clearing within the house pads will occur only after a permit for a new home is used or it is determined that the area is needed for the completion of the overall site improvements.

• Reduce grading impacts to the large oaks near the west property line of Lot 2.

  e. Final stormwater management plan must:

  • Meet the requirements of the city’s Water Resources Management Plan, Appendix A. Design. In addition, supplemental calculations must be submitted detailing conformance with the city’s:

    1. Rate control: maintain the city’s existing rates for the 2-, 10- and 100-year events. There must be
no increase in the 100-year of wetland 1 or 2.

2. Volume: the stormwater management facilities must capture 1" of the entire site’s entire impervious surface. Bio-retention is credited at 70%.

3. Water quality: materials must be submitted (MIDS or p8 model) to demonstrate that 60% total phosphorus removal and 90% TSS removal.

- Not result in an increase in the 100-year wetland 1 or 2.
- Direct runoff from the impervious surface of Lots 3 and 4 to the stormwater basin.

f. Final utility plan must:

- Remove the water main tee when the hydrant is relocated on the new cul-de-sac.
- Include new water hydrants rather than salvaged hydrants.
- Include the relocation of water service for Lot 1.
- Extend water service for Lot 2 from the cul-de-sac.
- Include gate valves at the following locations:
  1. South of the hydrant in the new cul-de-sac.
2. North of the new hydrant on Pondview Terrace.

3. Two valves at the water main tee just north of Pondview Terrace.

- Include utility profiles.
- Locate the private sanitary sewer services outside of the roadway to allow for maintenance access.
- Proposed and existing private utilities, such as gas, communications, and power lines, must be located outside of the paved cul-de-sac.
- Relocate the private force main pipes for 1551 Linner Road and 1555 Linner Road to at least 7-feet north of the curb line of the new cul-de-sac. MH-A should be relocated north of the road and the two force pipes should be connected to the manhole.
- Remove and replace the existing storm sewer east of CBMH-8 with a new storm sewer system. The new pipe should be concrete pipe and be located within the roadway, and be directed to the new pond. The developer should work with the property owner of 1551 Linner Road to remove the existing pipe/riprap and regrade the area.
- Relocate STMH-2 to the north to avoid being located within the driveway for Lot 1.
- The sanitary sewer service for Lot 3 must connect to the MH-4.

The stricken language is deleted; the underlined language is inserted.
• Adjust sewer and water mains to reduce impacts to trees #1239, 1234, 1227.

• Adjust utility services for Lot 3 to reduce impacts to trees #1241 and 1242.

g. Final landscaping and tree mitigation plans must:

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

• Provide for 296-inches, 430 feet, and 10-10-inch trees of mitigation.

• Both buffer areas must be fully established in native vegetation including removal of existing turf and gravel or paved trail areas.

5) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to construct streets and utility improvements, comply with grading permit, wetland restoration, tree mitigation requirements, and to restore the site. One itemized letter of credit is permissible, if approved by staff. The city will not fully release the letters of credit or cash escrow until: (1) as-built drawings have been submitted; (2) a letter certifying that the streets and utilities have been completed according to the plans approved by the city has been submitted; (3) vegetated ground cover has been established; and (4) required landscaping or vegetation has survived one full growing season.

6) A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance.
7) A copy of the approved MPCA NPDES permit.

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

9) All required administration and engineering fees.

10) Evidence that an erosion control inspector has been hired to monitor the site through the course of construction. This inspector must provide weekly reports to natural resource staff in a format acceptable to the city. At its sole discretion, the city may accept escrow dollars, in amount to be determined by natural resources staff, to contract with an erosion control inspector to monitor the site throughout the course of construction.

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

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

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

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

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

6. Prior to issuance of a building permit for the first new house within the development, submit the following documents:

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

b) Proof of subdivision registration and transfer of NPDES permit.

7. Prior to issuance of a building permit for any of the lots within the development:

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

1) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance. If the builder is the same entity doing grading work on the site, the construction management plan submitted at the time of grading permit may fulfill this requirement.

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


b. Show sewer and water services to minimize impact to any significant or high-priority trees. No trees may be removed for installation of services.

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

The stricken language is deleted; the underlined language is inserted.
4) Grading and tree clearing within the house pads is not allowed prior to the issuance of a permit for the new home unless it is determined that the house pad is needed for the completion of the overall development improvements subject to approval by city staff.

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

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

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

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

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

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

d) Submit all required hook-up fees.

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

a) Minimum floor elevation is 990-feet.
b) All lots within the development must meet all minimum access requirements as outlined in Minnesota State Fire Code Section 503. These access requirements include road dimension, surface, and grade standards. If access requirements are not met, houses must be protected with a 13D automatic fire sprinkler system or an approved alternative system.

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

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

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

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on January 9, 2017.

_______________
Terry Schneider, Mayor

Attest:

_______________
David E. Maeda, City Clerk

Action on this resolution:

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

The striken language is deleted; the underlined language is inserted.
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on January 9, 2017.

________________________________________

David E. Maeda, City Clerk
EXHIBIT A

That part of Lot 9, SUPERIOR BOULEVARD GARDENS, Hennepin County, Minnesota, according to the plat thereof, described as follows:

Beginning at the Southeast corner of said Lot 9; thence Northerly along the East line of said Lot 9, a distance 199.38 feet to the South line of the North 135.00 feet of said Lot 9; thence South 89 degrees 41 minutes 33 seconds West, assumed bearing, along the South line of the North 135.00 feet of said Lot 9, a distance of 110.07 feet; thence South 60 degrees 55 minutes 32 seconds West a distance of 178.21 feet; thence South 44 degrees 33 minutes 31 seconds West a distance of 18.49 feet; thence South 60 degrees 55 minutes 32 seconds West a distance of 96.69 feet to Line “A” hereinafter described; thence Southeasterly along said Line “A” to the South line of said Lot 9; thence Easterly along said Lot 9 to the point of the beginning.

Line “A” is described as follows:

Beginning at the intersection of the East line of the West 146.00 feet of said Lot 9 and the North line of the South 50.00 feet of said Lot 9; thence Easterly along the North line of the South 50.00 feet of said Lot 9 a distance of 40.00 feet; thence Southeasterly along a tangential curve, concave to the Southwest having a radius of 165.00 feet and a central angle of 45 degrees 48 minutes 77 seconds, a distance of 131.95 feet to the South line of said Lot 9 and said Line “A” there terminating.

An undivided ½ interest in and to the following described property: that part of Lot 9, SUPERIOR BOULEVARD GARDENS, Hennepin County, Minnesota, according to the recorded plat thereof described as follows:

Beginning at the Southwest corner of said Lot 9; thence Northerly along the West line of said Lot 9, a distance of 50.00 feet to the North line of said South 50.00 feet of said Lot 9; thence Easterly along the North line of the South 50.00 feet of said Lot 9 a distance of 186.00 feet; thence Southeasterly along a tangential curve, concave to the Southwest, having a radius of 165.00 feet and a central angle of 45 degrees 48 minutes 47 seconds a distance of 131.93 feet to the South line of said Lot 9; thence Westerly along said South line a distance of 304.68 feet to the point of beginning. That part of Lot 10 lying East of the West 232 feet thereof and that part of the West 232 feet of said Lot 10 lying South of the North 170 feet thereof, SUPERIOR BOULEVARD GARDENS, Hennepin County, Minnesota, according to the duly recorded plat thereof.

That part of Lot 10, SUPERIOR BOULEVARD GARDENS described as follows:

Beginning at the Northwest corner of Lot 10, SUPERIOR BOULEVARD GARDENS, thence South along the West line of said Lot 10 a distance of 170 feet; thence East and parallel with the North line of said Lot 10 a distance of 232 feet; thence North and parallel with the West line of said Lot 10 a distance of 170 feet to the North line of said Lot 10; thence West along the North line of Lot 10 a distance of 232 feet to the point of beginning, Hennepin County, Minnesota.

The striken language is deleted; the underlined language is inserted.
B. Preliminary plat with variances for Woodlands at Linner at 1555 Linner Road.

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.

Odland asked for the location of the driveway for Lot 2. Cauley responded that it is anticipated that it would travel north from the house and access the cul-de-sac.

In response to O’Connell’s question, Cauley explained that today’s zoning ordinance allows for a smaller lot width at right of way for cul-de-sacs of 65 feet. The cul-de-sac could remain a temporary cul-de-sac forever. The temporary status relates to the platting process, not with the construction of the cul-de-sac. Temporary road easements are in place. At the time of the original plat, it was anticipated that it would be changed into a through street. It makes no difference to maintenance or property rights if the cul-de-sac is temporary or permanent.

Tom Bakritges, of Homestead Partners and JMS Custom Homes, stated that the applicant’s attorney and engineer were also available to answer questions. Staff has done a nice job explaining the history of the site. He pointed out where the driveway for Lot 2 would be located on the cul-de-sac. This is one of the last parcels off of Linner Road. One of the benefits of the proposal would be connecting the water main loop. The quality of stormwater runoff has been an issue for the area. The storm sewer provided by the proposal would improve the water quality. The project would minimize tree impact. He described the options considered. This would be the best solution that would benefit the entire neighborhood.

The public hearing was opened.

Jason Heaser, 1553 Linner Road, stated that:

- He was unable to attend the neighborhood meeting. The applicant has done a good job of communicating with him. He appreciated that. He knew of the proposal when he purchased the property.
- He asked what variances were alleviated by the creation of the cul-de-sac. He thought that the cul-de-sac would create more of an environmental impact than granting variances for a through road. That is his concern. He would prefer the through road so more trees east of his lot could be saved.
• He did not want the large weeping willow tree south of the right of way impacted.

Peter Carlson, 1551 Linner Road, provided pictures of his lot. He provided history on the redevelopment of the site. A developer won a court ruling which excluded the through street in 1993. Nobody has given consideration to his property rights, the impact on his privacy, and the use of the driveway since 1985. He provided a legal document that gave “exclusive benefit” for each resident lot. That is relevant. He has never been opposed to the development of the other lots, but he is opposed to the change in the use of his property and privacy rights. His water pressure is fine. Water pipes can be installed without a cul-de-sac. Stormwater drains off his property just fine. There is a fire hydrant at the end of his driveway. He would like the commission to consider alternatives.

Keith Ernst, 14731 Oak Lane, stated that his main concern is the environmental impact. A lot of his concerns have been alleviated from his communications with Colleran, Dietrich, and Cauley who were great and responded quickly. The pond in his back yard would be protected and there would be consequences if there would be a problem. A lot of trees would be removed from a beautiful, forested area. He thought the proposed sewer and water line locations drove the layout for the development. He was concerned with the infrastructure having an impact on the wetland area.

Julie Heaser, 1553 Linner Road, asked for the proposed changes in elevation and when she can expect to know more about how the construction would disrupt the water service and access to her property.

Gary Eidson, attorney representing the applicant, stated that he provided a history to Cauley of the recorded instruments in respect to the street. He reviewed the history. The city has the right to build the street and the declaration that Mr. Carlson provided would have no effect.

Mr. Ernst stated that the development of 1503 Linner Road caused the removal of all of the trees that were there.

No additional testimony was submitted and the hearing was closed.

Cauley described the proposal and each variance. Keeping the driveway a driveway rather than a cul-de-sac appeared that it would save seven high-priority trees. On the same day that the Declaration of Easements and Covenants and Conditions and Restrictions provided by Mr. Carlson was recorded, a driveway permit was also recorded that states that the property owner does not assume
any property owner rights of that area and that a declaration of covenants was also recorded on that date which specifically states that the through street could be constructed in the future. That provides the notice in the chain of title. Those documents are still tied to the properties.

Cauley stated that the willow that Mr. Heaser referred to is located on 1553 Linner Road, so it would not be impacted by the proposal. Colleran explained that tree-protection fencing would be required to be installed at the grading limit in order to protect most of the critical root zone. Chair Kirk confirmed with Colleran that the trees on the site do not constitute a woodland preservation area since it would have to be at least two acres in size.

Dietrich explained the stormwater drainage patterns for the area and stormwater ponds that would be provided by the proposal. The ponds would be sized to accommodate the stormwater runoff from the buildings and road.

Cauley explained that a construction management plan would outline aspects of construction including the hours of construction and routes for construction vehicles.

Mr. Bakritges explained that once the proposal is approved, the first step would be to remodel the burned house, bid the project in January, and construction would begin in April or May of 2017. The lots would be custom graded. The houses would not be built at one time, but would be built for each buyer. In this area, houses are selling for $1 million to $1.2 million and more. The houses would be similar to what exists.

Nick Polta, engineer for the applicant, stated that the elevation for the burned house would not change at all; Lot 2 would have some fill, but would still be lower than the neighboring house; Lot 3 would be a walkout which would fit the existing contours; and Lot 4 is a flat lot that would not be changed much.

In response to Powers’ question, Cauley explained that staff did not feel that saving two trees would justify approving four substantial variances for a four-lot subdivision especially when the variances would not result in significant preservation of a natural resource. Staff looks at how a development would influence design and redevelopment of the area.

Chair Kirk noted that the city is trying to move away from creating lots behind lots. The neighborhood is primarily made up of cul-de-sacs. Powers agreed that there are a lot of cul-de-sacs.
Chair Kirk noted that changing a driveway that has been used as a private driveway for years is difficult. The difference in tree loss between a cul-de-sac and driveways alternative is almost negligible.

Powers appreciated the neighbors’ concerns. Calvert appreciated the community caring about trees and water quality.

O’Connell supports staff’s recommendation.

O’Connell moved, second by Powers, to recommend that the city council adopt the attached resolution with modifications provided in the change memo dated December 15, 2016 which grants preliminary plat approval to Woodlands at Linner a four-lot subdivision with variances at 1555 Linner Road.

O’Connell, Odland, Powers, Calvert, and Kirk voted yes. Knight was absent. Motion carried.
Resolution No. 2017-

Resolution approving the preliminary plat of WOODLANDS AT LINNER, with variances, at 1555 Linner Road

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

Section 1. Background.

1.01 HP Holdings, LLC has requested preliminary plat approval for WOODLANDS AT LINNER, a four lot subdivision. The plan includes two variances: (1) lot width at right-of-way variance for proposed Lot; and (2) wetland buffer with variance.

1.02 The property is located at 1555 Linner Rd. It is legally described on Exhibit A of this resolution.

1.03 On December 15, 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 approval, with variances.

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.

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

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

Section 3. Findings.

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

3.02 The proposed preliminary plat would meet the variance standards as outlined in City Code §400.055:

1. Reasonableness and Unique Circumstance:

   a) In the 1980s, the city’s development concept for the area east of Linner Road was to improve roadway connectivity. At the time, the subject property consisted of a series of large, individually-owned parcels. It was envisioned that a thru-street would be needed to allow for the orderly development of these parcels. CHESTNUT HILLS, directly south of the subject property, was platted with a right-of-way extension to the north. The extension was intended to accommodate a future thru-street. However, to serve the subdivision in the interim, a temporary cul-de-sac was constructed at the extension.

   The requested variance to reduce the lot width at right-of-way for Lot 3 is the direct result of the temporary cul-de-sac not being platted as a permanent cul-de-sac in the early 1980s.
Were the cul-de-sac and associated easement permanent, no variance would be required. This is a very unique circumstance that is not common to other similarly zoned properties.

b) The ordinance allows the city to consider variances to lots with substandard lot widths when the property could be developed in a manner that would meet all minimum lot requirements. At the request of staff, the developer submitted a conforming exhibit with a thru-street for consideration. While the exhibit would generally meet the city’s ordinances, the thru-street construction would result in increased grading.

2. Neighborhood Character: The variance would not adversely affect or alter the character of the neighborhood. The proposed lots would range in size from 24,000 to 111,000 square feet. These lots would be similar in size to existing lots within the Linner Road neighborhood.

3.03 The proposal meets the variance standard outlined in City Code §300.07 Subd. 1(a):

1. Purpose and Intent: The intent of wetland minimum buffer widths is to ensure the physical protection and visual aesthetic of these natural resources. The requested buffer width variance would meet this intent. The variance is for an existing retaining wall and would not negatively impact the wetland’s physical function or visual aesthetic.

2. Consistent with the Comprehensive Plan: One of the primary goals of the comprehensive plan is to balance natural resource protection efforts with individual property rights. The requested variance would be consistent with this goal. The variance is for an existing retaining wall on a single-family residential property.

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

a) Reasonableness and Unique Circumstance: The proposed buffer width is reasonable, as it is for an existing retaining wall. The wall does not have a negative impact on the function of the wetland and would not change the current visual aesthetic. This also presents a unique circumstance not common to other similarly zoned residential properties.
b) Character of Locality: The proposed buffer width would not negatively impact the character of the area, as it is an existing condition.


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

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

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

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

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

b. Per City Code §400.03 Subd. 3(c) the property lines at the intersection of the cul-de-sac bulb and the straight portion of a street must be rounded at a radius of not less than 20 feet.

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

d. If the existing sump easement will not be vacated, the easement must be shown on the plat.

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

2) Documents for the city attorney’s review and approval. These documents must be prepared by an attorney knowledgeable in the area of real estate.
a. Title evidence that is current within thirty days before release of the final plat. This title work must show that the conveyance of the 50-foot parcel from 1553 Linner Road is valid.

b. Conservation easements over both wetland buffer areas and a drawing of the easements. In addition:

1. The easement must cover a minimum 25 foot buffer around Wetland 1 and 2.

2. The buffer may be reduced to no less than 10 feet directly adjacent to the existing retaining wall northwest of the existing drive to the existing home.

3. The buffer may be reduced to no less than 15 feet to the northern corner of the existing weir northwest of the bridge.

c. Submit a maintenance agreement to address the retaining wall and the water within drainage and utility easements. If this is done by a homeowner’s association, the document establishing a homeowner’s association must be submitted.

d. Declaration and restrictive covenants. This document must:

- Cover all mitigated wetland areas per the WCA.

- Establish maintenance responsibilities of the property owners for existing and proposed retaining walls within drainage and utility easements.

- Establish maintenance responsibilities of the property owners for the existing water feature.
e. A Contract for Residential Development (or Developers Agreement) if the applicant or developer is constructing any public improvements. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements.

f. Pay all pending assessments on the property.

2. Prior to final plat approval:

a) This resolution must be recorded with Hennepin County.

b) The documents outlined in section 4.01(1)(a)(2) above must be approved by the city attorney.

3. Prior to release of the final plat for recording:

a) Submit the following:

1) Two sets of mylars for city signatures.

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

3) Park dedication fee of $15,000.

b) If the developer is petitioning the city to construct the public improvements, an appropriate petition must be submitted and the city council must order the improvements.

c) The city council must approve an update to the Water Resources Management Plan to reflect the wetland classification change to the south wetland.

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

- Site plan date-stamped November 21, 2016
- Preliminary restoration plan date-stamped November 21, 2016
- Grading plan date-stamped November 21, 2016
- Utility plan date-stamped November 21, 2016
• Wetland plan date-stamped November 21, 2016
• Tree preservation plan dated date-stamped November 21, 2016

5. 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) Evidence of filing the final plat at Hennepin County and copies of all recorded easements and documents as required in section 4.01(1)(a)(2) of this resolution.

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

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

4) Final site, grading, drainage, utility, landscape, and tree mitigation plans, and a stormwater pollution prevention plan (SWPPP) for staff approval.

a. The approved wetland delineation must be shown on all plan sheets and surveys. All proposed improvements must meet wetland setbacks and no wetland impacts are allowed.

b. Final site plan must:

1. Confirm whether the offsite irrigation for the property at 1708 Pondview Terrace will be preserved per the preservation plan or removed as per the site plan. If the irrigation will be relocated, the developer must work with the property owner.

2. Indicate that all structures would meet wetland setbacks and no wetland impacts would occur.
3. Remove the retaining walls from city right-of-way.

4. Shift the house pad and associated grading for Lot 2 as far east as possible to reduce tree impacts.

c. Final restoration plan must:
   1. Be consistent with the construction limits.

d. Final grading plan must:
   1. Include grading impacts related to the reconstruction of Pondview Terrace.
   2. Include driveway connection details for the property at 1551 Linner Road. The driveway connection must comply with the city’s driveway policy. Permission from the property owner is required for any work that extends onto the adjacent property.
   3. Include a geotechnical report with a roadway design for the new cul-de-sac. The report must contain borings and the design is required to be specific to the site conditions. A typical section detail plate is required to be added to the plan.
   4. Include roadway profiles.
   5. Include the emergency overflow elevation for Wetland 1 and 2.
   6. Ensure the emergency overflow between Wetland 1 and 2 is maintained.
   7. Culverts and rip-rap must not be located within the wetland.
   8. Grading and tree clearing within the house pads will occur only after a permit
for a new home is used or it is determined that the area is needed for the completion of the overall site improvements.

9. Reduce grading impacts to the large oaks near the west property line of Lot 2.

e. Final stormwater management plan must:

1. Meet the requirements of the city’s Water Resources Management Plan, Appendix A. Design. In addition, supplemental calculations must be submitted detailing conformance with the city’s:

   • Rate control: maintain the city’s existing rates for the 2-, 10- and 100-year events. There must be no increase in the 100-year of wetland 1 or 2.

   • Volume: the stormwater management facilities must capture 1” of the entire site’s impervious surface. Bio-retention is credited at 70%.

   • Water quality: materials must be submitted (MIDS or p8 model) to demonstrate that 60% total phosphorus removal and 90% TSS removal.

2. Not result in an increase in the 100-year wetland 1 or 2.

3. Direct runoff from the impervious surface of Lots 3 and 4 to the stormwater basin.

f. Final utility plan must:

1. Remove the water main tee when the hydrant is relocated on the new cul-de-sac.
2. Include new water hydrants rather than salvaged hydrants.

3. Include the relocation of water service for Lot 1.

4. Extend water service for Lot 2 from the cul-de-sac.

5. Include gate valves at the following locations:
   - South of the hydrant in the new cul-de-sac.
   - North of the new hydrant on Pondview Terrace.
   - Two valves at the water main tee just north of Pondview Terrace.

6. Include utility profiles.

7. Locate the private sanitary sewer services outside of the roadway to allow for maintenance access.

8. Proposed and existing private utilities, such as gas, communications, and power lines, must be located outside of the paved cul-de-sac.

9. Relocate the private force main pipes for 1551 Linner Road and 1555 Linner Road to at least 7-feet north of the curb line of the new cul-de-sac. MHA should be relocated north of the road and the two force pipes should be connected to the manhole.

10. Remove and replace the existing storm sewer east of CBMH-8 with a new storm sewer system. The new pipe should be concrete pipe and be located within the
roadway, and be directed to the new pond. The developer should work with the property owner of 1551 Linner Road to remove the existing pipe/riprap and regrade the area.

11. Relocate STMH-2 to the north to avoid being located within the driveway for Lot 1.

12. The sanitary sewer service for Lot 3 must connect to the MH-4.

13. Adjust sewer and water mains to reduce impacts to trees #1239, 1234, 1227.

14. Adjust utility services for Lot 3 to reduce impacts to trees #1241 and 1242.

g. Final landscaping and tree mitigation plans must:

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

2. Provide for 296-inches, 430 feet, and 10 2-inch trees of mitigation.

3. Both buffer areas must be fully established in native vegetation including removal of existing turf and gravel or paved trail areas.

5) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to construct streets and utility improvements, comply with grading permit, wetland restoration, tree mitigation requirements, and to restore the site. One itemized letter of credit is permissible, if approved by staff. The city will not fully release the letters of credit or cash
escrow until: (1) as-built drawings have been submitted; (2) a letter certifying that the streets and utilities have been completed according to the plans approved by the city has been submitted; (3) vegetated ground cover has been established; and (4) required landscaping or vegetation has survived one full growing season.

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

7) A copy of the approved MPCA NPDES permit.

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

9) All required administration and engineering fees.

10) Evidence that an erosion control inspector has been hired to monitor the site through the course of construction. This inspector must provide weekly reports to natural resource staff in a format acceptable to the city. At its sole discretion, the city may accept escrow dollars, in amount to be determined by natural resources staff, to contract with an erosion control inspector to monitor the site throughout the course of construction.

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

- The property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and
• If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.

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

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

6. Prior to issuance of a building permit for the first new house within the development, submit the following documents:

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

b) Proof of subdivision registration and transfer of NPDES permit.

7. Prior to issuance of a building permit for any of the lots within the development:

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

1) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance. If the builder is the same entity doing grading work on the site, the construction management plan submitted at the time of grading permit may fulfill this requirement.

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

a. Be in substantial conformance with Grading Plan dated-stamped November 21, 2016 and
Tree Preservation plan date-stamped November 21, 2016.

b. Show sewer and water services to minimize impact to any significant or high-priority trees. No trees may be removed for installation of services.

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

4) Grading and tree clearing within the house pads is not allowed prior to the issuance of a permit for the new home unless it is determined that the house pad is needed for the completion of the overall development improvements subject to approval by city staff.

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

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

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

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

b) Install a temporary rock driveway, erosion control, tree and wetland protection fencing and any other measures identified on the SWPPP for staff inspection. These items must be maintained throughout the course of construction.
c) Install heavy duty fencing, which may include chain-link fencing, at the conservation easement. This fencing must be maintained throughout the course of construction.

d) Submit all required hook-up fees.

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

a) Minimum floor elevation is 990-feet.

b) All lots within the development must meet all minimum access requirements as outlined in Minnesota State Fire Code Section 503. These access requirements include road dimension, surface, and grade standards. If access requirements are not met, houses must be protected with a 13D automatic fire sprinkler system or an approved alternative system.

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

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

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

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on January 9, 2017.

______________________________
Terry Schneider, Mayor

Attest:
Resolution No. 2017-

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 January 9, 2017.

________________________________________
David E. Maeda, City Clerk
EXHIBIT A

That part of Lot 9, SUPERIOR BOULEVARD GARDENS, Hennepin County, Minnesota, according to the plat thereof, described as follows:

Beginning at the Southeast corner of said Lot 9; thence Northerly along the East line of said Lot 9, a distance 199.38 feet to the South line of the North 135.00 feet of said Lot 9; thence South 89 degrees 41 minutes 33 seconds West, assumed bearing, along the South line of the North 135.00 feet of said Lot 9, a distance of 110.07 feet; thence South 60 degrees 55 minutes 32 seconds West a distance of 178.21 feet; thence South 44 degrees 33 minutes 31 seconds West a distance of 31.89 feet; thence West a distance of 18.49 feet; thence South 60 degrees 55 minutes 32 seconds West a distance of 96.69 feet to Line “A” hereinafter described; thence Southeasterly along said Line “A” to the South line of said Lot 9; thence Easterly along said Lot 9 to the point of the beginning.

Line “A” is described as follows:
Beginning at the intersection of the East line of the West 146.00 feet of said Lot 9 and the North line of the South 50.00 feet of said Lot 9; thence Easterly along the North line of the South 50.00 feet of said Lot 9 a distance of 40.00 feet; thence Southeasterly along a tangential curve, concave to the Southwest having a radius of 165.00 feet and a central angle of 45 degrees 48 minutes 77 seconds, a distance of 131.95 feet to the South line of said Lot 9 and said Line “A” there terminating.
An undivided ½ interest in and to the following described property: that part of Lot 9, SUPERIOR BOULEVARD GARDENS, Hennepin County, Minnesota, according to the recorded plat thereof described as follows:

Beginning at the Southwest corner of said Lot 9; thence Northerly along the West line of said Lot 9, a distance of 50.00 feet to the North line of said South 50.00 feet of said Lot 9; thence Easterly along the North line of the South 50.00 feet of said Lot 9 a distance of 186.00 feet; thence Southeasterly along a tangential curve, concave to the Southwest, having a radius of 165.00 feet and a central angle of 45 degrees 48 minutes 47 seconds a distance of 131.93 feet to the South line of said Lot 9; thence Westerly along said South line a distance of 304.68 feet to the point of beginning. That part of Lot 10 lying East of the West 232 feet thereof and that part of the West 232 feet of said Lot 10 lying South of the North 170 feet thereof, SUPERIOR BOULEVARD GARDENS, Hennepin County, Minnesota, according to the duly recorded plat thereof.

That part of Lot 10, SUPERIOR BOULEVARD GARDENS described as follows:
Beginning at the Northwest corner of Lot 10, SUPERIOR BOULEVARD GARDENS, thence South along the West line of said Lot 10 a distance of 170 feet; thence East and parallel with the North line of said Lot 10 a distance of 232 feet; thence North and parallel with the West line of said Lot 10 a distance of 170 feet to the North line of said Lot 10; thence West along the North line of Lot 10 a distance of 232 feet to the point of beginning, Hennepin County, Minnesota.
City Council Agenda Item #14E  
Meeting of January 9, 2017

Brief Description:  Resolution amending Council Policy 2.2, regarding disposition of surplus personal property

Recommended Action:  Adopt the resolution

Background

The city council has had a policy governing disposition of surplus personal property since 1981. The policy has been revised several times in order to keep up with changing practices and laws. The attached resolution includes a black-lined edition of the policy, to show changes. For ease of reading, a clean copy of the proposed revised policy is also provided.

New legislation

The Minnesota legislature enacted legislation that took effect August 1, 2016. The law allows local units of government to donate specific types of equipment, termed "eligible surplus equipment," to nonprofit entities. The legislation was prompted by situations where local fire departments had equipment that was operable but, because it no longer met current industry standards, had a limited market for resale. Some fire departments had opportunities to donate such equipment to foreign countries and for disaster relief, but lacked the statutory authority to make gifts of publicly owned property.

The new law applies to public works equipment, cellular phones, and emergency medical and firefighting equipment that either does not meet industry standards for use or that has minimal or no resale value. The law allows eligible surplus property to be donated to nonprofit organizations. Before donating any equipment, the local government unit must adopt a policy governing such donations.

City staff revised Council Policy 2.2 to meet the requirements of the new legislation. The section of the policy titled “Donation of eligible surplus equipment” generally follows the model policy prepared by the League of Minnesota Cities, and that section addresses the issues mandated by the state law. Note that, under the subheading of “Authority,” staff recommends that any donation of eligible surplus equipment that has a value of $25,000 or more must be approved by the council. Although the city manager’s contracting authority is for contracts up to $100,000, in typical contracts the city receives equivalent value in return. Council oversight of donations of $25,000 or more is consistent with the city’s goal of responsible stewardship of city finances.

Other revisions to policy

The other half of the policy, “Disposition of surplus property” addresses the administrative issue of how to determine what property is surplus and what qualifies for
donation as “eligible surplus property” under the new law. It also addresses the manner
and terms for disposing of surplus property that does not qualify for possible donation.

The city attorney has recommended that some of the procedural and administrative
provisions in the policy be removed and left to the management of the city manager.
Removing administrative detail from the policy is consistent with the charter requirement
that the manager be responsible for day-to-day administration of the city, and also
provides more flexibility to the manager to modify internal procedures according to
current needs.

As revised, the policy scope is limited to disposition of personal property with a value
greater than the city manager’s contracting authority ($100,000 under current law).
Property that has a value within the city manager’s contracting authority will be
governed by the city’s finance policies and also must comply with state law.

Some provisions that were removed from or added to the policy deserve explanation:

• Under “Manner of Disposition,” the option of private sale was removed. By state
  law, a private or negotiated sale is not an available option for property worth
  more than $100,000.
• Two options were added to “Manner of Disposition” in order to identify all options
  available under law.
• The “Purchase by City Employees” section was removed because it is a state
  law requirement that does not require repetition and because, as a practical
  matter, it is unlikely that employees would purchase any item worth $100,000 or
  more. Also, the prohibition is included in the city’s administrative policies.
• The “Notice to Other Departments” section was removed, because it is
  addressed in the city’s administrative policies.
• The “Property of Little or No Value” was removed, because property in that value
  range is within the manager’s contracting authority. The city’s administrative
  policies address property in that value range.

In conjunction with the proposed revisions to the council policy, city staff has revised
and updated the city’s administrative policy on disposition of city property. A copy is
provided for the council’s information. The revised administrative policy will not go into
effect until the council adopts the recommended council policy revisions.
Recommendation

Adopt the resolution.

Submitted through:
   Geralyn Barone, City Manager
   Perry Vetter, Assistant City Manager
   Merrill King, Finance Director
   John Vance, Fire Chief
   Brian Wagstrom, Public Works Director

Originated by:
   Corrine Heine, City Attorney
Policy Number 2.2
Disposition of Surplus Property

Purpose of Policy: This policy establishes conditions for the disposition of surplus personal property belonging to the city.

Introduction
This policy establishes procedures for donation of surplus equipment of any value by the city to a nonprofit organization, as required by Minnesota Statutes § 471.3459. It also governs the disposition, by means other than donation, of surplus property with an estimated value in excess of the city manager’s contracting authority.

Disposition of surplus property

Identify surplus property and eligible surplus equipment
The city manager shall establish procedures for: monitoring city equipment, materials and supplies; determining what items are surplus property or eligible surplus equipment; estimating the fair market value of the surplus property or eligible surplus equipment; and disposing of surplus equipment with an estimated value that is within the city manager’s contracting authority, in a manner allowed by law. For purposes of this policy, “surplus property” is any personal property that is no longer useful for a public purpose due to any number of factors including state of repair, deterioration, replacement by more current models, etc. “Eligible surplus equipment” is any surplus property that qualifies for donation as set forth in this policy.

Manner of disposition
Upon recommendation of the city manager, the city council will decide the manner of disposing of any surplus property that has a value in excess of the city manager’s contracting authority. The manner of disposition may be by:
- Sale at public auction, including an electronic auction
- Sale by sealed bids
- Trade-in on new items
- Transfer to another public corporation on terms approved by the council
- Donation to a nonprofit organization, subject to the restrictions in this policy

Restrictions on sale
- Sale of surplus property at public auctions or by sealed bid must be preceded by at least one week’s published notice and posting on the city website. No public notice or posting is required for an electronic auction at a nationally recognized web site. The council may establish conditions on the sale of surplus property, such as a minimum sales price, to ensure that the city receives a fair price for the property
Donation of eligible surplus equipment

Scope
This policy applies to all donations of surplus equipment to a nonprofit organization, regardless of the estimated value of the surplus equipment. For purposes of this policy, surplus equipment that is eligible for donation includes:

- equipment used by the public works department that is no longer needed by any city department and has minimal or no resale value
- cellular phones that are no longer needed by any city department and have minimal or no resale value; and
- emergency medical or firefighting equipment that is no longer needed by any city department and either does not meet industry standards for emergency medical services, police or fire departments or has minimal or no resale value.

To be eligible for a donation, a nonprofit organization must have been formed under section 501(c)(3) of the Internal Revenue Code and must serve one or more of the following functions: cultural, historical, educational, safety, social services, environmental or economic.

Procedure
A proposed donation of surplus equipment may be initiated by a city department or by request of a nonprofit organization. The city manager must evaluate the proposal or request and make a preliminary decision whether donation is appropriate. If the manager determines that donation is appropriate, the availability of the surplus equipment for donation must be advertised on the city's website for at least 5 working days prior to a final decision being made, and nonprofit organizations that have requested to be notified of possible donations must be notified by email or other reasonable means. After considering all responses, the city manager must make a decision or recommendation to the city council, as appropriate to the manager's authority.

Authority
The city manager has authority to approve donations of surplus equipment with an estimated value of less than $25,000. The city council must approve the donation of any surplus equipment with an estimated value of $25,000 or more, by majority vote.

Prioritization of donations
If more than one nonprofit organization requests a donation for the same surplus equipment, the city shall consider factors it deems relevant, including how the surplus equipment will be used, whether the organization serves city residents, how the donation will serve the city's strategic goals, the extent to which the donation will serve the greatest number of people, and whether the organization has previously received a donation.

Conflict of Interest
Any city employee or official who participates in the decision to donate surplus equipment must disclose any relationship with the requesting nonprofit organization, including volunteer work or financial contributions. The city manager, in consultation with the city attorney, may determine that an employee or official is disqualified from
participating in the donation decision, based upon the level of the person’s relationship with the organization.

As is
A donation of surplus equipment is made “as is” with no warranty, guarantee or representation of any kind, express or implied, as to the condition, utility, or usability of the surplus equipment offered. The surplus equipment may be defective and cannot be relied upon for safety purposes. A copy of this policy must be provided to every nonprofit organization that requests a donation.

Title
The city manager or designee shall cause any title or other ownership documents to be transferred to the receiving nonprofit organization at the time of transfer. Any fees required to transfer the surplus equipment are the responsibility of the nonprofit organization.

Transportation
A requesting nonprofit organization must provide a detailed plan for transporting the surplus equipment from the city to the nonprofit organization. The receiving nonprofit organization must pay all expenses associated with the transportation of the surplus equipment.

Adopted by Resolution No. 81-6692
Council Meeting of September 21, 1981

Amended by Resolution No. 98-064
Council Meeting of May 11, 1998

Amended by Resolution No. 2003-077
Council Meeting of August 25, 2003

Amended by Resolution No. 2005-036
Council Meeting of April 11, 2005

Amended by Resolution No. 2017-__
Council meeting of ________, 2017
Policy Number 5.4
Disposition of Surplus Property

Background
State laws allow various methods for disposing of surplus city property, depending upon the type and value of the property and the nature of the entity to whom the property will be transferred. This policy explains when property is considered surplus, what methods of disposition may be used, when city council approval is required, and the internal procedures that must be followed. This policy cross-references Council Policy 2.2 Disposition of Surplus Property, see http://mi-intranet1:8080/inSite/index.php/city-council/council-policy-book and Finance Policies 3.2, 3.3 and 5.2.

Definitions
For purposes of this policy, “surplus property” is any personal property that is no longer useful for a public purpose due to any number of factors including state of repair, deterioration, replacement by more current models, etc.

“Eligible surplus equipment” is any surplus property that qualifies for donation under Minn. Stat. § 471.3459 and Council Policy 2.2.

For purposes of this policy, the estimated value of surplus property is the estimated price at which the property would likely sell in the applicable market, less the estimated costs of sale.

Permitted Methods of Disposition
Depending upon the value and type of surplus property, the possible methods of disposition include:

- Sale at public auction, including an electronic auction. This method may be used for any type of surplus property, regardless of estimated value.
- Sale by sealed bids. This method may be used for any type of surplus property, regardless of value, but typically is used only for items valued at $100,000 or more.
- Negotiated sale. This method may be used only for surplus property that has an estimated value of $25,000 or less.
- Trade-in on new items. This method may be used for any type of surplus property, regardless of estimated value.
- Transfer to another government entity. This method may be used for any type of surplus property, regardless of estimated value. By state law, it may be transferred for nominal or no consideration if approved by the city council.
- Donation to a nonprofit organization. This method may be used for eligible surplus equipment, in accordance with Council Policy 2.2. It also may be used for other surplus property that is estimated to have little or no value.
- Disposal as waste, recycling or destruction. This method may be used for surplus property that is estimated to have little or no value.

General Procedures
Each department is responsible for identifying when supplies, materials or equipment used by its department is surplus. Departments should notify the IT manager about
surplus electronic equipment, including telephones, desktop or laptop computers, computer peripherals, or mobile devices; the IT division is responsible for determining the estimated value and recommended method of disposal for that equipment. Departments should notify the public works department about all other surplus equipment including office furniture, artwork, vehicles, heavy equipment or capital assets. The public works director or designee is responsible for determining the estimated value and recommended method of disposition for that equipment. In determining the recommended method of disposition, the IT manager and public works director or designee may consider all relevant factors, including staff time and costs involved in alternative methods of disposition, available storage capacity, and electronic device security.

Approval Authority
The following chart details the approvals required, depending upon the type of property and method of disposition.

<table>
<thead>
<tr>
<th>Property type</th>
<th>Method of disposition</th>
<th>Estimated Value</th>
<th>Approval Needed</th>
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</thead>
<tbody>
<tr>
<td>Eligible surplus equipment</td>
<td>Donation</td>
<td>$25,000 or more</td>
<td>City council, per Council Policy 2.2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Less than $25,000</td>
<td>City manager</td>
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<tr>
<td>Other method</td>
<td>See “Other surplus property” below</td>
<td></td>
<td>See &quot;Other surplus property&quot; below</td>
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<tr>
<td>Other surplus property</td>
<td>Sale to government entity for value</td>
<td>$100,000 or more</td>
<td>City council</td>
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<td></td>
<td></td>
<td>Less than $100,000</td>
<td>City manager or delegate per Finance Policy 3.3</td>
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<tr>
<td></td>
<td>Transfer to government entity for less than</td>
<td>Any value</td>
<td>City council</td>
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<td></td>
<td>its value</td>
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<td></td>
<td>Sale to private entities or persons by</td>
<td>$100,000 or more</td>
<td>City council</td>
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<td>other sale methods (bids, quotes,</td>
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<td></td>
<td>negotiated sale, auction)¹</td>
<td>$25,000-$100,000</td>
<td>City manager or delegate per Finance Policy 3.3</td>
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<td></td>
<td></td>
<td>Less than $25,000</td>
<td>IT manager or public works director</td>
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<td></td>
<td>Nominal or no value</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trade-in</td>
<td>See Finance Policy 3.2²</td>
<td></td>
<td>See Finance Policy 3.2²</td>
</tr>
</tbody>
</table>
Disposal or destruction
Nominal or no value, or based on security concerns
IT manager or public works director

1 Sales by bids, quotes or negotiated sales are by the ordinary contracting process. Sales by auction are addressed below. City employees are prohibited from purchasing any surplus property; except that a city employee may purchase surplus city property sold at public auction or by sealed bids so long as the employee was not directly involved in the auction or sale process.

2 The trade-in is a requirement in the purchase agreement for the new equipment. The method used to purchase and the authority to approve the purchase is determined by the estimated cost of the new equipment. See Finance Policy 3.2.

3 Recycling is preferred over disposal in landfills; hazardous materials must be disposed of as required by law.

4 Destruction may be appropriate if necessary to protect the security of electronic data, or where the cost of securing the data exceeds the property’s estimated value. Disposal as waste or recycling may be used where the costs of selling the property exceed the property’s estimated value.

Sale at City Auction

Throughout the year the city collects items to be sold at an annual public auction. The listing and storing of those items must be coordinated through the public works director or designee or, for electronic equipment, through the IT manager.

A list of all items available for auction will be maintained by the public works director or designee. Prior to the auction, the public works director or designee will provide the auctioneer with a description and number of items to be sold, and make arrangements for those items to be transported.

An employee from the city is present the day of the auction to ensure the integrity and accuracy of the auction. The auction house will forward a tabulation of the bids received along with payment. The information is reviewed by the public works director or designee and then the payment is forwarded to the finance department.

A finance-provided fixed asset form will be filled out when appropriate.

Vehicle Auction

The city participates in the county auctions for disposal of vehicles. These auctions are held two or three times a year.

In preparation for the auctions the city submits a request for the number of vehicles to be sold at each of the auctions held during the year. The designation of vehicles to be sold at each auction takes into consideration the need for spare vehicles during the summer months.

Prior to each auction the city supplies the county with a list of vehicles to be auctioned. The following information is supplied; vehicle, make, model, year, serial number, approximate mileage and proof of a clear title.
The week prior to the auction all vehicles are cleaned and all markings and equipment are removed from the vehicles. The city marks vehicles with assigned numbers from the county and checks with administration to assure the vehicles are insured for transport. The day prior to the auction, the city delivers the vehicles to the auction site with all paperwork and titles; and registers correct mileage on the titles and sales receipts.

On the day of the auction the city is required to, in order to participate in the auction, provide two employees; one to assist the auctioneer and a spotter/runner.

Shortly after the auction the county sends out a statement which breaks down the amount received for each vehicle auctioned and the amount of the commission kept by the county. A copy of this statement is sent to the finance department along with a finance provided fixed asset form indicating that the asset is no longer in the city’s fleet.
Resolution No. 2017-

Resolution amending council policy 2.2 regarding disposition of surplus property

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

Section 1. Background.

1.01. The city has a policy establishing conditions for the disposition of surplus personal property belonging to the city.

1.02. In 2016, the Minnesota legislature enacted a law that authorizes cities to donate specific types of surplus equipment. The law requires that the city council adopt a policy regarding such donations. City staff has recommended that council policy 2.2 be amended to address the requirements of the new legislation.

1.03. City staff has recommended additional changes to council policy 2.2 with respect to disposition of personal property that is not subject to the new law. The changes remove purely administrative details from the policy, add direction to the city manager to establish appropriate administrative procedures, and restricts the scope of the policy to personal property that, by state law or charter, falls within the city council’s contracting authority.

1.04. The revised policy furthers the city council’s goal to be a responsible steward of the city’s financial resources.

Section 2. Council Action.

2.01. City Council Policy 2.2 regarding disposition of surplus property is amended as shown on the attached Exhibit A.

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
Policy Number 2.2  
Disposition of Surplus Property

Purpose of Policy: This policy establishes conditions for the disposition of surplus personal property belonging to the city.

Introduction

The city’s disposition of personal property is limited only by the general principle that as a public trustee, the city should not sell property for less than its fair market value. For this reason, the following procedures are suggested. This policy establishes procedures for donation of surplus equipment of any value by the city to a nonprofit organization, as required by Minnesota Statutes § 471.3459. It also governs the disposition, by means other than donation, of surplus property with an estimated value in excess of the city manager’s contracting authority.

Procedures

Disposition of surplus property

Identify surplus property and eligible surplus equipment

A department director initially determines what items are surplus property or eligible surplus equipment, i.e., they are no longer useful for a public purpose; and estimating the fair market value of the surplus property or eligible surplus equipment; and disposing of surplus equipment with an estimated value that is within the city manager’s contracting authority, in a manner allowed by law. For purposes of this policy, “surplus property” is any personal property that is no longer useful for a public purpose; and “eligible surplus equipment” is any surplus property that qualifies for donation as set forth in this policy.

Memorandum

The department director prepares a memorandum to the city manager listing surplus items, estimating their value, and requesting approval for disposition.

Determination

The city manager, in his/her own discretion, may authorize disposition.

Manner of disposition

Upon recommendation of the city manager, the city council will decide the manner of disposing of any surplus property that has a value in excess of the city manager’s contracting authority. The manner of disposition may be by:

Disposition may be by:
- Sale at public auction, including an electronic auction
  - Private sale
- Sale by sealed bids
- Trade-in on new items
- Transfer to another public corporation on terms approved by the council
- Donation to a nonprofit organization, subject to the restrictions in this policy

Restrictions on sale

- Sale of surplus property at public auctions or by sealed bid should be preceded by at least one week’s published notice and by public posting on the city website. No public notice or posting is required for an electronic auction at a nationally recognized web site.

- Sale Price.
  - The council may establish conditions on the sale of surplus property, such as a minimum sales price, to ensure that the city receives a fair price for the property. Except for items sold at auction, all sales should be for not less than the item’s fair market value as estimated by the department head or appraised and approved by the city manager.

Purchase by City Employees

City employees may purchase surplus property only if it is sold at public auction or by sealed bid one week’s published and posted notice. A violation of this provision is a misdemeanor under State law.

Notice to Other Departments

Prior to disposition and public notice, a list of items scheduled for disposition should be circulated to all department directors to give other departments the opportunity to make use of the items to be sold.

Property of Little or No Value

Property with little or no re-sale value may be discarded, donated to a nonprofit organization, or disposed of in another manner approved by the city manager.

Donation of eligible surplus equipment

Scope

This policy applies to all donations of surplus equipment to a nonprofit organization, regardless of the estimated value of the surplus equipment. For purposes of this policy, surplus equipment that is eligible for donation includes:

- equipment used by the public works department that is no longer needed by any city department and has minimal or no resale value
- cellular phones that are no longer needed by any city department and have minimal or no resale value; and
- emergency medical or firefighting equipment that is no longer needed by any city department and either does not meet industry standards for emergency medical services, police or fire departments or has minimal or no resale value.

To be eligible for a donation, a nonprofit organization must have been formed under section 501(c)(3) of the Internal Revenue Code and must serve one or more of the following functions: cultural, historical, educational, safety, social services, environmental or economic.
Procedure
A proposed donation of surplus equipment may be initiated by a city department or by request of a nonprofit organization. The city manager must evaluate the proposal or request and make a preliminary decision whether donation is appropriate. If the manager determines that donation is appropriate, the availability of the surplus equipment for donation must be advertised on the city’s website for at least 5 working days prior to a final decision being made, and nonprofit organizations that have requested to be notified of possible donations must be notified by email or other reasonable means. After considering all responses, the city manager must make a decision or recommendation to the city council, as appropriate to the manager’s authority.

Authority
The city manager has authority to approve donations of surplus equipment with an estimated value of less than $25,000. The city council must approve the donation of any surplus equipment with an estimated value of $25,000 or more, by majority vote.

Prioritization of donations
If more than one nonprofit organization requests a donation for the same surplus equipment, the city shall consider factors it deems relevant, including how the surplus equipment will be used, whether the organization serves city residents, how the donation will serve the city’s strategic goals, the extent to which the donation will serve the greatest number of people, and whether the organization has previously received a donation.

Conflict of Interest
Any city employee or official who participates in the decision to donate surplus equipment must disclose any relationship with the requesting nonprofit organization, including volunteer work or financial contributions. The city manager, in consultation with the city attorney, may determine that an employee or official is disqualified from participating in the donation decision, based upon the level of the person’s relationship with the organization.

As is
A donation of surplus equipment is made “as is” with no warranty, guarantee or representation of any kind, express or implied, as to the condition, utility, or usability of the surplus equipment offered. The surplus equipment may be defective and cannot be relied upon for safety purposes. A copy of this policy must be provided to every nonprofit organization that requests a donation.

Title
The city manager or designee shall cause any title or other ownership documents to be transferred to the receiving nonprofit organization at the time of transfer. Any fees required to transfer the surplus equipment are the responsibility of the nonprofit organization.

Transportation
A requesting nonprofit organization must provide a detailed plan for transporting the surplus equipment from the city to the nonprofit organization. The receiving nonprofit organization must pay all expenses associated with the transportation of the surplus equipment.

Adopted by Resolution No. 81-6692
Council Meeting of September 21, 1981

Amended by Resolution No. 98-064
Council Meeting of May 11, 1998

Amended by Resolution No. 2003-077
Council Meeting of August 25, 2003

Amended by Resolution No. 2005-036
Council Meeting of April 11, 2005

Amended by Resolution No. 2017-
Council meeting of ________, 2017
Addenda
Minnetonka City Council
Meeting of January 9, 2017

13C. Public hearing approving vacation of easements and preliminary and final plats for RIZE AT OPUS PARK at 10101 Bren Road East

The city planner has attached a change memo with amended easement language for the resolution approving the preliminary and final plat.

14B. Extension for items concerning the Music Barn Apartments, at 5740 and 5750 Shady Oak Road

The item is being postponed to a date yet to be determined.

14D. Resolution approving the preliminary plat, with variances, for WOODLANDS AT LINNER at 1555 Linner Road

The attached letter was received after the council packet was distributed.
Memorandum

To: City Council

From: Loren Gordon, AICP, City Planner

Date: January 9, 2017

Subject: Change Memo for January 9, 2017

13C – RiZe at Opus Park

Please include the following change on Page 3 of the resolution approving the preliminary and final plat

b. A 50-foot wide easement for secondary roadway purposes over the existing and proposed trail system. A secondary roadway easement extended over the north-south trail. The easement should be 50-feet wide and be consistent with the existing secondary roadway system easement.

14B – Music Barn

This item has been pulled from the agenda.

14D – Woodlands at Linner

An additional letter was received after the packet was distributed.
January 5, 2017

Ms. Ashley Cauley
Senior Planner
City of Minnetonka
14600 Minnetonka Blvd.
Minnetonka, MN 55345

Re: The Woodlands at Linner
Our File No. 086044-000

Dear Ms. Cauley:

We are counsel to Homestead Partners and this correspondence is intended to supplement my letter of December 6, 2016 and respond to a title issue raised before the Planning Commission.

At the Planning Commission meeting, a neighbor to the north of the site, Pat Carlson, expressed concerns that the proposed subdivision would interfere with rights granted under a Declaration of Easements, Covenants, Conditions and Restrictions dated May 28, 1992 and recorded on June 18, 1992 as Document No. 5928208 (the “Post-License Declaration”).

The City has full legal authority to construct a public right-of-way in the area designated in the referenced plat pursuant to the “Right-of-Way Easement” defined in my letter of December 6, and there is nothing in the Post-License Declaration that limits or can interfere with the exercise of these rights. As further explained in my letter of December 6, when the Right-of-Way Easement was granted, the City executed a Permit allowing the affected parcel owners to use the easement area as a private driveway until such time as the City elects to construct the public street, upon which election the Permit would be revoked and rights to the private driveway would be terminated. Because a party has no legal right to convey rights or property that it does not own, and because the Post-License Declaration was entered into by those affected property owners at the time at which the owners’ sole right to use of the easement area was subject to the revocation provisions of the Permit, all rights granted under the Post-License Declaration will be terminated as a consequence of the revocation of the Permit.

When read in its prepared context, the Post-License Declaration was essentially a cost-sharing agreement intended to be effective with respect to the operation and maintenance of the private driveway. As evidenced by the reference to the existence of the License in the second recital, the Post-License Declaration was never intended to create, nor could it legally have the effect of creating, rights of those owners to private use of the easement area after the revocation of the License and the City’s election to improve the easement area as a public right-of-way.
January 5, 2017
Page 2

Thank you for your attention to this matter.

Very truly yours,

Gary C. Eidson

GCE/cb

cc: Ms. Corrine Heine
    Mr. Tom Bakritges