Agenda

Minnetonka City Council

Regular Meeting, Monday, October 23, 2017

6:30 P.M.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Allendorf-Acomb-Wiersum-Bergstedt-Wagner-Ellingson-Schneider
4. Approval of Agenda
5. Approval of Minutes: August 28 and September 11, 2017 regular council meetings
6. Special Matters:
   A. Proclamation for Extra Mile Day
   B. Proclamation for World Polio Day
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. Resolution adopting the 2018 meeting schedule for the Minnetonka City Council
    B. Ordinance authorizing sale of property located at 4312 Shady Oak Road
    C. Resolution ordering the abatement of nuisance conditions existing at 1905 Linner Road
11. Consent Agenda - Items Requiring Five Votes:
    A. Resolution approving a conditional use permit, with a variance, for an outdoor eating area at 15200 State Highway 7

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12. Introduction of Ordinances:
   A. Ordinance relating to deferred special assessments, amending section 220.010 of the Minnetonka city code
      Recommendation: Introduce the ordinance (4 votes)
   B. Ordinance amending Section 710 of the city code regarding increases/changes in fees
      Recommendation: Introduce the ordinance (4 votes)

13. Public Hearings:
   A. On-sale wine and on-sale 3.2% malt beverage liquor licenses for Kais Inc. (DBA Kai’s Sushi), at 17420 Minnetonka Blvd.
      Recommendation: Continue the public hearing and grant the licenses (5 votes)

14. Other Business:
   A. Concept plan review for iFLY at 12415 Wayzata Boulevard
      Recommendation: Provide comments, feedback, and direction.

15. Appointments and Reappointments: None

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

Acting Mayor Patty Acomb 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, Bob Ellingson, Dick Allendorf, and Patty Acomb were present.

4. **Approval of Agenda**

Wiersum moved, Allendorf seconded a motion to accept the agenda with an addendum to item 13C. All voted “yes.” Motion carried.

5. **Approval of Minutes: None**

6. **Special Matters: None**

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

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

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

Robert Ashmun, 3529 Orchard Lane, said he had a meeting scheduled with staff about the interest owed from a hookup fee.

9. **Bids and Purchases: None**

10. **Consent Agenda – Items Requiring a Majority Vote: None**

A. **Resolution requesting Hennepin County to assume the responsibility for PSAP services for the city of Minnetonka**

   Wiersum asked that the item be pulled from the consent agenda. He noted the proposed transfer of services to the county was a pretty big deal for the city and asked staff to provide more information for residents. Barone
said there had been numerous discussions about transferring the 911 dispatch center to Hennepin County. Police Chief Scott Boerboom provided a staff report. Wiersum said he thought the consultant’s report was extremely well done. He was impressed with what Hennepin County could do for the city in providing dispatch services. This was a tough change however because the city had very capable dispatch group who had done an excellent job. From a cost perspective the change made a lot of sense. He hoped the dispatch staff would end up with Hennepin County. He said from a tax perspective the current system meant residents were paying for 911 services twice.

Allendorf said changing dispatch services had been looked at a number of years ago but not as extensively as this time. He thanked Boerboom and the staff that had worked on the proposed change.

Wiersum moved, Bergstedt seconded a motion to adopt resolution 2017-087 requesting Hennepin County to assume the responsibility for PSAP services for the city of Minnetonka and authorize the mayor and city manager to submit a formal letter of request to the Hennepin County Board of Commissioners. All voted “yes.” Motion carried.

B. Cooperative agreement regarding public safety related to 2018 National Football League Super Bowl security

Allendorf moved, Bergstedt seconded a motion to approve the agreement. All voted “yes.” Motion carried.

C. Professional services agreement with Mohagen Hansen Architecture/Interiors

Allendorf moved, Bergstedt seconded a motion to approve the agreement, subject to final review and approval of terms by the city attorney. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes:

A. Resolution approving final site and building plans, with expansion permit, and conditional use permit, with variance, for Midwest MasterCraft at 17717 State Highway 7

Allendorf moved, Bergstedt seconded a motion to adopt resolution 2017-088 approving final site and buildings, with expansion permit, and conditional use permit, with variance, for Midwest MasterCraft at 17717 State Highway 7. All voted “yes.” Motion carried.
12. Introduction of Ordinances:

A. Ordinance to remove area from floodplain overlay district at 11806 Cedar Lake Road

City Planner Loren Gordon gave the staff report.

Greg Wilson said he was representing the property owner. The project began in 2013. There was a communication issue between the seller and buyer. The issue was now resolved.

Allendorf moved, Wiersum seconded a motion to conduct the first introduction of the ordinance to remove area from floodplain overlay district at 11806 Cedar Lake Road. All voted “yes.” Motion carried.

B. Ordinance to remove area from floodplain overlay district at 3136 County Road 101

Gordon gave the staff report.

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

C. Ordinance amending section 910.020 of the Minnetonka City Code, relating to recreational fire permits

City Attorney Corrine Heine gave the staff report.

Bergstedt said the changes were much needed and the permit process would be easier for residents.

Wiersum said the city had a long tradition of allowing recreational fires. He said the change was a good one and the issue was really about being a good neighbor.

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

13. Public Hearings:

A. Temporary on-sale liquor license for Bet Shalom Congregation, 13613 Orchard Road

Barone gave the staff report.
Acomb opened the public hearing at 7:04 p.m. No one spoke. She closed the public hearing at 7:04 p.m.

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

**B. Resolution authorizing and affirming the issuance, sale, and delivery of multifamily housing revenue obligations for the benefit of CHC Minnetonka Affordable Housing LLC and authorizing the execution and delivery of related documents**

Community Development Director Julie Wischnack gave the staff report.

Jay Jensen with Shelter Corporation thanked the council for its support over the years.

Acomb opened the public hearing at 7:07 p.m. No one spoke. She closed the public hearing at 7:07 p.m.

Wiersum moved, Bergstedt seconded a motion to adopt resolution 2017-089 authorizing and affirming the issuance, sale, and delivery of multifamily housing revenue obligations for the benefit of CHC Minnetonka Affordable Housing LLC; authorizing the execution and delivery of documents; and authorizing City officials to approve non-substantive changes to the related documents. All voted “yes.” Motion carried.

**C. Items related to the Cloud 9 Condominium’s Housing Improvement Area**

Wischnack gave the staff report.

Allendorf asked what happens in a situation where one of the owners of the units leaves and decides not to pay. He also asked what happens when an owner decides to sell his/her property. Wischnack said the important thing was the fees are secured through a tax payment. If a person doesn’t pay the property tax due, the city would eventually get paid when the property taxes are eventually paid. If there is a change in ownership, the fee stays with the unit.

Wiersum said it was his understanding that the housing improvement area was not something being imposed by the city on Cloud 9. He asked for more background information on how the whole thing came about. Wischnack said the association approached the city and the city was
serving as the agent or financier of the project. It was the association who decided to do the project.

Acomb opened the public hearing at 7:19 p.m.

Ryan Stark, 5601 Smetana Drive, said there never was a chance for the owners to petition the association to incur any of the costs. It seemed like all the costs were being passed on despite the association having millions in reserves. He said this was a detractor from people currently living in the buildings as well as being able to sell in the future. Basically it added on a large monthly fee. He said the proposed terms were too high. He asked the housing association to scale back on the list of things and come back with a more reasonable amount.

Allendorf asked what happens with the contingency if it was not needed. Wischnack said the money would not be included in the final fee. She said the estimated number in the staff report was the highest possible amount and she hoped it would decrease. She said the city’s building official visited the site and agreed the identified things needed to be done.

Acomb asked how the reserves came into play. Wischnack said long term part of what was being attempted with housing improvement areas was to right size the associations and their dues structure. Part of the EDAC review was to look at the financial information and the 30-year plan to see if the reserve study looked appropriate to ensure there was a proper amount to be able to pay for necessary repairs. If the reserves were used now to lower the fees, it would offset future needs.

Greg Freeman, 5601 Smetana Drive, said he was the secretary of the board. During the seven years he’s lived there, he has seen engineering reports come in without a solid plan on how to address the issues. There was not a good option to come up with the necessary funds. When he first moved in, the reserves were around $300,000. The building is 30 years old and was a converted office building. The problem was it was very expensive to repair and maintain. Without this project he said the association would be in trouble.

Nancy Blume, 5601 Smetana Drive, said she was an original resident of the condos. She said the improvements were definitely needed and had been needed for a number of years. The residents had struggled to figure out how to pay for the repairs. She has a window she hasn’t been able to see out of for a number of years. The elevators are often out of service. She trusted the board to try to cut costs wherever possible.

Acomb closed the public hearing at 7:31 p.m.
Wiersum said when the city does housing improvement areas, they do not involve happy good news opportunities. They involve situations where there is a big problem with a building and the association does not know what to do in order to fix it. The fact the law allows the city to be a resource to spread the costs over a number of years and to make things as affordable as possible, makes the best out of a bad situation. He felt for the residents who would see an increase to their monthly payment but lacking that the situation would be much more dire.

Wiersum moved, Bergstedt seconded a motion to adopt ordinance 2017-09 establishing the Cloud 9 Sky Flats Housing Improvement Area; resolution 2017-090 approving a housing improvement fee for the Cloud 9 Sky Flats Housing Improvement Area; and resolution 2017-091 approving a development agreement with respect to the Cloud 9 Sky Flats Housing Improvement Area, including future city financing options. All voted “yes.” Motion carried.

14. Other Business:

A. Items concerning Mesaba Capital at 17710 and 17724 Old Excelsior Boulevard

Gordon gave the staff report.

Della Kolpin, Mesaba Capital Development, said this was the second project her company has partnered with Walker Methodist on. The first one recently broke ground in Richfield. She provided an overview of the 97-unit senior housing rental project. She said the site brought many great attributes to a senior housing community. It is centered at a major intersection. The commercial node has many amenities for the senior residents. She showed drawings what the property would look like from the neighbor’s homes.

Annaliese Peterson, Walker Methodist, said her company’s belief is when a person moves into a senior living community, life doesn’t stop but rather it was a new segment in life. She said Walker Methodist currently owns, operates, and manages 12 communities. Peterson provided information on the proposed Minnetonka facility.

Wiersum asked how the process worked for those visiting the residents living in the independent units. Was there a sign in, sign out process? Peterson said for safety reasons it was important to know when a resident left the building so there was a sign in, sign out process. Residents are
allowed to come and go as they want. The sign in, sign out process was to know the number of people in the building should there be an emergency.

Allendorf asked if the trees shown in the picture of the landscaping were actually going to be included in the landscaping plan. Kolpin said there would be trees included in the landscaping plan.

Bergstedt said the council had seen the proposal numerous times. The applicant started off with a nice project and working with staff, the planning commission, and the council, now had an even nicer project. It is located in a village center and the project was starting the redevelopment of the north side of Old Excelsior Boulevard. The landscaping would provide a nice transition to the single-family homes on the south side of Old Excelsior Boulevard.

Acomb thanked the applicant for the attention to the outdoor space. She said her mother was in a facility and just a little bit of outdoor space meant a lot. She said the proposal would be an asset to the community.

Bergstedt moved, Allendorf seconded a motion to adopt ordinance 2017-10 approving rezoning the properties from B-1 to R-5; and resolution 2017-092 approving preliminary and final plats and final site and building plans, with variances. All voted “yes.” Motion carried.

B. Items concerning Minnetonka Hills Apartments at 2800 and 2828 Jordan Avenue:

1) Major amendment to an existing master development plan;
2) Final site and building plans, with parking variance; and
3) Preliminary and final plats

Gordon gave the staff report.

John Ferrier, CSM Corporation, said he enjoyed working with staff and he thought the project had improved since the beginning of the process.

Acomb noted at the last meeting the item was presented, there was discussion about affordable units. Ferrier said an analysis was done on the site with an affordable housing component included. He said the site was a very expensive site to develop especially with the increase in the underground parking and the number of retaining walls. CSM was still willing to do affordable housing but could not commit at this point. Further study will be done.
Susan Goll, board member with the Cedar Cove Homeowners Association, said Jordan Avenue was the only access to the neighborhood. She thanked the council for all the work that has been done on the proposal and she thought a lot of progress had been made. She said the neighbors continue to have concerns however. The neighbors understand the need for additional high-density housing in the city but do not think this is the proper location. One of the things people love about the city are the wooded neighborhoods. This site is heavily wooded and although there was a reduction in the footprint, the developer’s inventory still showed 150 trees would be removed. Not only would this create a huge change in the character and appearance in the area, it would also have a huge impact on the wildlife.

Goll said another concern was safety because of the inadequate sightlines for drivers. While improvements had been made to the proposal, the neighbors still felt they were not enough. She showed photographs of the existing sightlines in the area. She thought it was foolhardy to add 78 residences to the existing 98 residences in an area with a dangerous intersection. She said the neighbors continue to urge further study of the traffic and safety but particularly the pedestrian use of Jordan Avenue and Cove Drive. She suggested adding a play area in the south buildings, sidewalks or some place for people to go for recreation so they were not out on the street. Another concern was parking while the parking lots are plowed.

Wiersum asked if there were opportunities to further mitigate the traffic concerns. Gordon the curve was similar to other areas in the city where there was significant vegetation and topography. There was discussion at the planning commission about the concerns. In 10 years there have been four accidents in the area. These were mostly related to weather. This isn’t to say improvements cannot be made.

Allendorf asked for more information about the height of the retaining wall around the corner and how much vegetation would be removed. As he reviewed the staff report he thought the changes would be a significant improvement. Gordon said about 15-20 feet would be cut back north and south and the bottom and top would also be reduced by a couple of feet. Allendorf said he thought this was quite a significant improvement to the sight line. He thought overall the proposal had been significantly improved since the last time the council saw it. At that time the staff rightly raised concerns about steep slopes and how they were being affected. This had been addressed with the shrinking of the project and moving it a little. The other concern was raised by the neighbors about the traffic, not just because of this project, but generally in the area. He thought the concerns had been addressed. He said he could support the project.
Bergstedt agreed the changes were significant. Because the project had moved up a little higher on the ridge, more of the building might be seen from Highway 169 but this did not bother him. This was an incredibly difficult property because of the steep slopes. He thought the developer had done everything possible to address the council, the planning commission and staff concerns. Either this project should be approved or the lot should be declared unbuildable which he did not think was the right way to go. He said the traffic issues already exist. The improvements were significant.

Wiersum said it was a challenging site and improvements had been made to the sight lines. He said he agreed with Gordon’s comments that this area wasn’t unique but was like many other areas in the city. It requires people to pay attention while they are driving or while they are pedestrians. There were many areas in the city that do not have sidewalks and require people to walk on the street. This was one of those areas. He thought it was important to get some of the foliage trimmed and making sure it remains trimmed. He would like the developer to continue to look for opportunities to add affordability.

Ellingson said he was concerned about the steep slopes and thought a good job was done to improve the design. He was sympathetic to the traffic concerns but there were similar issues throughout the city. He thought there were substantial improvements made to the project and if this wasn’t approved, he didn’t think anything could be approved.

Acomb said she appreciated that the applicant worked with staff to significantly improve the plan. She also appreciated the improvements to the natural resources and stewardship plan. She encouraged further investigation into affordable housing. She said speeding is an issue in her neighborhood and there were a couple of things proven to work. One was monitoring and ticketing and the other was the signs that alert drivers to how fast they are going. This might be an option for this neighborhood.

Allendorf moved, Wiersum seconded a motion to adopt Ordinance 2017-11 approving a major amendment to the existing master development plan; resolution 2017-093 approving final site and building plan, with a parking variance; and resolution 2017-094 approving preliminary and final plats. All voted “yes.” Motion carried.

C. Concept plan review for Villa West at 16913 and 17101 State Highway 7

Gordon gave the staff report.
David Carlson, 2249 Portico Green, gave the history of the project and the changes that had been made since the last time it was presented to the council.

Allendorf said the other Carlson had a purchase agreement for the Anderson property contingent on the project working out financially. He asked for more information about this. David Carlson said as a developer often he maintains an option for a purchase with a contingency upon a due diligence period. During the due diligence period meetings are held with city staff to come up with a development that can be approved by the council at a cost level where the sales price minus the cost improvements leaves a profit. Allendorf asked if actual numbers had been worked out. Was the contingency that it would work out financially at a 20 percent profit, 40 percent profit? He asked how firm the purchase agreement was. He said it would be a lot better project if everybody thought it was going to go through. Carlson said it had cost a lot of money just to get to this point so it wasn’t being done for practice but rather for business.

Wiersum asked if there were opportunities to acquire other properties. Carlson said there had been some negotiation with the broker representing the property owner to the east. There could be a phase two to the project if the financial benefits exist. Acomb asked if phase two would use the same entrance/exit. Carlson said it would make sense if it was economically feasible and physically possible. There was a wetland in between and the tunnel that goes underneath Highway 7 would make it difficult to do that.

Wiersum said he liked the product as shown in the rendering and developments like this are in demand in the city.

Bergstedt said he liked the changes and there was a huge demand for the housing type. One concern the neighbors raised about keeping the existing berm was addressed by the changes in the plan.

David Devins, 17100 Sandy Lane, said he supported the project but had some concerns. One concern was about the trees and keeping the vegetation. The other concern was combining the entrance/exit.

Allendorf said from a concept standpoint he thought the project was a good one for the community.

Acomb said it was a desirable housing type. She appreciated the developer’s willingness to work with the neighbors. She also appreciated the interest to make a turnaround at the end and limit it to one access.
She suggested pulling the units back from Highway 7 as much as possible for the livability factor.

15. **Appointments and Reappointments: None**

16. **Adjournment**

   Bergstedt moved, Wiersum seconded a motion to adjourn the meeting at 9:04 p.m.. All voted "yes." **Motion carried.**

Respectfully submitted,

David E. Maeda
City Clerk
Minutes
Minnetonka City Council
Monday, September 11, 2017

1. Call to Order

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

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

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

4. Approval of Agenda

Wiersum moved, Acomb seconded a motion to accept the agenda with addenda to items 10F, 13A, and 14A. All voted “yes.” Motion carried.

5. Approval of Minutes: July 24, 2017 regular council meeting

Wagner moved, Bergstedt seconded a motion to approve the minutes of the July 24, 2017 regular council meeting, as presented. All voted “yes.” Motion carried.

6. Special Matters:

Wiersum noted it was the anniversary of the terrorist attack in 2001. He said we should never forget the people who died in the attack as well as the heroism of the first responders who risked and gave their lives to help others. He thanked the public safety professionals who have risked their lives helping those impacted by Hurricane Harvey and Hurricane Irma. He honored Wayzata Police Officer Bill Mathews who was recently killed in the line of duty. He asked residents to thank a firefighter or a police officer and to help public safety professionals by being prepared through programs like Ready Minnetonka.

Council Member Bob Ellingson was present at 6:35 p.m.

7. Reports from City Manager & Council Members

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

Schneider gave an update on the Southwest Light Rail project.
8. Citizens Wishing to Discuss Matters not on the Agenda

Robert Ashmun, 3529 Orchard Lane, said he was present to provide an update on an issue involving interest owed from a hookup fee. Schneider noted Ashmun had appeared numerous times before the council and had been told the council was not going to address the issue without him working through an agreeable solution with staff.

9. Bids and Purchases: None

10. Consent Agenda – Items Requiring a Majority Vote:

A. Ordinance regarding recreational fires

Allendorf moved, Acomb seconded a motion to adopt ordinance 2017-12. All voted “yes.” Motion carried.

B. Resolution authorizing just compensation for easements of parcels for the Ridgehaven Lane/Ridgedale Drive improvements

Allendorf moved, Acomb seconded a motion to adopt resolution 2017-095 authorizing just compensation for the easements for the project. All voted “yes.” Motion carried.

C. Resolution approving a conditional use permit for a microdistillery at 6020 Culligan Way

Allendorf moved, Acomb seconded a motion to adopt resolution 2017-096 approving a conditional use permit for a microdistillery at 6020 Culligan Way. All voted “yes.” Motion carried.

D. Resolution approving a conditional use permit for a restaurant serving liquor at 17420 Minnetonka Blvd.

Allendorf moved, Acomb seconded a motion to adopt resolution 2017-097 approving the conditional use permit for a restaurant serving liquor at 17420 Minnetonka Blvd. All voted “yes.” Motion carried.

E. Twelve month extension of the OAKHAVEN ACRES 2nd ADDITION preliminary plat at 13929 Spring Lake Road

Allendorf moved, Acomb seconded a motion to approve the twelve-month time extension. All voted “yes.” Motion carried.
F. Resolution approving a floodplain alteration permit and horizontal floodplain setback variance from 20 feet to 7.5 feet and waiving the McMansion policy; and ordinance to remove area from floodplain overlay district at 3136 County Road 101

Allendorf moved, seconded a motion to adopt resolution 2017-098 approving a floodplain alteration permit and horizontal floodplain setback variance from 20 feet to 7.5 feet and waiving the McMansion policy; and ordinance 2017-13 removing area from floodplain overlay district. All voted “yes.” Motion carried.

G. Resolution approving floodplain alteration and conditional use permits, ordinance removing areas from the floodplain overlay zoning district, and a resolution approving preliminary and final plat, at 11806 Cedar Lake Road

Allendorf moved, Acomb seconded a motion to adopt resolution 2017-099 approving a floodplain alteration and conditional use permits; ordinance 2017-14 removing areas from the floodplain overlay zoning district; and resolution 2017-100 approving preliminary and final plat. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances: None

13. Public Hearings:

A. Resolutions for special assessment of 2016-2017 projects

Barone gave the staff report.

Schneider opened the public hearing at 6:47 p.m. No one spoke. He closed the public hearing at 6:47 p.m.

Wiersum moved, Allendorf seconded a motion to adopt:

Resolution 2017-101 adopting special assessments for 2017 Nuisance Abatement Project No. 4894, one-year assessment term;

Resolution 2017-102 adopting special assessments for 2017 Nuisance Abatement Project No. 4894, three-year assessment term.
Resolution 2017-103 adopting special assessments for 2017 Nuisance Abatement Project No. 4894, five-year assessment term.

Resolution 2017-104 adopting special assessments for 2017 Nuisance Abatement Project No. 4894, ten-year assessment term. All voted “yes.” Motion carried.

Resolution 2017-105 adopting 2017 Diseased Trees Project No. 4902, one-year assessment term as amended by the addendum.

Resolution 2017-106 adopting 2017 Diseased Trees Project No. 4902, three-year assessment term. All voted “yes.” Motion carried.

Resolution 2017-107 adopting 2017 Diseased Trees Project No. 4902, five-year assessment term.

All voted “yes.” Motion carried.

B.  Temporary on-sale liquor license for Episcopal Parish of St. David, 13000 St. David Road

Barone gave the staff report.

Schneider opened the public hearing at 6:48 p.m.

Bill Jacobs, 4771 Hamilton Road, provided information about the event.

Schneider closed the public hearing at 6:50 p.m.

Acomb moved, Bergstedt seconded a motion to grant the temporary liquor license for the annual gala at St. David’s. All voted “yes.” Motion carried.

C.  Off-sale liquor license for Fernriver Enterprises, LLC (dba Strong Liquor) at 11048 Cedar Lake Rd

Barone gave the staff report.

Schneider opened the public hearing at 6:51 p.m. No one spoke.

Wagner moved, Wiersum seconded a motion to continue the public hearing to October 9, 2017. All voted “yes.” Motion carried.

D.  Resolution approving vacation of a drainage and utility easement at 1580 Oakways
City Planner Loren Gordon gave the staff report.

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

Allendorf moved, Wiersum seconded a motion to adopt resolution 2017-108 approving the vacation of the easement. All voted “yes.” Motion carried.

E. Resolution vacating drainage and utility easements at 2800 Jordan Avenue and an adjacent unaddressed parcel

Gordon gave the staff report.

Schneider opened the public hearing at 6:56 p.m. No one spoke. He closed the public hearing at 6:57 p.m.

Wagner moved, Wiersum seconded a motion to adopt resolution 2017-109 approving the vacation of the easement. All voted “yes.” Motion carried.

14. Other Business:

A. Administrative hearing regarding the tobacco license of Boulevard Sinclair

City Attorney Corrine Heine gave the staff report.

Schneider asked the licensee, David Goldman, 9800 Minnetonka Boulevard, if he admitted one of his employees sold tobacco to an underage person on June 26, 2016. He said if Goldman admitted the violation occurred, there was no reason to continue with the hearing.

Goldman said he admitted his employee sold to an undercover person.

Heine said the only purpose of holding a hearing was to determine if a violation occurred. If the violation was admitted there was no need to have a contested hearing. She said if Goldman admitted the violation occurred, there was no reason to continue with the hearing.

Goldman said he admitted his employee sold to an undercover person.

Heine said the only purpose of holding a hearing was to determine if a violation occurred. If the violation was admitted there was no need to have a contested hearing. She said if Goldman admitted the violation occurred, there was no reason to continue with the hearing.

Schneider said in past instances the council allowed the licensee to explain extenuating circumstances without going through the formal
hearing process. He asked what process Goldman wanted to go through. Goldman said it was his understanding that either process meant he had to pay the fine. He said he wanted his side of the story to be heard. He admitted to the violation.

Goldman said he has been in business for 26 years and there have not been very many violations during that time. He said his girlfriend who does the office work and doesn’t usually work at the counter made the mistake. The register is programmed to indicate the date to look at before the sale is completed. He said she was not wearing her glasses and the person presented a license that was off by less than two months. He did not want to pay $500 and the fine was too much for him to afford. He was at the point where he would turn in his license and stop selling tobacco. He already paid a fine 20 months ago that was $250 and he paid his employees penalty of $150 as well. He paid his girlfriend’s penalty of $150 and paid $235 for the license. He estimated he sold between three to eight packs of cigarettes a day. It would not shut him down if he stopped selling cigarettes but it was one more thing he had to deal with. He did not want to lose a good employee because a mistake was made. He thought it was wrong for an underage person to smoke.

Schneider said from the city’s perspective, there had to be some protocol and penalty that was meaningful. If the penalty did not hurt, there was no value to it.

Goldman asked if he turned his license in if that meant he did not have to pay the fine. He said that was his preference. Heine said if the penalty was imposed it was a legal obligation. If instead of imposing the penalty the council accepted the offer from Goldman to turn in his license than that could be done as a settlement.

Schneider suggested allowing Goldman a couple of weeks to think about turning in his license. Wiersum said that made sense because if Goldman turned in his license immediately he loses the chance to sell down his inventory. He thought there was a path to a reasonable solution. Barone said if the council approved that type of settlement, it would probably want to address what happened in future years as well. Goldman said if he turned in his license he didn’t plan on applying for one again. Schneider said there needed to be some certainty to it. The intention would be if Goldman turned in his license there would be an extended period of time before he was allowed to apply for a new one.

Bergstedt said he gets a little bit nervous about accepting the excuse that someone was not wearing their glasses and made the mistake of selling to an underage person. The penalties were in place for a reason. He said he
was uncomfortable sending a message that if a violator turned over the license then the penalty was waived.

Wagner moved, Allendorf seconded a motion to continue the item to a date no later than October 23, 2017. All voted “yes.” Motion carried.

B. Discussion of possible coal tar sealant litigation (this discussion may be closed pursuant to Minn. Stat. § 13D.05, subd. 3(b))

Heine said there were three outside attorneys that would discuss possible litigation with the council to recover damages the city was likely to incur in connection with required dredging and disposal of hazardous materials from city stormwater ponds. The claims would be against companies that supplied sealants containing hazardous substances that found their way into city stormwater ponds. The city was being asked to join in litigation with other cities. She said the discussion would involve the merits, weaknesses and potential strategies of litigation. It was important for the council to be able to have candid and confidential conversations with legal counsel in order to assess the city’s position and decide whether to move ahead with the claims. If the city decided to pursue litigation any conversation of those issues in public would be detrimental to any potential case and the city’s interests. She recommended a motion to go into closed session.

Wagner moved, Allendorf seconded a motion to convene in closed session under the attorney-client privilege for the discussion of proposed litigation regarding coal tar sealant contamination. All voted “yes.” Motion carried.

The council recessed to go into closed session at 7:20 p.m.

15. Appointments and Reappointments: None

16. Adjournment

The council came back from closed session at 8:58 p.m.

Bergstedt moved, Acomb seconded a motion to adjourn the meeting at 8:58 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
Brief Description: Proclamation for Extra Mile Day

Recommended Action: Approve the proclamation

Background

The Extra Mile America Foundation is a nonprofit organization that empowers individuals, organizations and cities to "go the extra mile." In 2017, 575 inspirational mayors and city leaders stood up and jointly recognized Extra Mile Day, a day to recognize the people and organizations who are creating positive change in our communities through their extra mile efforts in volunteerism and service. Each year, the organization hosts an Extra Mile Day, set this year for November 1.

The city of Minnetonka has been declared an “Extra Mile City” this year. On Wednesday, November 1 the Minnetonka Park Board will recognize a portion of our 1,200 volunteers that have contributed over 29,000 hours for our park, recreation and trail system in the areas of recreation programming, natural resource stewardship and historical educational, an average of 25 hours per volunteer. On Tuesday, November 7 over 415 of our residents will volunteer as election judges to oversee the transparency, efficiency and accuracy of the 2017 general election, one of the most important functions established in our United States and Minnesota Constitutions and our Minnetonka City Charter.

Recommendation

Approve the proclamation for Extra Mile Day on November 1, 2017.

Submitted through:
Geralyn Barone, City Manager

Originated by:
Perry Vetter, Assistant City Manager
City of Minnetonka
Proclamation
Extra Mile Day
Wednesday, November 1, 2017

WHEREAS, Minnetonka, Minnesota is a community which acknowledges that a special vibrancy exists within the entire community when its individual citizens collectively “go the extra mile” in personal effort, volunteerism, and service; and

WHEREAS, Minnetonka, Minnesota is a community which encourages its citizens to maximize their personal contribution to the community by giving of themselves wholeheartedly and with total effort, commitment, and conviction to their individual ambitions, family, friends, and community; and

WHEREAS, Minnetonka, Minnesota is a community which chooses to shine a light on and celebrate individuals and organizations within its community who “go the extra mile” in order to make a difference and lift up fellow members of their community; and

WHEREAS, Minnetonka, Minnesota recognizes our 1,200 volunteers that have contributed over 29,000 hours for our park, recreation and trail system in the areas of recreation programming, natural resource stewardship and historical educational, an average of 25 hours per volunteer; and

WHEREAS, Minnetonka, Minnesota recognizes 415 resident volunteers that serve as election judges to oversee the transparency, efficiency and accuracy of the 2017 general election, one of the most important functions established in our United States and Minnesota Constitutions and our Minnetonka City Charter.

WHEREAS, Minnetonka, Minnesota acknowledges the mission of Extra Mile America to create 575 Extra Mile cities in America and is proud to support “Extra Mile Day” on November 1, 2017.

NOW THEREFORE, I, Terry Schneider, Mayor of Minnetonka, Minnesota do hereby proclaim November 1, 2017, to be Extra Mile Day. I urge each individual in the community to take time on this day to not only “go the extra mile” in his or her own life, but to also acknowledge all those who are inspirational in their efforts and commitment to make their organizations, families, community, country, or world a better place.

Terry Schneider, Mayor

October 23, 2017
WHEREAS, Rotary International, founded in 1905 is the world’s first and one of the largest non-profit service organizations; and the motto “Service Above Self” inspires members to provide humanitarian service, encourage high ethical standards, and promote good will and peace in the world; and

WHEREAS, Rotary in 1985 launched PolioPlus and spearheaded the Global Polio Eradication Initiative, which today includes the World Health Organization, U.S. Centers for Disease Control and Prevention, UNICEF and the Bill & Melinda Gates Foundation to immunize the children of the world against polio; and

WHEREAS, Polio cases have dropped by 99.9 percent since 1988 and the world stands on the threshold of eradicating the disease; and to date, Rotary has contributed more than $1.7 billion and countless volunteer hours to the protection of more than two billion children in 122 countries; and

WHEREAS, Rotary is currently working to raise an additional $150 million, which if realized will be tripled by the Bill & Melinda Gates Foundation for a total of up to $450 million over the next three years; and

WHEREAS, These efforts are providing much needed operational support, medical personnel, laboratory equipment and educational materials for health workers and parents; and there are over 7,280 Rotary club members in more than 160 clubs throughout Minnesota sponsoring service projects to address such critical issues as poverty, health, hunger, illiteracy, and the environment in their local communities, and abroad.

NOW THEREFORE BE IT RESOLVED that the Minnetonka City Council hereby proclaims October 24, 2017 as World Polio Day in Minnetonka, and encourages all citizens to join in the fight for a polio-free world.

Terry Schneider, Mayor

October 23, 2017
City Council Agenda Item #10A  
Meeting of October 23, 2017

**Brief Description:** Resolution adopting the 2018 meeting schedule for the Minnetonka City Council

**Recommended Action:** Adopt the resolution

**Background**

Section 3.01 of the Minnetonka City Charter provides that the city council will meet at the times established by ordinance or resolution. To comply with this requirement, the city council is being asked to adopt a resolution to establish their 2018 meeting schedule.

Staff proposes that the city council establish only its meeting dates by resolution. An overall city calendar is provided to show other significant dates and meetings of boards and commissions. The calendar would not be adopted by the city council.

The resolution establishes regular council meetings no less than every three weeks throughout the year, with two week intervals during those periods in which more business is typically transacted, such as the construction planning cycle.

**Recommendation**

Based on the foregoing information, staff recommends that the city council adopt a resolution establishing its 2018 meeting schedule.

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

Originated by:
  David Maeda, City Clerk
January 2018

1
New Year’s Day
City offices closed

2

3
Park Board 7 p.m.

4
Planning Commission
6:30 p.m.

5

6

7

8
Council – Regular
6:30 p.m.

9
Senior Advisory Board
10 a.m.

10

11

12

13

14

15
Martin Luther King Jr.
Day
City offices closed

16

17

18
Planning Commission
6:30 p.m.

19

20

21

22
Council – Regular
6:30 p.m.

23

24

25
EDAC 6 p.m.

26

27

28

29
Council- Study Session
6:30 p.m.

30
Citizen Academy 6:30
p.m.

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### March 2018

**Notes:**
Hopkins School District Spring Break: 3/26-3/30  
Minnetonka School District Spring Break: 3/26-3/30  
Wayzata School District Spring Break: 4/2-4/6

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Regular Council Meetings

January 8
January 22
February 5
February 26
March 5
March 19
April 2
April 16
April 30
May 14
June 4
June 18
July 9
July 23
August 6
August 27
September 17
October 8
October 22
November 5
November 14 (Joint City Council/Park Board)
November 26
December 3
December 17

Study Sessions

January 29
February 12
March 26
April 23
May 7
June 11
August 20
September 4
October 15
November 19
RESOLUTION NO. 2017-ttt

Resolution adopting the 2018 Minnetonka City Council meeting schedule

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

Section 1. Background.

1.01. Section 3.01 of the City Charter states that the city council will meet at the times each month established by ordinance or resolution.

Section 2. Council Action.

2.01. The Minnetonka City Council establishes the following meeting schedule for 2018:

A. Regular city council meetings will be held twice each month in January, February, March, June, July, August, October, November, and December. One study session will also be held in January, February, March, April, May, June, August, September, October, and November.

B. There will be three regular council meetings in April and one regular council meeting held in May and September, and a joint meeting with the Park Board in November.

C. A list of regular council meetings and study sessions for the year 2018 is attached.

2.02. If the city council is unable to meet on the dates indicated, or additional meetings are needed, a special notice will be given as provided by law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on October 23, 2018

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 October 23, 2017.

__________________________
David E. Maeda, City Clerk
Brief Description
Ordinance authorizing sale of property at 4312 Shady Oak Road

Recommendation
Adopt the ordinance

Background

In March 2015, the city purchased a commercial property at 4312 Shady Oak Road and a residential property at 4292 Oak Drive Lane. The purchase was part of the road reconstruction project in the area.

Since November 2016, the city council has been engaged in negotiations with Ron Clark Construction to redevelop the property. At its meeting on September 25, 2017, the city council approved a development contract for the redevelopment of the property at 4312 Shady Oak Road. The contract requires Ron Clark Construction to close on the sale on or before December 19, 2019 for a purchase price of $734,400. The development contract is contingent upon the council’s approval of an ordinance authorizing the sale of the property. The council introduced the ordinance at the September 25, 2017 meeting.

Recommendation

Adopt the ordinance.

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

Originated by:
Alisha Gray, EDFP, Economic Development and Housing Manager
Ordinance No. 2017-___

An ordinance authorizing sale of certain property located at Shady Oak Road and Oak Drive Lane

The City of Minnetonka Ordains:

Section 1. Findings and Purpose.

1.01 The city of Minnetonka owns certain properties located at the corner of Shady Oak Road and Oak Drive Lane with the addresses of 4312 Shady Oak Road and 4292 Shady Oak Drive Lane.

1.02 Shady Oak Crossing Limited Partnership has requested that city convey to it the property at 4312 Shady Oak Road and a small portion of the property at 4292 Shady Oak Drive Lane, in conjunction with the redevelopment of the property for the facilitation of affordable housing in the city. The city is willing to do so based on the conditions outlined in the Contract for Private Development approved by the Minnetonka City Council by Resolution No. 2017-113, on September 25, 2017.

1.03 The property to be conveyed is legally described on the attached Exhibit A.

Section 2. Authorization.

2.01 The city council approves the conveyance of the property described in Exhibit A to Shady Oak Crossing Limited Partnership, in accordance with the Contract for Private Development.

2.02 The mayor and city manager are authorized and directed to execute all documents necessary to complete the conveyance as contemplated by the Contract for Private Development.

Section 3. This ordinance is effective 30 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on October 23, 2017.
Terry Schneider, Mayor

ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction: September 25, 2017
Date of adoption: 
Motion for adoption: 
Seconded by: 
Voted in favor of: 
Voted against: 
Abstained: 
Absent: 
Ordinance adopted.

Date of publication:

CERTIFIED COPY:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on October 23, 2017

David E. Maeda, City Clerk

Date: __________________________
EXHIBIT A

Those portions of the following described properties, to be platted as Lot 1, Block 1, SHADY OAK CROSSINGS:

Par 1:
All that portion of the tract or parcel of land described at paragraph “A” below, which lies Northerly of a line drawn parallel to and 200 feet Southerly of the North line thereof and the same extended, to-wit:

Paragraph “A”. That portion of the West Half of the Southeast Quarter of Section 23, Township 117, Range 22, described as follows: Starting at the Northeast corner of the Southwest Quarter of the Southeast Quarter of said Section; thence South along the East line of the West Half of the Southeast Quarter of said Section, a distance of 300 feet; thence Westerly at right angles to said East line for a distance of 284 feet; thence Northerly along a line parallel to said East line a distance of 600 feet; thence Easterly along a line at right angles to said East line 209 feet to the center line of McGinty Road; thence Southeasterly along the center line of McGinty Road to the East line of the West Half of the Southeast Quarter of said Section 23; thence Southerly along said East line 33.5 feet to the point of beginning.

Par 2:
Lot 20, Block 2, Ginkels Oakridge Addition

AND

Lot 19, Block 2, Ginkels Oakridge Addition
City Council Agenda Item #10C
Meeting of October 23, 2017

Brief Description
Resolution ordering the abatement of nuisance conditions existing at 1905 Linner Road

Recommendation
Adopt the resolution

Background
As described in the attached resolution, the property at 1905 Linner Road has been found to be in violation of the diseased tree portion of the city’s nuisance ordinance based on recent inspections by the natural resource staff (Minnetonka City Code, Section 840.020). The violation is the presence of two elm trees dying of Dutch elm disease in the back yard: a 37-inch diameter tree and a 36-inch diameter tree. The property owner has been provided four written violation notices and three verbal communications and has had ample time to bring the property into compliance (summary table attached).

A final re-inspection will be conducted on October 23, 2017. If the property is brought into compliance, it will be recommended that it be removed from the council agenda.

The resolution describes findings and orders the abatement of the condition noted above. If the resolution is adopted, staff will arrange for abating the nuisance. The city has received a quote from its contractor in the amount of $6495.00 and as provided by the City Code, the property owner will become liable for this cost plus tax. If the fees are not paid, the costs will be recommended for special assessment against the property.

Due to the timing of this abatement action, the costs will be assessed next year, in 2018, with first payment due with the owner’s property taxes beginning 2019. The special assessment will include the cost to abate the nuisance, tax, administrative fees as well as interest. These costs will be assessed against the property over a ten-year period.

Recommendation
Staff recommends the council adopt the enclosed resolution ordering the abatement of the nuisance condition.

Submitted through:
Geralyn Barone, City Manager
Brian Wagstrom, Public Works Director

Originated by:
Jo Colleran, Natural Resources Manager
Hannibal Hayes, City Forester
Resolution No. 2017-

Resolution ordering the abatement of nuisance conditions at 1905 Linner Road

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

Section 1. Background.
1.01. The natural resources division/public works department and/or their contractor representative have inspected the following property, on the dates listed:

<table>
<thead>
<tr>
<th>Property</th>
<th>Inspection Date(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1905 Linner Road</td>
<td>August 9, 2017</td>
</tr>
<tr>
<td></td>
<td>September 15, 2017</td>
</tr>
<tr>
<td></td>
<td>September 28, 2017</td>
</tr>
<tr>
<td></td>
<td>October 2, 2017</td>
</tr>
<tr>
<td></td>
<td>October 11, 2017</td>
</tr>
</tbody>
</table>

1.02. Nuisance conditions were observed on this property at the first inspection of August 9, 2017, two initial Ordinance Violation Notice were mailed on August 9 and 10, 2017. On September 15, 2017, the property was inspected again, and another Ordinance Violation Notice was mailed to the owner. A fourth Ordinance Violation Notice was mailed via regular mail and certified mail on October 6, 2017, which included the quote amount from a contractor and the hearing date.

1.03. A written report has been filed detailing the findings of the inspections and these findings have been conveyed to the city council.

Section 2. Findings.
2.01. The city council finds and declares the property listed above to be in violation of Ordinance 840.020 and constitutes a public nuisance due to the presence of two elm trees dying of Dutch elm disease; the first tree is 37-inches in diameter and the second tree is 36-inches in diameter.

The property owner has had 72 days to abate the nuisance. The trees were first identified as being infected with Dutch elm disease on August 9, 2017 and the required removal date was September 8, 2017.

2.02. It is in the public’s best interest to have these nuisance conditions abated.

Section 3. Council Action.
3.01. The city manager is hereby authorized to abate the Nuisance Conditions on the property listed above using city personnel and equipment or by private contract.

3.02. The cost of abatement shall be recorded and become the personal
responsibility of the owner of record. If unpaid, the clerk shall list such costs for the city council to consider as a special assessment pursuant to Ordinance 845.045.

Adopted by the City Council of the City of Minnetonka, Minnesota, on October 23, 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 meeting held on October 23, 2017.

______________________________
David E. Maeda, City Clerk
<table>
<thead>
<tr>
<th>Date</th>
<th>Action</th>
<th>Ordinance Violation Notice</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 9, 2017</td>
<td>Initial inspection, staff marked the infected elm trees.</td>
<td>New home under construction so the standard door hanger was mailed to the owner.</td>
</tr>
<tr>
<td>August 10, 2017</td>
<td></td>
<td>Second notice sent by mail</td>
</tr>
<tr>
<td>September 8, 2017</td>
<td>Date trees were required to be removed by property owner to be compliant with city code. Property owners have 30 days from first date of inspection.</td>
<td></td>
</tr>
<tr>
<td>September 15, 2017</td>
<td>Second inspection, trees still standing</td>
<td>Third notice mailed to owner</td>
</tr>
<tr>
<td>September 22, 2017</td>
<td>Owner contacted city staff and indicated that trees would be removed by September 28, 2017</td>
<td></td>
</tr>
<tr>
<td>September 28, 2017</td>
<td>Third inspection, trees still standing</td>
<td></td>
</tr>
<tr>
<td>October 2, 2017</td>
<td>City requested quote from contractor (S&amp;S).</td>
<td></td>
</tr>
<tr>
<td>October 2, 2017</td>
<td>Quote and photos provided by contractor S&amp;S $6,495.00, excluding tax.</td>
<td></td>
</tr>
<tr>
<td>October 6, 2017</td>
<td></td>
<td>Fourth notice sent by regular and certified mail to property owner with price quote and hearing date included. Total amount including tax is $6,967.51.</td>
</tr>
<tr>
<td>October 11, 2017</td>
<td>Fourth inspection, no work had been completed</td>
<td></td>
</tr>
<tr>
<td>October 11, 2017</td>
<td>The owner contacted staff to inquire about hiring the city’s contractor. The city’s contractor’s price is lower than the owner’s quoted price.</td>
<td>Staff returned the call and left a voice mail message explaining the process and timelines.</td>
</tr>
<tr>
<td>October 12, 2017</td>
<td>City staff spoke with contractor S&amp;S to determine if the owner had contacted them, he had not. Staff left another voice mail message informing the owner that this would be going before the city council and the timelines associated with the required removal.</td>
<td></td>
</tr>
</tbody>
</table>
Diseased elm trees located at 1905 Linner Road
City Council Agenda Item #11A
Meeting of October 23, 2017

Brief Description
Resolution approving a conditional use permit, with variance, for an outdoor eating area at 15200 State Highway 7.

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

Proposal
Davanni’s Pizza and Hoagies is currently undergoing remodeling of the building at 15200 State Highway 7. As part of their remodeling project, Davanni’s is proposing to expand their business to include an outdoor eating area. The proposal requires a conditional use permit, with variance. A variance is required, as the outdoor eating area would not meet the minimum setback from residential properties.

Planning Commission Hearing
The planning commission considered the request on October 12, 2017. The commission report and associated plans are attached. Staff recommended approval of the conditional use permit as the request meets the general and specific conditional use permit standards, with the exception of the residential property setback. Staff also recommended approval of the residential property setback variance, finding:

- The proposal would be in harmony with the intent of the zoning ordinance and consistent with the comprehensive plan.
- The existing building would be located between the outdoor eating area and the residential properties, blocking the view of the outdoor eating area from the residential properties.
- The proposed location for the outdoor eating area is the most appropriate location based on the layout and positioning of the existing building.
- The proposed variance request is reasonable and would not alter the essential character of the neighborhood.

The planning commission discussed the request. Specifically, the commission asked about the hours for the outdoor patio. As a condition of approval, the patio must be closed by 10:00 p.m. Sunday to Thursday and 11 p.m. Friday and Saturday, which is consistent with most outdoor dining patios in the city. These hours would coincide with the hours of the restaurant.

Additionally, the planning commission asked about access to the patio. The patio space would be entered through the vestibule of the building. Customers could then exit through
the vestibule or leave the patio through an exit gate that leads to the parking lot. As a condition of approval, there must be signage stating that no alcohol may leave the patio area. This signage would be located near the door in the vestibule that leads to the outdoor eating area.

The addition of the outdoor area will be added to the licensed premise for the On-sale Wine and On-Sale 3.2% Malt Beverage liquor licenses upon council approval.

At the meeting, a public hearing was opened to take comment. No individuals came forward to speak. Following the public hearing, the commission generally expressed support of the proposal.

**Planning Commission Recommendation**

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

**Staff Recommendation**

Adopt the resolution approving a conditional use permit, with variance, for an outdoor eating area at 15200 State Highway 7.

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

Originator: Drew Ingvalson, Planner
Brief Description: Conditional use permit, with a variance, for an outdoor eating area at 15200 State Highway 7.

Recommendation: Recommend the city council adopt the resolution approving the conditional use permit, with variance.

Proposal

Davanni’s Pizza and Hoagies is currently undergoing remodeling of the building at 15200 State Highway 7. As part of their remodeling project, Davanni’s is proposing to expand their business to include an outdoor eating area. The proposal requires a conditional use permit, with variance. A variance is required, as the outdoor eating area would not meet the minimum setback from residential properties.

Proposal requirements:
This proposal requires:

- **Conditional Use Permit (CUP):** Outdoor eating areas are conditionally-permitted uses in the B-3 zoning district. (See the Supporting Information: CUP Standards Section of this report.)

- **Variance:** One of the conditional use permit standards for an outdoor eating area is a minimum setback between the eating area and residentially zoned properties. As proposed, the eating area would not meet this setback. As such, a variance is necessary.

<table>
<thead>
<tr>
<th></th>
<th>City Code</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Distance from Residential Properties</td>
<td>200 ft.</td>
<td>178 ft.*</td>
</tr>
</tbody>
</table>

*variance required

Staff Analysis

The proposal meets the general and specific conditional use permit standards outlined in city code, with the exception of the minimum setback from residential properties. (See Supporting Information Section).

In addition, staff reviewed the variance request and found that the proposal would meet the variance standards outlined in city code. Staff has come to this conclusion as:
The proposal would be in harmony with the intent of the zoning ordinance and consistent with the comprehensive plan.

The existing building is located between the outdoor eating area and the residential properties, blocking the view of the outdoor eating area from the residential properties.

The proposed location for the outdoor eating area is the most appropriate location based on the layout and positioning of the existing building.

The proposed variance request is reasonable and would not alter the essential character of the neighborhood.

**Staff Recommendation**

Recommend the city council adopt the resolution approving a conditional use permit, with variance, for an outdoor eating area at 15200 State Highway 7.

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

**Surrounding Land Uses**
- Northerly: single-family homes
- Easterly: Highland Road, Lucky’s Gas Station across the street
- Southerly: State Highway 7
- Westerly: North Memorial Clinic

**Planning**
- Guide Plan designation: Commercial
- Existing Zoning: B-3, General Business

**General CUP Standards**
No conditional use permit shall be granted unless the city council determines that all of the general CUP standards from City Code §300.21 Subd.2 will be met:

1. The use is consistent with the intent of this ordinance;
   
   **Finding:** The proposed outdoor eating area meets all ordinance requirements, with the exception of the minimum residential property setback.

2. The use is consistent with the goals, policies and objectives of the comprehensive plan;
   
   **Finding:** The proposed outdoor eating area 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;
   
   **Finding:** 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 use is consistent with the city’s water resources management plan;
   
   **Finding:** The proposal is consistent with the city’s water resources management plan.

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

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

Finding: 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 the public health, safety or welfare of the community.

**Specific CUP Standards**

The proposed outdoor eating area would meet all of the specific CUP standards found in City Code §300.21 Subd.4(p), with the exception of the requirement prohibiting additional curb cuts, as:

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

   Finding: The proposed outdoor eating area would be located near the main entrance to the building. The applicant has proposed to expand their liquor license to include the outdoor eating area. As such, the area would be enclosed with a fence and landscaping. Additionally, as a condition of approval, signage must be provided that states that no alcohol may leave the patio area.

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

   Finding: The outdoor seating area would be located 178 feet from the closest residential property, which is located across Highwood Drive to the north. The area would be located over 210 feet from the closest residential building. A variance is required. See the variance section of this report.

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

   Finding: The area would be appropriately located, so as not to interfere with onsite circulation.
4. Shall not be located to obstruct parking spaces. Parking spaces may be removed for the use only if parking requirements specified in section 300.28 are met;

   Finding: No parking spaces would be removed or need to be relocated with the proposal.

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

   Finding: The area would be appropriately located near the principal entrance to the business.

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

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

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

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

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

   Finding: The area would meet all minimum building setbacks.

Variance Standard

The proposal requires a variance from the specific conditional use permit standards for outdoor eating area. Staff finds that the proposal meets the variance standards outlined in City Code §300.07 Subd.1(a) as:

1. The variance is in harmony with the general purposes and intent of this ordinance

   Finding: The intent of the ordinance as it pertains to outdoor seating area setbacks is to ensure appropriate separation between these areas and residential land uses, so as to minimize real and perceived nuisance impacts. The proposed outdoor seating area setback and screening would meet this intent:

   • The seating area would be setback 178 feet from the nearest residential property (200 feet required) and over 210 feet from the home located on that property.
This residential property and home are located across Highwood Drive.

- The existing Davanni’s building would be located between the outdoor eating area and the nearest residential property.

- There is existing vegetation and a fence on the north side of the property that provides a buffer between the commercial and residential properties.

2. The variance is consistent with the comprehensive plan

**Finding:** The subject property is guided for commercial land use. Allowing the outdoor eating area on this property would be consistent with other restaurants within similarly guided properties.

3. When the applicant establishes that there are practical difficulties in complying with the ordinance:

**Finding:** There are practical difficulties in meeting the required ordinance as:

- Unique Circumstance. The existing layout and positioning of the building creates a practical difficulty in complying with the ordinance. The proposed location for the outdoor eating area creates a logical route for guests moving through the main portion of the building to the outdoor eating area. To meet the residential property setback, the applicant would need to make significant alterations to the layout of the restaurant. However, such alterations would not further screen the outdoor eating area from the neighboring residential area.

- Reasonableness and Character of the Neighborhood. The proposed variance request is reasonable and would not alter the essential character of the neighborhood. It is reasonable to request an outdoor eating area outside the main entrance of a restaurant. Additionally, the outdoor eating area would be screened from the residential neighborhood to the north and would keep in harmony with other adjacent commercial properties.

**Liquor License**

As part of Davanni’s proposal, the owner is requesting an expansion of their liquor license to include the outdoor eating area.
area. The city council has the authority to approve or deny liquor licenses; such licenses are not the purview of the planning commission. The commission must consider the proposal’s conformance with the requirements and the intent of conditional use permit and variance standards.

**Motion Options**

The planning commission has three options:

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

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

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

**Neighborhood Comments**

The city sent notices to 36 property owners and has received no comments to date.

**Deadline for Action**

December 20, 2017
Location Map

Project: Davanni's
Address: 15200 Hwy 7
Project No. 17022.17a

This map is for illustrative purposes only.
Powers, Schack, Sewall, Calvert, Knight, and Kirk voted yes. O’Connell was absent. Motion carried.

Chair Kirk stated that an appeal of the planning commission’s decision must be made in writing to the planning division within 10 days.

B. Conditional use permit with a variance for an outdoor seating area at 15200 State Highway 7.

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.

In response to Knight’s question, Ingvalson stated that the house is an additional 35 feet from the property line, so the proposed outdoor seating area would be over 200 feet from the house.

Katie Elmer, one of the owners, and Jennifer Kaufmann, operations supervisor, introduced themselves and were present to answer questions.

Calvert asked how many parking spaces would be removed. Ms. Elmer stated that no customer parking stalls would be removed.

Chair Kirk asked if names would be called on the patio. Ms. Kaufmann answered in the negative. Pagers are now used instead.

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

Sewall moved, second by Powers, to recommend that the city council adopt the resolution approving a conditional use permit with a variance for an outdoor eating area at 15200 State Highway 7.

Powers, Schack, Sewall, Calvert, Knight, and Kirk voted yes. O’Connell was absent. Motion carried.

9. Other Business

A. Concept plan review for iFLY at 12415 Wayzata Boulevard.

Chair Kirk introduced the proposal and called for the staff report.
Resolution No. 2017-

Resolution approving a conditional use permit, with variance, for an outdoor eating area at 15200 State Highway 7

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

Section 1. Background.

1.01 Davanni’s Pizza and Hoagies is currently undergoing remodeling of the building at 15200 State Highway 7. As part of their remodeling project, Davanni’s is proposing to expand their business to include an outdoor eating area. The request requires a conditional use permit, with the following variance:

- Setback variance from residential property from 200 feet to 178 feet for an outdoor eating area.

1.02 The property is located at 15200 State Highway 7. It is legally described as:

BLOCK 3, THAT PART OF LOT 1 LYING NLY OF HWY NO 7, TONKAWOOD FARMS, HENNEPIN COUNTY, MINNESOTA

1.03 On October 12, 2017, the planning commission held a hearing on the request. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments and the staff report, which are incorporated by reference into this resolution. The commission recommended the city council approve the conditional use permit, with variance.

Section 2. Standards.

2.01 City Code § 300.21 Subd.2 lists the following general conditional use permit standards:
1. The use is consistent with the intent of this ordinance;

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

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

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

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

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

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

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

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

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

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

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

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

7. Shall not have speakers or audio equipment which is audible from adjacent parcels; and
8. Shall be located in compliance with building setback requirements.

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

1. The proposed outdoor eating area meets all ordinance requirements, with the exception of the minimum residential property setback.

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

3. The proposal has been reviewed by the city’s building, engineering, planning, natural resource, and fire staff. 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.

5. The proposal complies with the performance standards specified in section 300.28 of this ordinance.

6. 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 the public health, safety or welfare of the community.

3.02 The proposal would meet the specific conditional use permit standards as outlined in City Code §300.21 Subd.4(p):
1. The proposed outdoor eating area would be located near the main entrance to the building. The applicant has proposed to expand their liquor license to include the outdoor eating area. As such, the area would be enclosed with a fence and landscaping. Additionally, as condition of this resolution, signage must be provided that states that no alcohol may leave the patio area.

2. The outdoor seating area would be located 178 feet from the closest residential property, which is located across Highwood Drive to the north. The area would be located over 210 feet from the closest residential building. A variance is required. See the variance section of this report.

3. The area would be appropriately located, so as not to interfere with onsite circulation.

4. No parking spaces would be removed or need to be relocated with the proposal.

5. The area would be appropriately located near the principal entrance to the business.

6. As a condition of this resolution, the area must be patrolled for litter pick-up.

7. As a condition of this resolution, any speakers or audio equipment in the area may not be audible from adjacent properties.

8. The area would meet all minimum building setbacks.

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

1. Intent of the Ordinance. The intent of the ordinance as it pertains to outdoor seating area setbacks is to ensure appropriate separation between these areas and residential land uses, so as to minimize real and perceived nuisance impacts. The proposed outdoor seating area setback and screening would meet this intent:

   a) The seating area would be setback 178 feet from the nearest residential property (200 feet required) and over 210 feet from the home located on that property. This residential property and home are located across Highwood Drive.
b) The existing Davanni’s building would be located between the outdoor eating area and the nearest residential property.

c) There is existing vegetation and a fence on the north side of the property that provides a buffer between the commercial and residential properties.

2. Consistent with Comprehensive Plan. The subject property is guided for commercial land use. Allowing the outdoor eating area on this property would be consistent with other restaurants within similarly guided properties.

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

a) Unique Circumstance. The existing layout and positioning of the building creates a practical difficulty in complying with the ordinance. The proposed location for the outdoor eating area creates a logical route for guests moving through the main portion of the building to the outdoor eating area. To meet the residential property setback, the applicant would need to make significant alterations to the layout of the restaurant. However, such alterations would not further screen the outdoor eating area from the neighboring residential area.

b) Reasonableness and Character of the Neighborhood. The proposed variance request is reasonable and would not alter the essential character of the neighborhood. It is reasonable to request an outdoor eating area outside the main entrance of a restaurant. Additionally, the outdoor eating area would be screened from the residential neighborhood to the north and would keep in harmony with other adjacent commercial properties.

Section 4. City Council Action.

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

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

   • Survey, dated September 5, 2017
2. Prior to issuance of a building permit.
   a) This resolution must be recorded with Hennepin County.
   b) Cash escrow, in an amount to be determined by city staff, must be submitted. 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.
   c) Erosion control and tree protection must be installed and inspected prior to final inspection.
3. The outdoor eating area must:
   a) Be controlled and cordoned off with an uninterrupted enclosure;
   b) Have signage stating that no alcohol may leave the patio area;
   c) Must maintain a 50-foot setback from the southern property line;
   d) Be equipped with refuse containers and regularly patrolled for litter pick-up; and
   e) Must be closed by 10:00 p.m. Sunday through Thursday and by 11:00 p.m. Friday and Saturday.
4. Speakers or audio equipment that is audible from adjacent parcels is not allowed.
5. The new pedestrian ramp must be reviewed by city staff for ADA
6. Landscaping that is removed must be replaced to comply with landscaping requirements. A landscaping plan must be submitted to city staff for review to ensure compliance with city code.

7. The fence along the northern property line must be repaired to a condition consistent with all public nuisance ordinances.

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

9. This resolution does not approve any signs. Sign permits are required.

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

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on October 23, 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 October 23, 2017.

______________________________
David E. Maeda, City Clerk

SEAL
City Council Agenda Item #12A  
Meeting of October 23, 2017

**Brief Description:** Ordinance relating to deferred special assessments, amending section 220.010 of the Minnetonka city code

**Recommended Action:** Introduce the ordinance

**Background**

State law (Minn. Stat. § 435.193) allows a city to adopt an ordinance that allows an owner of homestead property to apply for deferment of special assessments under limited circumstances constituting a hardship, and based on standards and guidelines set forth in the ordinance. Minnetonka’s ordinance allows a hardship deferment based upon retirement due to age or retirement due to permanent and total disability. The ordinance determines hardship based upon income.

The current ordinance specifies that the person requesting deferment may not have an annual income that exceeds an amount equal to $17,250 and indexed against the consumer price index from January 1, 1991. Under the current ordinance, the annual income limitation for 2017 is $29,920.

Staff recommends that the ordinance be amended to establish the income limitation at 50 percent of the area median income (50% AMI), as determined annually by the Department of Housing and Urban Development (HUD) for the fair market rent area that includes Minneapolis-St. Paul. For 2017, the 50% AMI amount ranges from $31,650 for a family of one to $59,700 for a family of eight. The change in the ordinance would be administratively less burdensome, because the 50% AMI is readily available from a HUD publication and does not require staff time to calculate. In addition, by using the 50% AMI, there would be greater consistency between city programs that, while distinct in nature, share the goal of making housing more affordable.

The city currently has only two hardship deferments in place, and a third is currently in the application process. Given the small number of deferments and the modest difference between the current and proposed income limits, the financial impact of the proposed ordinance is expected to be insignificant.

**Recommendation**

Introduce the ordinance.
Submitted through:
    Geralyn Barone, City Manager
    Merrill King, Finance Director

Originated by:
    Corrine Heine, City Attorney
Ordinance No. 2017-___

An Ordinance relating to deferment of special assessments; amending section 220.010 of the Minnetonka City Code

The City of Minnetonka Ordains:

Section 1. Section 220.010, subdivision 2 of the Minnetonka city code, relating to deferment of special assessments, is amended to read as follows:

2. A person who receives deferment under paragraph subdivision 1 above may not have an annual income that exceeds 50 percent of the average median income as determined annually by the United States department of housing and urban development for the fair market rental area that includes Minneapolis and St. Paul, Minnesota, $17,250 per year, as of January 1, 1991. This amount will be subsequently adjusted annually by the consumer price index for the twin cities area.

Section 2. This ordinance is effective 30 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:
Date of adoption:
Motion for adoption:

The stricken language is deleted; the underlined language is inserted.
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

The stricken language is deleted; the underlined language is inserted.
Brief Description
Ordinance amending Section 710 of the city code regarding increases/changes in fees

Recommendation
Introduce the ordinance

Background

Each year during budget preparation, staff reviews the fees charged by the city for certain services and recommends adjustments to the fee schedule, where appropriate. Fees required by ordinance can be changed by amending Section 710 where these fees are listed. Staff requests the council introduce the attached ordinance which increases certain fees.

When considering appropriate fees for service, the primary consideration is ensuring the fee is comparable to the actual costs of providing the service. Secondly, staff considers other jurisdictions’ charges for services, but only to provide a context, not as the basis for the fee or its increase. By law, the city may not charge fees higher than the city’s actual costs of providing the service.

Proposed 2018 Environmental Health License Fee Changes

As is the case with all other fee-based services in Minnetonka, environmental health inspection fees are also based on the city’s actual costs of providing those services. In this instance, the staff analysis also considered Hennepin County’s 2018 proposed fee structure as a basis of comparison.

As a result of this analysis, staff is recommending that Minnetonka’s environmental health license fees be increased in order to cover both direct and indirect costs for these inspections.

Minnetonka’s fee schedule is based on the type of establishment, with different fees for each class based on the actual costs of the inspections. Generally, food establishments with more complex operations have more costs associated with the inspections, so fees are higher in these cases. The fees for schools are lower than restaurants despite the fact the city is required to inspect schools a minimum of two times a year as opposed to one with restaurants. The school fee has been gradually increasing over the years to appropriately cover the city’s costs to provide the service.
Mobile Food Vendors

With the increasing popularity of food trucks, food truck operators and local business owners have requested that staff review the application process, applicable fees and inspection process for obtaining a license for events involving food trucks.

Currently, food truck owners have two options for obtaining a license in the city, including a 1-day temporary license of $80 per occurrence or an annual food license of $490. Many factors go into a food truck determining the location based on number of customers, weather, availability and short notice for attending events. Many times, food truck operators are asked to locate at breweries and during lunch time in the industrial/business areas in the city, often only 3-4 hours at a time. Over time, it was determined that food truck owners were paying almost as much as a restaurant that operates every day for 12-14 hours a day.

This repetitive nature of these events required staff to issue licenses and perform more inspections. The annual license fee of $490 is difficult for new food truck owners to pay until they are able to build up clients in the city, so they often declined to apply for the annual license.

Staff has determined that an annual mobile food vendor fee of $250 would be more appropriate. The new license fee would only require an initial inspection, similar to existing restaurants, and applicable follow-up inspections if needed. This would eliminate the need for issuing multiple licenses and multiple inspections, often in the evening or on weekends, for the same food truck for repeat events in the city. A one day special food event of $80 is still available, but if a food truck determines they want to transfer to an annual license after a few events, they would receive full credit for amounts paid toward the annual license. This process should eliminate extra work for staff and for food truck owners applying for a license each time an event is held in Minnetonka. In addition, a fee is recommended for 1-day events that were added within a short period of notice (less than 5 business days of the event).

Staff will evaluate the new requirements for mobile food vendor licenses after next year to determine if further changes are needed.

Hazard Analysis Critical Control Plan (HACCP) Plan Review

The Minnesota legislature passed a law in 2017 adding a HACCP plan review fee. This fee is to recover costs to evaluate food establishments that wish to conduct specialized processes of foods. A couple of examples: acidified rice for sushi and smoking of meats. Only a few food establishments licensed by Minnetonka are required to have an approved HACCP plan. MN Dept. of Health will be charging $500 and Hennepin County will be charging $331 to review these. After evaluating the time necessary, it is expected that the city can recover its costs at $150. This additional fee will only be charged for food establishments who wish to conduct HACCP processes at their establishment.
Meeting of October 23, 2017
Subject: 2018 Fee Increases

Proposed 2018 Building Permit Fee Changes

Fee increases were adopted in 2017, and staff is not proposing any increases for 2018.

Planning Division

The Planning division is proposing to modify sign permit fees to distinguish between permanent and temporary fees, as the review time for a temporary sign is less involved than a permanent structure. A new temporary sign permit fee of $50 is proposed.

An increase to the preliminary plat (no new public roadways) application fee is proposed from $400 to $500 to align with staff time associated with public hearings and staff reports.

Other Licensing Fees

Liquor Licensing

Micro distillery off-sale — originally, this fee was set to match an off-sale liquor store, but after realizing that the micro distilleries are restricted in the size of bottles/product that they are allowed to sell at off-sale, it seems more appropriate to have a license with a lesser fee.

Non-intoxicating malt liquor (3.2% Malt Beverage) — the ordinance states that the first year, the license fee should be $740 with a reduction the following year to $580. Staff
feels that the higher fee is not justified with additional work the first year, so the new recommended fee is $580.

Temporary license, outdoor event — outdoor events including alcohol require additional staff time to coordinate including parking and security plans, which may require a higher fee than a standard temporary liquor license

**Theater Licensing**

A comparison was made to other cities with theaters, and it was discovered that charging by the number of seats was outdated. All neighboring cities charge a flat fee for the license.

<table>
<thead>
<tr>
<th>License Category</th>
<th>2017 fee</th>
<th>Proposed 2018 fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Micro distillery, off-sale</td>
<td>$380</td>
<td>$250</td>
</tr>
<tr>
<td>Non-intoxicating malt liquor (3.2%)</td>
<td>$740</td>
<td>$580</td>
</tr>
<tr>
<td>Temporary license, outdoor event</td>
<td>NA</td>
<td>$150</td>
</tr>
<tr>
<td>Theater</td>
<td>Varied by # of seats</td>
<td>$300</td>
</tr>
</tbody>
</table>

**Other Divisions**

No fee changes were requested from other divisions such as police, fire, engineering, public works, and recreation.

**Recommendation**

Staff recommends introduction of the ordinance. The ordinance indicates only those fees that are proposed for amendment. Licensees for environmental health related requests will be notified prior to council action on final approval and adoption of the ordinance, which is planned for council consideration on November 13, 2017.

If the fee changes shown above are adopted, the 2018 fees become effective January 1, 2018. While 2018 license renewals are sent out prior to the end of the year, the license is effective from January 1 to December 31.

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

Originated by:
  John Weinand, Environmental Health Supervisor
  Kathy Leervig, Community Development Coordinator
Ordinance No. 2018-

An ordinance amending city code section 710.005 regarding certain fees

The City of Minnetonka Ordains:

Section 1. City code section 710.005, paragraphs 3, 9, 10, 13, 15, 16, 29, 31 are amended as follows, to be renumbered alphabetically and the following paragraphs added and renumbered accordingly:

<table>
<thead>
<tr>
<th>para. no.</th>
<th>description</th>
<th>amount</th>
<th>code section</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.</td>
<td>body art license</td>
<td>$330.00340.00</td>
<td>820.015</td>
</tr>
<tr>
<td>9.</td>
<td>food establishment licenses</td>
<td></td>
<td>815.020</td>
</tr>
<tr>
<td></td>
<td>Class A: supper clubs, sit-down, drive-in, delivery, take-out restaurants; or similar facility</td>
<td>$820.00830.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Class B: mobile food vendor, limited food vendor, mobile food cart, or similar facility</td>
<td>$490.00250.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Class C: grocery, meat market, bakery, deli, rental kitchen, limited food service, or similar facility</td>
<td>$655.00665.00</td>
<td></td>
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<tr>
<td></td>
<td>Class E: limited grocery, retail potentially hazardous foods, bulk foods</td>
<td>$325.00335.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Class G: prepackaged, non-perishable, candy, or coffee (no refrigeration needed)</td>
<td>$175.00180.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>additional facilities - more than one of any type or types of any operation listed within the classes</td>
<td>$270.00290.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>school kitchen inspection fee</td>
<td>$690.00700.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>special event food stands</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>first day</td>
<td>$80.00</td>
<td></td>
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<tr>
<td></td>
<td>Application received within 5 business days of the event</td>
<td>$120.00</td>
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<tr>
<td></td>
<td>each additional consecutive day</td>
<td>$25.00</td>
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<tr>
<td></td>
<td>maximum - each license</td>
<td>$170.00</td>
<td></td>
</tr>
<tr>
<td>Service Description</td>
<td>Fee</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Special food handling establishment - day care center</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Full service</td>
<td>$495.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary food service (less than 6 months)</td>
<td>$165.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Health plan review fee</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hazard Analysis Critical Control Plan (HACCP) Plan Review</td>
<td>$150.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Land use applications</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Signs</td>
<td>$325.00</td>
<td></td>
<td></td>
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<tr>
<td>Permit fees</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Permanent or temporary</td>
<td>$100.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary</td>
<td>$50.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subdivision or lot division</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preliminary plat (no new public roadways)</td>
<td>$400.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Liquor licenses</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intoxicating liquor</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Off-sale microdistillery</td>
<td>$380.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nonintoxicating malt liquor</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New licenses</td>
<td>$740.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Renewal licenses</td>
<td>$580.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary license</td>
<td>$25.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary license, outdoor events</td>
<td>$150.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lodging establishment license</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plus per room</td>
<td>$7.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Swimming pool license, public</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indoor</td>
<td>$425.00</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Section 2. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 3. This ordinance is effective January 1, 2018.

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: October 23, 2017
Date of adoption:
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent: Bergstedt
Ordinance adopted.

Date of publication:

CERTIFIED COPY:

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

________________________________________________________________________

David E. Maeda, City Clerk

The stricken language is deleted; the underlined language is inserted.
## Summary of Proposed Fee Changes – Community Development

<table>
<thead>
<tr>
<th>License Category</th>
<th>2017 Fee</th>
<th>Proposed 2018 fee</th>
<th>Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Environmental Health Fee Changes</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Class A license (restaurants)</td>
<td>$820</td>
<td>$830</td>
<td>$10</td>
</tr>
<tr>
<td>Class B license (mobile food vendors)</td>
<td>$490</td>
<td>$250</td>
<td>$240 (decrease)</td>
</tr>
<tr>
<td>Class C license (grocery stores)</td>
<td>$655</td>
<td>$665</td>
<td>$10</td>
</tr>
<tr>
<td>Class E (limited grocery)</td>
<td>$325</td>
<td>$335</td>
<td>$10</td>
</tr>
<tr>
<td>Class G (prepackaged, candy)</td>
<td>$175</td>
<td>$180</td>
<td>$5</td>
</tr>
<tr>
<td>Additional facilities license</td>
<td>$270</td>
<td>$290</td>
<td>$20</td>
</tr>
<tr>
<td>School kitchen Inspection</td>
<td>$690</td>
<td>$700</td>
<td>$10</td>
</tr>
<tr>
<td>Daycare center food license</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Full service</td>
<td>$495</td>
<td>$500</td>
<td>$5</td>
</tr>
<tr>
<td>Special Food Event (with 5 business days of event)</td>
<td>NA</td>
<td>$120</td>
<td>$120</td>
</tr>
<tr>
<td>Temporary Food Service (less than 6 months)</td>
<td>$165</td>
<td>$170</td>
<td>$5</td>
</tr>
<tr>
<td>Hazard Analysis Critical Control Plan (HACCP) Plan Review</td>
<td>NA</td>
<td>$150</td>
<td>$150</td>
</tr>
<tr>
<td>Swimming pool license, public</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indoor pool</td>
<td>$425</td>
<td>$430</td>
<td>$5</td>
</tr>
<tr>
<td>Outdoor pool</td>
<td>$425</td>
<td>$430</td>
<td>$5</td>
</tr>
<tr>
<td>Additional pool, same location</td>
<td>$270</td>
<td>$275</td>
<td>$5</td>
</tr>
<tr>
<td>Lodging establishment license</td>
<td>$210</td>
<td>$220</td>
<td>$10</td>
</tr>
<tr>
<td>Body art</td>
<td>$330</td>
<td>$340</td>
<td>$10</td>
</tr>
<tr>
<td><strong>Planning</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preliminary Plat (no new public roadways)</td>
<td>$400</td>
<td>$500</td>
<td>$100</td>
</tr>
<tr>
<td>Temporary Sign permit</td>
<td>NA</td>
<td>$50</td>
<td>$50</td>
</tr>
<tr>
<td><strong>Licensing</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Micro distillery, off-sale</td>
<td>$380</td>
<td>$250</td>
<td>$130 (decrease)</td>
</tr>
<tr>
<td>Non-intoxicating malt beverage (3.2%)</td>
<td>$740</td>
<td>$580</td>
<td>$160 (decrease)</td>
</tr>
<tr>
<td>Temporary outdoor events, with liquor</td>
<td>NA</td>
<td>$150</td>
<td>$150</td>
</tr>
<tr>
<td>Theatre</td>
<td>Per seat</td>
<td>$300</td>
<td>varies</td>
</tr>
</tbody>
</table>
City Council Agenda Item #13A  
Meeting of October 23, 2017  

Brief Description  
On-sale wine and on-sale 3.2% malt beverage liquor licenses for Kais Inc. (DBA Kai’s Sushi), at 17420 Minnetonka Blvd.  

Recommendation  
Continue the public hearing and grant the licenses  

Background  
The city has received an application from Kais Inc. for On-Sale Wine and On-Sale 3.2% Malt Beverage liquor licenses for a new restaurant at 17420 Minnetonka Boulevard.  

Kai’s Sushi is proposing to operate a full-service sushi restaurant with a focus on Japanese cuisine with a touch of Asian influence.  

Business Ownership  
Kai’s Sushi is owned 100% by Mr. Kai Tho. Currently, Kai owns Kai’s Sushi & Grill in Chanhassen. Kai has more than 15 years of experience in the restaurant industry.  

Business Operations  
The restaurant is approximately 1,900 square feet and is located in the shopping center on 101/Minnetonka Blvd, next to Great Harvest Bread and Nash Frames. The site will seat 40 guests in the space and offers carry-out service and online ordering. The restaurant will be open for lunch and dinner with the following hours:  

- Monday – Thursday: 11:00 a.m. – 3:00 p.m.  
  4:30 p.m. – 9:30 p.m.  
- Friday and Saturday: 11 a.m. – 10 p.m.  
- Sunday: 4 p.m. – 9:30 p.m.  

Projected food to liquor ratio will be 93% food and 7% alcohol.  

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

Staff will go through alcohol server training and conduct ongoing training every three months.
Applicant Information

Application information and license fees have been submitted. The police department's investigative report is complete and will be forwarded to the council prior to the continued public hearing. Staff has no concerns with the applicant.

Recommendation

Staff recommends that the city council continue the public hearing from September 13 and grant the licenses.

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

Originated by:
  Kathy Leervig, Community Development Coordinator
Kai’s Sushi

BUSINESS PLAN

SUMMARY

Kai’s Sushi Restaurant is a 40-seat dining restaurant, and we focus on our Japanese cuisine with a touch of Asian influence, also featuring RAMEN Japanese noodles. We will be located on the busy intersection of Highway 101/Minnetonka Blvd, 19157 Minnetonka Blvd, next to Nash Frames and Great Harvest Bread. It will be the perfect place to stop in for a bite to eat, for a drink or for a small business meeting, a place for a quiet conversation, or for a special occasion. Kai’s Rest is a trendy, fun place to have great food in a social environment, combining an intriguing atmosphere with excellent, interesting food, emphasizing healthy dishes recognizing the trend within the restaurant industry for the demand for healthy cuisine.

Business Objectives
The mission is not only to have great tasting food, but have efficient and friendly service because customer satisfaction is our objective and the restaurant will be the choice of families and a rewarding for employees to work. Employee welfare will be equally important to our success. Everyone will be treated fairly and with the utmost respect. We want our employees to feel a part of the success of Kai’s Sushi Restaurant. Happy employees make happy customers. Our strategy is simple, we intend to succeed by giving people a combination of excellent and interesting food in an environment that appeals to a wide and varied group of successful people. We will focus on maintaining quality and establishing a strong identity in our community. Our focus in marketing will be to increase customer awareness in the surrounding communities. We will direct all our tactics and programs toward the goal of explaining who we are and what we do. We will keep our standards high and execute the concept so that word-of-mouth will be our main marketing force.

Management
Kai’s Sushi Restaurant is solely owned and managed by Mr. Kai Tho who also owned Kai’s Sushi & Grill restaurant in Chanhassen, Minnesota. He has spent more than 15 years in the restaurant industry. We will hire the best people available, training, motivating and encourage them, and thereby retaining the friendliest most efficient staff possible. Our management team is comprised of individuals whose backgrounds consist of 15 years’ experience in food, restaurant management.

EMPLOYEE TRAINING

Employee welfare, participation and training are equally important to our success. We will have a team of about 6 people and will also some part timers. (Sushi chefs, Kitchen chef, kitchen helper, Servers & owner will act as Manager too. Management will schedule training every 3 months to prepare for staff developments.

Employee handbook as attached
A Server Awareness Training Handbook
FOOD SERVICE

Fresh, home-made and simple is the message. The current popularity of fresh and healthy eating is exciting for customers. We will have a large menu for customers to select from. The management and servers will handle every detail to make customer's special evening even more special! All this and our great atmosphere will make customers want to come back again and again!

Lunch Specials - Bento Box lunch, Kitchen Entrees, Hibachi, Sushi Entrees
Pick Two Rolls or Three Rolls
All lunch specials including a choice of soup or salad and lunch run between $5-$12.

Dinner Menu - Dinner Menu - RAMEN noodles (Japanese noodles, Tempura, Japanese Kare,
Teriyaki (choice of Chicken, Salmon, Shrimp, Steak), Fried Rice, Noodles (Udon/Soba)
Hibachi Sushi Dinners, Sashimi, Nigiri .
Prices are between $10 - $20

Along with the above items, healthy green salads, soups, appetizers are all on the menu.
Beverages : Sodas, Japanese Soda, Sparkling Water, Milk, Juices, Iced Tea,
Green Tea

The Drinks menu will include an interesting variety of Sake, Wine & Beer (Japanese & Domestic)

A children’s menu for ages 12 & under is available too and also desserts to complement each meal.
Also features Daily Specials, Happy Hour menu
Lunch & Dinner menu items are available for carry out too and can be order online from our website.

We anticipate our total sales to be approximately 93% restaurant food sales and 7% alcohol sales.

Hours of Operation

Monday to Thursday : 11.00 am to 3.00 pm
                     4.30 pm to 9.30 pm
Friday & Saturday   : 11.00 am to 10.00 pm
Sunday             : 12 noon to 9.30 pm
Brief Description: Concept plan review for iFly at 12415 Wayzata Boulevard

Action Requested: Provide comments, feedback, and direction.

Background:

In May 2017, the city council approved site plans for Ridgedale Restaurants in the northwestern portion of the Ridgedale Mall parking lot. The approved plans converted the parking area along the “ring road” into a development area for three pad sites. At that meeting, the council also approved the building plans and a conditional use permit for a restaurant with an outdoor patio on one of the pad sites. Shell construction of that restaurant is currently underway.

Pad sites 2 and 3 were not included in the specific building plan and conditional use permit approval. Review of the applicable building plans would occur at a future date when the tenants are identified.

Proposal:

SkyGroup Investments, LLC (“iFly”) invented the modern indoor skydiving experience. Originating in 1998, there are over 65 iFly locations throughout the world. Recently, iFly submitted a concept plan contemplating a building for indoor skydiving on the second pad site. Conceptually, the building would be roughly 5,000 square feet in area and 56-feet tall. The building is comprised of the occupied “building” space and its surrounding “flowpath” which houses the wind tunnel machine parts.

If a formal application is submitted, staff will review the applicability of site and building plan, master development plan, and potential setback variances.

Key Issues:

City staff has identified the following considerations for any development of the subject property:

- **Land Use:** According to the mall’s master development plan, which was approved in 2013, the three pad sites would likely be restaurants. While iFly would still be considered an entertainment use, the use is significantly different from what was originally envisioned for the pad sites.

- **Noise Generation.** The concept plan indicates that there would be little to no noise generation from the mechanical system. If the applicant decides to move forward
with the application, a study of existing facilities and mechanical systems would be necessary.

- **Building Design and Scale.** The conceptual building’s height and location make all four sides very visible. Particularly, the “front” of the building would be highly visible from the mall parking lot and the “rear” of the building would be visible from the Ridgedale “ring road” and I394. In addition, the concept plan includes signage on all four sides of the building. More information and analysis would be needed as part of a formal development application to understand screening of the building and whether the signage would comply with the city’s sign ordinance.

### Review Process

Staff has outlined the following review process for the concept. At this time, a formal application has not been submitted.

- **Neighborhood Meeting.** The developer intends on hosting a neighborhood meeting depending on concept plan review meeting attendance. Staff will inform the council if a meeting is scheduled.

- **Planning Commission Concept Plan Review.** The planning commission conducted a review of the concept plan on October 12, 2017. The commission generally supported the use, as well as the size and mass of the building. However, some planning commissioners expressed concerns related to noise generation and the size and colors of the sign package. Overall, the planning commission strongly emphasized the desire for a compelling and interesting building in this location. The minutes from that meeting are attached.

- **City Council Concept Plan Review.** The city council concept plan review is intended as a follow-up to the planning commission meeting and would follow the same format as the planning commission concept plan review. No staff recommendations are provided, the public is invited to offer comments, and council members are afforded the opportunity to ask questions and provide feedback without any formal motions or votes.

### Staff Recommendation

Provide comments, feedback, and direction that may lead to the preparation of more detailed development plans.

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

Originated by:
- Ashley Cauley, Senior Planner
Next Steps

- **Formal Application.** If the developer chooses to file a formal application, notification of the application would be mailed to area property owners. Property owners are encouraged to view plans and provide feedback via the city’s website. Through recent website updates: (1) staff can provide residents with ongoing project updates, (2) residents can “follow” projects they are particularly interested in by signing up for automatic notification of project updates; (3) residents may provide project feedback on project; and (4) and staff can review resident comments.

- **Neighborhood Meeting.** Prior to the planning commission meeting and official public hearing, an additional public meeting may be held with neighbors to discuss specific engineering, architectural and other details of the project, and to solicit feedback. This extends the timing that has historically been provided in advance of the planning commission review to allow more public consideration of the project specifics.

- **Council Introduction.** The proposal would be introduced at a city council meeting. At that time, the council would be provided another opportunity to review the issues identified during the initial concept plan review meeting, and to provide direction about any refinements or additional issues they wish to be researched, and for which staff recommendations should be prepared.

- **Planning Commission Review.** The planning commission would hold an official public hearing for the development review and would subsequently recommend action to the city council.

- **City Council Action.** Based on input from the planning commission, professional staff and general public, the city council would take final action.

Roles and Responsibilities

- **Applicants.** Applicants are responsible for providing clear, complete and timely information throughout the review process. They are expected to be accessible to both the city and to the public, and to respect the integrity of the public process.

- **Public.** Neighbors and the general public will be encouraged and enabled to participate in the review process to the extent they are interested. However, effective public participation involves shared responsibilities. While the city has an obligation to provide information and feedback opportunities, interested residents are expected to accept the responsibility to educate themselves about the project and review process, to provide constructive, timely and germane feedback, and to stay informed and involved throughout the entire process.
• **Planning Commission.** The planning commission hosts the primary forum for public input and provides clear and definitive recommendations to the city council. To serve in that role, the commission identifies and attempts to resolve development issues and concerns prior to the council’s consideration by carefully balancing the interests of applicants, neighbors, and the general public.

• **City Council.** As the ultimate decision maker, the city council must be in a position to equitably and consistently weigh all input from their staff, the general public, planning commissioners, applicants and other advisors. Accordingly, council members traditionally keep an open mind until all the facts are received. The council ensures that residents have an opportunity to effectively participate in the process.

• **City Staff.** City staff is neither an advocate for the public nor the applicant. Rather, staff provides professional advice and recommendations to all interested parties, including the city council, planning commission, applicant and residents. Staff advocates for its professional position, not a project. Staff recommendations consider neighborhood concerns, but necessarily reflect professional standards, legal requirements and broader community interests.
MINNETONKA PLANNING COMMISSION  
October 12, 2017

<table>
<thead>
<tr>
<th>Brief Description</th>
<th>Concept plan review for iFLY at 12415 Wayzata Boulevard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Action Requested</td>
<td>Discuss concept plan with the applicant. No formal action required.</td>
</tr>
</tbody>
</table>

Background

In May 2017, the city council approved site plans for Ridgedale Restaurants in the northwestern portion of the Ridgedale Mall parking lot. The approved plans converted the parking area along the "ring road" into the development area for three pad sites. At that meeting, the council also approved the building plans and a conditional use permit for a restaurant with an outdoor patio on one of the pad sites. Shell construction of that restaurant is currently underway.

Pad sites 2 and 3 were not included in the approval. Review of the applicable building plans would occur at future date when the tenants were identified.

Proposal

SkyGroup Investments, LLC ("iFly") invented the modern indoor skydiving experience. Originating in 1998, there are over 65 iFly locations throughout the world. Recently, iFly submitted a concept plan contemplating a building for indoor skydiving on the second restaurant pad site. Conceptually, the building would be roughly 5,000 square feet in area and 56-feet tall. The building comprised of the occupied “building” space and its surrounding “flowpath” which houses the wind tunnel machine parts.

If a formal application were submitted it would likely include site and building plan review.

Review Process

Staff has outlined the following review process for the proposal. At this time, a formal application has not been submitted.

- **Neighborhood Meeting.** The developer will hold a neighborhood meeting on October 12th immediately prior to the planning commission meeting.

- **Planning Commission Concept Plan Review.** The planning commission Concept Plan Review is intended as a follow-up to the neighborhood meeting. The objective of this meeting is to identify major issues and challenges in order to inform the subsequent review and discussion. The meeting will include a presentation by the developer of conceptual sketches and ideas, but not detailed engineering or architectural drawings. No staff recommendations are provided, the public is invited to offer comments, and planning commissioners are afforded the
opportunity to ask questions and provide feedback without any formal motions or votes.

Staff Recommendation

During review of a formal application, commissioners may ask questions – and receive answers – regarding the details of a proposal. Commissioners may also debate points of the proposal with each other and the applicant.

Concept plan review should be approached differently than the formal development application review process. To provide the most useful feedback to the applicant, rather than asking questions, the commission should spend a majority of the concept review engaged in discussion as a commission. After discussion, it would be appropriate to provide specific comments to the applicant. The applicant may consider the commission’s comments in the preparation of more detailed development plans and formal review application.

For the iFly concept, it would be useful if commissioners would provide their reaction and general comments related to:

1. Building scale,

2. Building design, and

3. Use of the site

Originator: Ashley Cauley, Senior Planner
Through: Loren Gordon, AICP, City Planner
ADDITIONAL INFORMATION

Next Steps

- **Formal Application.** If the developer chooses to file a formal application, notification of the application would be mailed to area property owners. Property owners are encouraged to view plans and provide feedback via the city’s website. Through recent website updates: (1) staff can provide residents with ongoing project updates, (2) residents can “follow” projects they are particularly interested in by signing up for automatic notification of project updates; (3) residents may provide project feedback on project; and (4) and staff can review resident comments.

- **Planning Commission Review.** The planning commission would hold an official public hearing for the development review and make a final decision.

City Roles and Responsibilities

- **City Council.** As the ultimate decision maker, the city council must be in a position to equitably and consistently weigh all input from their staff, the general public, planning commissioners, applicants and other advisors. Accordingly, council members traditionally keep an open mind until all the facts are received. The council ensures that residents have an opportunity to effectively participate in the process.

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Ifly
Address: 12415 Wayzata Blvd
Project No. 17004.17b

City of minnetonka

This map is for illustrative purposes only.
SkyGroup Investments, LLC ("iFLY") has prepared these supplementary materials to include in our development application for review by the Minnetonka Planning Commission and City Council.

**iFLY Project Overview:**

iFLY plans to build a new indoor skydiving facility on the Ridgedale Center Ring Road near the Southeast corner of I-394 and Plymouth Road. The new building will be approximately 5,000 square feet and serve over 150,000 customers annually, many of whom will travel from well outside the community to experience indoor skydiving at iFLY. Once operational, iFLY will employ and estimated 26 people (18 Full-Time, 8 Part-Time).

**iFLY Company Overview:**

iFLY is the experiential entertainment company that invented modern indoor skydiving, the simulation of true freefall conditions in a vertical wind tunnel. It’s where the dream of flight becomes a reality. We are the World’s largest designer, builder and operator of vertical wind tunnels and have been the undisputed industry leader since creating this market in 1997. We are committed to innovation, performance, safety, reliability and absolute customer satisfaction. We’re vertically integrated — designing, fabricating, installing and operating skydiving wind tunnels.

With over 65 operating facilities globally, the company has safely flown millions of customers. Our patented technology allows us to fly people of nearly all ages and abilities on a smooth, air conditioned column of air. The airflow is completely enclosed, and is not audible from the outside of our modern facilities. There’s no parachute, no jumping, no falling and nothing attaching you to Earth. Children as young as three, to adults of any age can fly with us. It’s safe for kids, challenging for adults and realistic for skydivers. We provide all the gear and a personal instructor will guide you through your flight.

At iFLY, we draw on our extensive history of having flown over 7 million customers worldwide to help deliver an unforgettable experience. Whether you’re looking for a team building activity, team outings or sales events, we have what you need to achieve your goals, including conferencing facilities and available catering. Our events are safe, challenging, thrilling, and suitable for almost everyone, regardless of gender, age or physical condition.

iFLY is headquartered in Austin, Texas, and has been in business since 1998. For more information, please visit:

https://www.iflyworld.com/
https://www.facebook.com/iFLYAustin/
https://www.linkedin.com/company/3258354/
https://www.youtube.com/user/iflytunnelvision
iFLY in the Community:

Our STEM (Science, Technology, Engineering, Math) program uses our state-of-the-art vertical wind tunnel to inspire and educate students. Trained and reviewed STEM educators guide students through an interactive presentation, demos in the wind tunnel and lab activities. The experience includes a physics of flight presentation on the real-world application of STEM, vertical wind tunnel ball flight testing, hands-on student experiments and in-depth flight training and flight experience.

All Abilities Night at iFLY is a unique event that makes the dream of flight a reality for those in the special needs community. This program has been custom designed for those with physical and cognitive challenges to create an environment of support and inclusion, while focusing on making what seems impossible, possible.

How iFLY Works:

The images below show an actual constructed iFLY (Woodlands, Texas), as well as the same image, overlaid to show the iFLY machine which makes flight possible. The machine becomes part of our structure, and the main occupied space (“Building”) becomes surrounded by wind tunnel machine parts, collectively comprising the air flow path (“Flowpath”). The space created between the Flowpath and the Building creates empty air space through the building, or a “Void”.

Actual iFLY  Internal Flowpath

Please do not hesitate to contact us with your questions or comments. Contact information below.

Mark Lee
Director of Development
iFLY Holdings
6034 W. Courtyard Drive #135
Austin, Texas 78730
Main: 512.647.9200 x157
Direct: 512.201.8896
Mobile: 262.957.6339
Email: mglee@iflyworld.com
EXTERIOR ELEVATION - FRONT

SCALE 3/32 = 1'-0"

CON1

MTL1

MTL4

EFS0.1

1.EXTERIOR ELEVATION - FRONT

SCALE 3/32 = 1'-0"

CON1

MTL1

MTL4

EFS0.1

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Prepared by:
1112 Pearl Street. Boulder CO, 80302
TEL 303 447 8202   FAX 303 440 7096
www.Stantec.com

Original: 2017 SEPTEMBER 07

Revisions:

1. IFLY Prototype
2. SkyGroup Investments, LLC
3. LW, CC, SE, JB, JW, KH

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EXTERIOR ELEVATION - BACK

INDOOR SKYDIVING

SCALE
3/32 = 1'-0"

Prepared by:
1112 Pearl Street. Boulder CO, 80302
TEL 303 447 8202   FAX 303 440 7096
www.Stantec.com

100% DESIGN INTENT

Original: 2017 SEPTEMBER 07

Revisions:

TEAM
OWNER
PROJECT

iFLY Prototype
SkyGroup Investments, LLC

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EXTERIOR FINISHES
EXTERIOR ELEVATION - RIGHT

SCALE 3/32 = 1'-0"

MTL1

STN1

TYP.

STN2

TYP.

STF1

STF1

MTL3

MTL2

MTL3

EFS7

EFS4

EFS7

EFS6

EFS1

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Original:  2017 SEPTEMBER 07

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PROJECT

iFLY Prototype

SkyGroup Investments, LLC

LW, CC, SE, JB, JW, KH

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Rendering
Front Facade
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9. Other Business

A. Concept plan review for iFLY at 12415 Wayzata Boulevard.

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

Cauley reported. She recommended commissioners provide their reaction and general comments related to building scale, building design, and appropriateness of the use of the site.

Patrick Framel, Sky Group Investments, LLC., and Mark Lee, real estate and development director for North American iFLY, representing the applicant, introduced themselves. Mr. Framel provided illustrations of the proposed unique structure and a video. Mr. Framel stated that their mission is to make the dream of flight a reality. Ages 3 to 103 years are eligible to participate. The company has safely flown over 7 million people in 15 countries since 1998. The environment is completely controlled. There is no noise outside of the facility. The company is one of the largest providers of STEM education. The company provides community impact programs. The shape of the building is driven by the mechanics. Adjustments have been made to match the color scheme mandated by GGP’s design criteria that was approved by the city. The sign would be modified to integrate with the surrounding buildings. This is not the application phase. He would appreciate feedback.

Powers asked how many sites have failed. Mr. Framel said zero. The company has opened 66 facilities since 1998 and all are still operating.

Schack asked if food or beverages would be provided. Mr. Framel stated that birthday parties or corporate events may be catered. Vending machines are available for beverages. There would be a large berm between the rear of the building and Interstate 394. There would be an air conditioning unit outside, but no other noise would be heard outside. It would be similar in height to a five-story apartment building.

Powers asked why this would be the best site. Mr. Framel answered that this area is already dynamic and draws people from the region. He likes the family focus. Most of the other facilities are on pads in mall parking lots. The typical experience lasts an hour or an hour and fifteen minutes with actual flight time of a couple minutes. The price is typically $50, but varies depending on the time of year.

Powers asked if the use would have back-up power in case of a power outage. Mr. Framel answered in the negative. The engine would not come to a complete stop if it failed. The fans would continue to move air and slow down gradually. A tremendous amount of testing has been done.
Mr. Framel stated that the sign plans have not been finalized.

Chair Kirk invited audience members to provide comments.

Ryan Smith, Minneapolis resident, stated that he has visited several iFLY locations. He is very excited. The building looks weird on paper, but it looks great in person. He prefers the big sign that would be legible from the interstate. It would bring patrons to the mall.

Knight liked that the building would be see-through. It would not be as noticeable. He suggested an exterior color that would blend in with the background, but did not object to the building’s appearance. He liked the logo of a person flying. He noted that the “Macy’s” sign is not visible from the interstate until the driver is passing the site.

Schack noted that the city council approved a 42-foot sign for Total Wine. The concept plan’s sign is 56-feet tall.

Calvert thought that the logo looks neat, but the sign would look too much like a billboard. It would not be in compliance with the sign ordinance. She thought the building would provide a good transition to add more mass to the area. The use would fit the area, but the proposed logo would be too big. She would like materials used to make it blend in.

Powers disagreed. The sign should be bright, attractive, and inviting. The future of Minnetonka is density and mass. This would lead the Ridgedale area. He did not want it to blend in to the extent that Knight mentioned, but he does not want it to be an eye sore.

Chair Kirk suggested the applicant work with the sign ordinance to brand the building. He supports the proposed concept.

Sewall was confident a compromise could be made for the signs. He would have the “indoor skydiving” face Interstate 394. The use would fit the area similar to a movie theater. He liked the unique look and being able to look through the building would be an asset. It would be large, but the interstate would be elevated and there are no residential areas real close without buffering. He was glad there would be no exterior noise. It looks great.

Chair Kirk likes the STEM educational component of the use. He hoped economical packages would be provided for groups of students.

Schack supports the proposal. It would be great to have a unique attraction. It would be an asset to the city and Ridgedale Center. It is a great family opportunity. The height looks different, but she recognized other uses that have been allowed to have signs larger than allowed by the sign ordinance.
Chair Kirk realized that the proposed building would highlight the area and surrounding businesses. He was comfortable with the scale. The use would be brilliant.

Sewall suggested that General Growth Properties update a plan for the future.

Chair Kirk and Wischnack discussed the master development plan for the Ridgedale area.
Addendum
Minnetonka City Council
Meeting of October 23, 2017

10C Resolution ordering the abatement of nuisance conditions existing at 1905 Linner Road

Attached is a change memo from the city’s natural resources manager indicating the nuisance condition at 1905 Linner Road has been eliminated and the property is now in compliance. No council action is needed and the item can be pulled from tonight’s agenda.
10C – Resolution ordering the abatement of nuisance conditions existing at 1905 Linner Road

The nuisance condition at 1905 Linner Road was re-inspected and the owner is in compliance with city ordinance. The trees have been removed.

This item can be pulled from the agenda.