Agenda
Minnetonka City Council
Regular Meeting, Monday, May 8, 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: None
6. Special Matters: None
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases:
   A. Bids for the 2017 Mill and Overlay project
      Recommendation: Award the contract (majority vote)
   B. Bids for Cold Storage Building Construction Project
      Recommendation: Award Base Bid and Alternate #1 to Odesa II, LLC (majority vote)
   C. Bids for Lake Street Extension and Ringer Road Forcemain Installation
      Recommendation: Award contract to GM Contracting, Inc. (majority vote)
10. Consent Agenda - Items Requiring a Majority Vote:
    A. Resolution approving the final plat of MAYFAIR AT COPPERFIELD a three-lot subdivision at 14700 Copperfield Place
    B. Ordinance amending City Code Section 525, concerning property maintenance
11. Consent Agenda - Items Requiring Five Votes: None

12. Introduction of Ordinances: None

13. Public Hearings: None

14. Other Business:
   A. Ordinance amending fire code
      Recommendation: Adopt the ordinance (4 votes)
   B. Amendment to the liquor license for Zuhrah Shriners at 6120 Blue Circle Drive for an outdoor patio
      Recommendation: Approve the amendment (5 votes)
   C. Preliminary and final plats, with front yard setback variances, and waiving the McMansion Policy, for THE ENCLAVE AT REGAL OAK at 3639 Shady Oak Road and 3627 Regal Oak Lane
      Recommendation: Adopt the resolution approving the plats, with front yard setback variances, and waiving the McMansion Policy (5 votes)
   D. Items concerning Ridgedale Restaurants at 12415 Wayzata Blvd.:
      1) Final site and building plans,
      2) Conditional use permit.
      Recommendation: Recommend the city council approve the proposal (4 votes)

15. Appointments and Reappointments: None

16. Adjournment
City Council Agenda Item #9A  
Meeting of May 8, 2017

Brief Description: Bids for the 2017 Mill and Overlay Project

Recommended Action: Award the contract

Background

The 2017 Mill and Overlay project consists of: Hillside Lane West, Lindbergh Drive, Oakland Road from Essex Road to McGinty Road East, McGinty Road East from Oakland Road to Plymouth Road, Cedar Lake Road from Plymouth Road to Hopkins Crossroads, and Lake Street Extension from Baker Road to Shady Oak Road. These streets were identified for improvement through the city’s pavement management program. Analysis of these roads indicated that while the pavement surfaces need rehabilitation, the pavement structures are in good condition. A mill and overlay of these pavements was therefore the recommended rehabilitation strategy as it provides a cost effective way to improve the surface and extend the roadway life.

Ridgemount Avenue was initially included in the Capital Improvements Program. However, staff has delayed at this time due to further evaluation of the underlying utilities for consideration of water main replacement, which may result in the need for full street reconstruction.

Bid Opening

Bids were opened for the project on April 27, 2017. Nine bids were received in response to the call for bids, and the results are as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Total Bid</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bituminous Roadways, Inc.</td>
<td>$1,055,734.95</td>
</tr>
<tr>
<td>C.S. McCrossan Construction, Inc.</td>
<td>$1,066,843.70</td>
</tr>
<tr>
<td>Hardrives Inc.</td>
<td>$1,073,782.83</td>
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<tr>
<td>GMH Asphalt Corporation</td>
<td>$1,078,909.40</td>
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<tr>
<td>Northwest Asphalt, Inc.</td>
<td>$1,081,528.72</td>
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<tr>
<td>Park Construction Company</td>
<td>$1,127,882.05</td>
</tr>
<tr>
<td>Valley Paving, Inc.</td>
<td>$1,142,605.79</td>
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<tr>
<td>Wm. Mueller &amp; Sons</td>
<td>$1,173,684.65</td>
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<tr>
<td>Asphalt Surface Technologies</td>
<td>$1,180,978.65</td>
</tr>
<tr>
<td>Engineer's Estimate</td>
<td>$1,371,200.00</td>
</tr>
</tbody>
</table>
The low bidder, Bituminous Roadways, Inc., has satisfactorily completed similar projects in Minnetonka.

**Estimated Project Cost and Funding**

<table>
<thead>
<tr>
<th></th>
<th>Budget Amount</th>
<th>Proposed Funding</th>
<th>Expense</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Costs w/Contingencies</td>
<td></td>
<td></td>
<td>$1,400,000</td>
</tr>
<tr>
<td>Street Improvement Fund</td>
<td>$2,100,000</td>
<td>$1,300,000</td>
<td></td>
</tr>
<tr>
<td>Utility Fund</td>
<td>$100,000</td>
<td>$100,000</td>
<td></td>
</tr>
<tr>
<td><strong>Total Budget</strong></td>
<td><strong>$2,200,000</strong></td>
<td><strong>$1,400,000</strong></td>
<td><strong>$1,400,000</strong></td>
</tr>
</tbody>
</table>

The total estimated cost for this project, including construction, engineering, and contingency is $1,400,000. The attached “2017 Street Rehabilitation Funding Summary” provides a recap of estimated costs and funding sources for all 2017 street projects. As can be seen on the table, all costs for the 2017 Mill and Overlay project are estimated to be within budget for the various funding sources listed.

**Schedule**

If the recommended action is approved by council, construction is expected to begin mid-June, and be completed by mid-September. Hillside Lane West and Lindbergh Drive have an early completion date of July 31 to ensure there is no interference with the start of school.

**Recommendation**

Award the contract for the 2017 Mill and Overlay Project No. 17407 to Bituminous Roadways, Inc. in the amount of $1,055,734.95.

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

Originated by:
  Jeremy Koenen, P.E., Senior Civil Engineer
## 2017 Street Rehabilitation Funding Summary

<table>
<thead>
<tr>
<th>Funding Sources</th>
<th>2017 CIP 1, 2</th>
<th>Crosby Road 2</th>
<th>2017 Mill and Overlay 3</th>
<th>Balance</th>
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</thead>
<tbody>
<tr>
<td>Street Improvement Fund - Local Street Rehab</td>
<td>$3,850,000</td>
<td>$1,250,000</td>
<td>$1,300,000</td>
<td>$1,300,000</td>
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<tr>
<td>Storm Sewer Fund</td>
<td>$600,000</td>
<td>$400,000</td>
<td>$200,000</td>
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<tr>
<td>Utility Fund</td>
<td>$2,100,000</td>
<td>$750,000</td>
<td>$100,000</td>
<td>$1,250,000</td>
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<tr>
<td>Electric Franchise Fund</td>
<td>$500,000</td>
<td>$500,000</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td><strong>Total Project Cost</strong></td>
<td><strong>$7,050,000</strong></td>
<td><strong>$2,900,000</strong></td>
<td><strong>$1,400,000</strong></td>
<td><strong>$2,750,000</strong></td>
</tr>
</tbody>
</table>

1. 2017 CIP amended on January 9, 2017 to include additional funds needed for overhead utility burial associated with Crosby Road.

2. 2017 CIP amended on April 10, 2017 to include additional funds needed for street reconstruction associated with Crosby Road, this reflects the 2016 Carryover. However, the CIP preservation (Mill and Overlay) funds were not shown at that time.

3. The funds associated with the Ridgemount Avenue mill and overlay (delayed) are not reflected in this table.
City Council Agenda Item #9B  
Meeting of May 8, 2017

**Brief Description:**  Bids for Cold Storage Building Construction Project

**Recommended Action:**  Award Base Bid and Alternate #1 to Odesa II, LLC

**Background**

Prior to the construction of the current public works facility in 2003, a cold storage building was on site to store equipment and materials. The building was dismantled in order to construct the new public works facility. Currently, there are a number of pieces of equipment, attachments, water supplies, and materials that are stored outside that should be stored under cover to stop environmental damage. The new building will protect hydraulic hoses and polycarbonate tanks from deterioration due to sun exposure; plows and other metal equipment from rusting and materials such as topsoil and ballfield surfacing from being damaged by wet weather.

**Bids**

On March 28th bids were received for the building construction project. Due to a bidding error from the lowest apparent bidder, all bids were rejected and the project was re-advertised. The second place bid was not selected due to the significant difference in material costs, and the timing of material delivery (154 days vs. 30 days).

On May 1st bids were received again. The bid specifications called for a base bid for supply of materials, one bid alternate for labor to erect the building, and a second bid alternate indicating the amount of sales tax for the building materials. The request for bids was split into materials and labor to give the city flexibility of selecting only the furnishing of materials from the lowest qualified building supplier yet select a separate contractor to erect the building for the lowest total construction cost. The sales tax alternate was added to the bid form for the purpose of clearly evaluating the bids. The bids are tabulated as follows:

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Base Bid</th>
<th>Alt #1 (Labor)</th>
<th>Alt #2 (Tax)</th>
<th>Total Bid</th>
</tr>
</thead>
<tbody>
<tr>
<td>Odesa II, LLC</td>
<td>$189,648.00</td>
<td>$91,000.00</td>
<td>$13,796.00</td>
<td>$294,444.00</td>
</tr>
<tr>
<td>Metro Building Systems, Inc.</td>
<td>$228,500.00</td>
<td>$97,000.00</td>
<td>$16,623.38</td>
<td>$342,123.38</td>
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<tr>
<td>Ram General Contracting, Inc.</td>
<td>$228,000.00</td>
<td>$104,000.00</td>
<td>$14,316.00</td>
<td>$346,316.00</td>
</tr>
<tr>
<td>Architect’s Estimate</td>
<td>$210,000.00</td>
<td>$95,000.00</td>
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</tr>
</tbody>
</table>

This project was funded in the 2014-2018 Capital Improvement Program with a budget of $545,000.00 from the Utility Fund. With the structure of the bids and Minnesota tax laws, since Odesa II, LLC was the low bidder for both the building materials and labor to erect the building, the city will be able to take advantage of the State sales tax exemption for the project. As a result, the total cost to purchase and erect the building will be $280,648.00.
Recommendation

Based on the bid results, staff recommends awarding the Base Bid and Alternate #1 to Odesa II, LLC in the amount of $280,648.00.

Submitted through:
   Geralyn Barone, City Manager
   Merrill King, Finance Director

Originated by:
   Brian Wagstrom, Public Works Director
   Darin Ellingson, Public Works Street and Park Operations Manager
City Council Agenda Item #9C
Meeting of May 8, 2017

Brief Description: Bids for Lake Street Extension and Ringer Road Forcemain Installation

Recommended Action: Award contract to GM Contracting, Inc.

Background

This summer, Lake Street Extension extending east from Shady Oak Road to Baker Road is scheduled for a mill and overlay street rehabilitation project. The forcemain (pressure pipe) located in the project area is in need of replacement and is scheduled to be replaced prior to the street project. This replacement will minimize future forcemain repair digging in the new street surface.

Pipe replacement is accomplished by directional boring a new high density polyethylene (HDPE) 6-inch pipe that does not disturb the street surface except for 5-6 access pits needed to insert the new pipe. The project extends from the Windridge lift station east approximately 1,100 feet and ends near Terrace Lane (see map).

The Ringer Road lift station near Crosby Road in the northwest area of the city has a 4-inch forcemain in poor condition that extends to the east (see map). Similar to the other project, this pipe will be directionally bored with minimal disruption to the road surface except for the access pits. The replacement pipe will be 425 feet of 4-inch HDPE. In order to obtain favorable pricing for the two replacements, staff has developed one bid package that combines the two pipe replacements.

Bids

On Wednesday, April 26th, bids were received for the installation of pipe located on Lake Street Extension and Ringer Road. The bids are tabulated as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Bid Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>GM Contracting, Inc.</td>
<td>$160,578.75</td>
</tr>
<tr>
<td>Northdale Construction, Inc.</td>
<td>$197,990.20</td>
</tr>
<tr>
<td>G.F. Jedlicki, Inc.</td>
<td>$398,334.00</td>
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<tr>
<td>Engineer’s estimate</td>
<td>$200,000.00</td>
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</table>

The project engineer issued two addenda to the project, however, the low-bidder did not acknowledge the receipt of the second addendum but did provide a cost for the item on their bid as requested by the addendum. The city attorney has reviewed the situation and determined that it is a minor irregularity that the city can disregard because none of
the bidders or city have been damaged by this omission. As a result, the low-bid of GM Contracting, Inc. can be accepted by the council.

The project will start and be completed this summer so that the street mill and overlay project can be completed as scheduled.

**Recommendation**

Based on the recommendation of the consultant engineer, staff recommends that:

- The contract for this project be awarded to GM Contracting, Inc. in the amount of $160,578.75

Source of funding for the project is the 2017-2021 Capital Improvements Program – Utility Fund.

Submitted Through:
  Geralyn Barone, City Manager
  Merrill King, Finance Director

Originated by:
  Brian Wagstrom, Public Works Director
City Council Agenda Item #10A
Meeting of May 8, 2017

Brief Description
Resolution approving the final plat of MAYFAIR AT COPPERFIELD a three-lot subdivision at 14700 Copperfield Place

Recommendation
Adopt the resolution approving the final plat

Request
In October 2016, the city council approved the preliminary plat of MAYFAIR AT COPPERFIELD. The plat will divide an existing single-family lot into three lots; an existing home will remain and two new homes will be constructed. VAA Engineering, on behalf of property owner Mayfair Lofts Holding Co. LLC, is now requesting approval of the final plat.

Staff Comment
Approval of the final plat is reasonable:

1. The submitted final plat is substantially consistent with the previously approved preliminary plat.

2. All required legal documents have been submitted. However, minor wording changes must be made to the required conservation easement. As a condition of approval, this revised document must be submitted and approved by city staff prior to release of the final plat for recording.

Staff Recommendation
Adopt the resolution approving the final plat of MAYFAIR AT COPPERFIELD.

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

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

Project: Mayfair at Copperfield 1st Addn
Applicant: VAA Eng
Address: 14700 Copperfield Pl
Project No. 16023.17a

This map is for illustrative purposes only.
PRELIMINARY PLAT

SITE DATA

<table>
<thead>
<tr>
<th>LOT 1</th>
<th>48,175 SF</th>
</tr>
</thead>
<tbody>
<tr>
<td>LOT 2</td>
<td>22,456 SF</td>
</tr>
<tr>
<td>LOT 3</td>
<td>22,288 SF</td>
</tr>
<tr>
<td>BUILDABLE AREA LOT 2</td>
<td>7,805 SF</td>
</tr>
<tr>
<td>BUILDABLE AREA LOT 3</td>
<td>8,190 SF</td>
</tr>
</tbody>
</table>

HARD SURFACE DATA

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>EXISTING</th>
<th>AREA (SF)</th>
<th>PROPOSED</th>
</tr>
</thead>
<tbody>
<tr>
<td>HOUSE</td>
<td>4,130 SF</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DRIVEWAY</td>
<td>7,841 SF</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SIDEWALKS</td>
<td>1,232 SF</td>
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<td></td>
</tr>
<tr>
<td>HOUSE LOT 2</td>
<td>2,420 SF</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DRIVEWAY LOT 1</td>
<td>2,800 SF</td>
<td></td>
<td></td>
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<tr>
<td>DRIVEWAY LOT 2</td>
<td>2,594 SF</td>
<td></td>
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<tr>
<td>DRIVEWAY LOT 3</td>
<td>1,904 SF</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL DRIVEWAY AREA (SF)</td>
<td>7,318 SF</td>
<td></td>
<td></td>
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</table>

LEGEND

- EXISTING HOUSE
- EXISTING DRIVEWAY
- EXISTING SIDEWALKS
- PROPOSED HOUSE
- PROPOSED DRIVEWAY
- PROPERTY LINE
- SET BACK LINE
- EASEMENT
- EXISTING FENCE
- EXISTING CURB
- EXISTING EXISTING MAILBOX
- EXISTING GAS METER
- EXISTING AIR CONDITIONER
- EXISTING FLAG POLE
- EXISTING STONE WALL
- PROPOSED PROPERTY LINE
- PROPOSED SET BACK LINE
- PROPOSED PROPERTY LINE
- PROPOSED PERVIOUS PAVERS

MAYFAIR LOFTS LLC.
4931 WEST 35TH ST
ST. LOUIS PARK, MN 55416

CLIENT:
PROJECT:
ISSUE/REVISION DATE:
CERTIFICATION:
CLIENT PROJECT NO:
DRAWING NO:
DRAWING TITLE:
DATE:
DRAWN:
DESIGNED:
CHECKED:
PROJECT NO:
SCALE:

REVISION HISTORY:

Date Plotted: Friday, August 19, 2016

APPROVED:

MAYFAIR AT COPPERFIELD
FIRST ADDITION

NOT FOR CONSTRUCTION

PRELIMINARY PLAT

C221

SITING DATA:

TOTAL AREA 92,744 SF
LOT 1 48,175 SF
LOT 2 22,456 SF
LOT 3 22,288 SF
BUILDABLE AREA LOT 2 7,805 SF
BUILDABLE AREA LOT 3 8,190 SF

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- EXISTING FENCE
- EXISTING CURB
- EXISTING EXISTING MAILBOX
- EXISTING GAS METER
- EXISTING AIR CONDITIONER
- EXISTING FLAG POLE
- EXISTING STONE WALL
- PROPOSED PROPERTY LINE
- PROPOSED SET BACK LINE
- PROPOSED PROPERTY LINE
- PROPOSED PERVIOUS PAVERS

MAYFAIR LOFTS LLC.
4931 WEST 35TH ST
ST. LOUIS PARK, MN 55416

CLIENT:
PROJECT:
ISSUE/REVISION DATE:
CERTIFICATION:
CLIENT PROJECT NO:
DRAWING NO:
DRAWING TITLE:
DATE:
DRAWN:
DESIGNED:
CHECKED:
PROJECT NO:
SCALE:

REVISION HISTORY:

Date Plotted: Friday, August 19, 2016

APPROVED:

MAYFAIR AT COPPERFIELD
FIRST ADDITION

NOT FOR CONSTRUCTION

PRELIMINARY PLAT

C221

SITING DATA:

TOTAL AREA 92,744 SF
LOT 1 48,175 SF
LOT 2 22,456 SF
LOT 3 22,288 SF
BUILDABLE AREA LOT 2 7,805 SF
BUILDABLE AREA LOT 3 8,190 SF

HARD SURFACE DATA:

<table>
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<th>DESCRIPTION</th>
<th>EXISTING</th>
<th>AREA (SF)</th>
<th>PROPOSED</th>
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<tr>
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<td>DRIVEWAY</td>
<td>7,841 SF</td>
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<td>SIDEWALKS</td>
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<td>TOTAL DRIVEWAY AREA (SF)</td>
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LEGEND:

- EXISTING HOUSE
- EXISTING DRIVEWAY
- EXISTING SIDEWALKS
- PROPOSED HOUSE
- PROPOSED DRIVEWAY
- PROPERTY LINE
- SET BACK LINE
- EASEMENT
- EXISTING FENCE
- EXISTING CURB
- EXISTING EXISTING MAILBOX
- EXISTING GAS METER
- EXISTING AIR CONDITIONER
- EXISTING FLAG POLE
- EXISTING STONE WALL
- PROPOSED PROPERTY LINE
- PROPOSED SET BACK LINE
- PROPOSED PROPERTY LINE
- PROPOSED PERVIOUS PAVERS

MAYFAIR LOFTS LLC.
4931 WEST 35TH ST
ST. LOUIS PARK, MN 55416

CLIENT:
PROJECT:
ISSUE/REVISION DATE:
CERTIFICATION:
CLIENT PROJECT NO:
DRAWING NO:
DRAWING TITLE:
DATE:
DRAWN:
DESIGNED:
CHECKED:
PROJECT NO:
SCALE:

REVISION HISTORY:

Date Plotted: Friday, August 19, 2016

APPROVED:
Resolution No. 2017-

Resolution approving the final plat of MAYFAIR AT COPPERFIELD
at 14700 Copperfield Place

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

Section 1. Background.

1.01 VAA Engineering, on behalf of the Mayfair Lofts Holding Co. LLC, has requested approval of the final plat of MAYFAIR AT COPPERFIELD.

1.02 The property to be included in the plat is located at 14700 Copperfield Place. It is legally described as Lot 22, Block 1, COPPERFIELD.

1.03 On October 24, 2016, the city council approved the preliminary plat of MAYFAIR AT COPPERFIELD.

Section 2. Findings

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

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

Section 3. Council Action.

3.01 The city council approves the final plat of MAYFAIR AT COPPERFIELD. Approval is subject to the following conditions:

1. Prior to release of the final plat for recording:

   a) Submit a revised conservation easement.
1) The easement exhibit must be drawn from the approved wetland delineation and cover, at a minimum, 16.5 feet upland from the wetland boundary. An easement based on “edge of wetland” or “edge of water” will not be accepted.

2) The easement legal description must be updated to reflect the correct easement line.

3) The easement language must include allowance for construction and maintenance of stormwater management facilities and utility lines. However, every effort must be made to avoid installation of utility lines within the buffer.

b) Submit the following:

1) Two sets of mylars for city signatures.

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

3) Park dedication fee of $10,000.

2. Unless the city council approves a time extension, the final plat must be recorded by May 8, 2018.

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 8, 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 May 8, 2017.

________________________________
David E. Maeda, City Clerk
Brief Description
Ordinance amending City Code Section 525, concerning property maintenance

Recommendation
Adopt the ordinance

Proposed Ordinance

By city ordinance, the 1997 edition of the Uniform Housing Code (UHC) serves as the community’s housing and building maintenance regulations. Unfortunately, the UHC includes many references to construction methods, materials, and practices that are no longer relevant 20 years after its publication. Conversely, the 2015 edition of the International Property Maintenance Code (IPMC) is an up-to-date document based on the International Building Codes, a group of codes that are recognized worldwide. In addition, the IPMC recognizes energy conservation efforts. Some examples of differences between UHF and IPMC:

<table>
<thead>
<tr>
<th></th>
<th>UHC</th>
<th>IPMC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Structure Focus</td>
<td>Residential</td>
<td>Residential, Commercial, and Industrial</td>
</tr>
<tr>
<td>Energy Conservation</td>
<td>Hot Temperature Required = 120 degrees</td>
<td>Hot Temperature Required = 110 degrees</td>
</tr>
<tr>
<td></td>
<td>Minimum Room Temperature Requirement = 70 degrees</td>
<td>Minimum Room Temperature Requirement = 70 degrees</td>
</tr>
</tbody>
</table>

Staff is proposing an ordinance replacing reference to the UHC with reference to the IPMC.

Staff Recommendation

The ordinance was introduced on April 24, 2017. Staff recommends the council adopt the ordinance amending City Code Section 525, concerning property maintenance.

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

Originated by:
Susan Thomas, AICP, Assistant City Planner
Ordinance No. 2017-

An ordinance amending Chapter 5, Section 525 of the Minnetonka Code of Ordinance, concerning property maintenance

The City Of Minnetonka Ordains:

Section 1. Chapter 5, Section 525, is amended to read as follows:

525.005. Adoption by Reference.

The 1997 edition of the uniform housing code, 2015 International Property Maintenance Code published by the international conference of building officials International Code Conference, Inc., including the appendix, is adopted by reference as the housing code for the city. One copy of the code will be kept on file in the city clerk's office.

525.010. Housing Advisory and Appeals Board.

Until it appoints a housing advisory and appeals board, the city council will have the duties of that board as described in section H-203 of the uniform housing code 111 of the International Property Maintenance Board.

Section 2. This ordinance is effective 30 days after its publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on May 8, 2017.

____________________________

Terry Schneider, Mayor
Action on this ordinance:

Date of introduction: April 24, 2017
Date of adoption: May 8, 2017
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication: May 8, 2017

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on May 8, 2017.

David E. Maeda, City Clerk
City Council Agenda Item #14A
Meeting of May 8, 2017

Brief Description: Ordinance amending fire code

Recommended Action: Adopt the ordinance

Background

The city is authorized by law to enforce the Minnesota State Fire Code, to adopt the state fire code by reference, and, within limits, to adopt requirements that are equal to, in addition to, or more stringent than the requirements of the state fire code. The Minnesota Department of Public Safety has updated fire code provisions and has adopted the 2015 Minnesota State Fire Code, which incorporates provisions of the 2012 International Fire Code.

The fire marshal and city attorney have prepared an ordinance that adopts the revised state fire code, including several appendices to the state fire code that may be adopted at the option of the local unit of government. The ordinance was introduced at the April 24, 2017 regular city council meeting.

The ordinance does not propose any significant changes to the fire code from what has existed in the past. As explained at the April 24 meeting, however, the provisions regarding open flames on balconies might be perceived by the public as new, because the department has not proactively enforced that provision for several years due to staffing. In addition, the regulations on recreational fires have been revised by incorporated into the city code some requirements that previously were listed on the permit application as requirements.

At the April 24 meeting, the mayor raised a concern about addressing health concerns of people with asthma or other medical conditions that are irritated by burning materials. Staff has not made any change to the proposed ordinance to address that issue. Staff has undertaken a study of a number of issues related to recreational fires and proposes to discuss that study with the city council at a future study session in June 2017.

Recommendation

Adopt the ordinance.

Submitted through:
   Geralyn Barone, City Manager
   John Vance, Fire Chief
Originated by:
  Luke Berscheit, Fire Marshal
  Corrine Heine, City Attorney
Ordinance No. 2017-

An Ordinance amending sections 910.005, 910.010, 910.015 and 910.020 of the Minnetonka City Code, relating to the city fire code

The City of Minnetonka Ordains:

Section 1. Section 910.005 of the Minnetonka City Code is amended to read as follows:

910.005. Definitions.
Unless the context clearly indicates otherwise, certain words are defined for the purpose of this section as follows.

1. “Municipality” means the city of Minnetonka.

2. “Corporation counsel” means the city attorney.

3.—“Chief of the bureau of fire prevention” means the fire marshal.

4.3. “City fire code” means the fire code adopted in sections 910.005 through 910.030.

4. “Portable outdoor fireplace” means a portable, outdoor, sold-fuel-burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material. A portable outdoor fireplace may be open in design, or may be equipped with a small hearth opening and a short chimney or chimney opening in the top.

5. “Recreational fire” means an outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of 3 feet or less in diameter and 2 feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

Section 2. Section 910.010 of the Minnetonka City Code is amended to read as follows:

The stricken language is deleted; the underlined language is inserted.
910.010. Adoption of Minnesota State Fire Code.
The following are adopted and incorporated by reference as the city fire code:

1. State code. The 2015 state fire code, promulgated by the state department of public safety, as published in Minnesota Rules chapter 7511, subject to the amendments specified below, the 2007 Minnesota state fire code (MSFC) is adopted by reference as the city fire code for the city of Minnetonka.

2. International Fire Code. The 2012 edition of the International Fire Code (IFC) promulgated by the International Code Council, subject to the changes in this chapter 910 and in the state fire code. The MSFC adopts by reference the international fire code (IFC) promulgated by the international conference of building officials and the western fire chiefs association.

3. Appendices. The following appendices of Minnesota Rules subpart 7511.7900, amendments to the appendices of the IFC, is adopted as part of this code: B (Fire Flow Requirements for Buildings), C (Fire Hydrant Locations and Distribution), D (Fire Apparatus Access Roads), F (Hazard Ranking), H (Hazardous Materials Management Plan [HMMP] and Hazardous Materials Inventory Statements [HMIS] Instructions), I (Fire Protection Systems-Noncompliant Conditions), and K (Fires or Barbecues on Balconies or Patios).

One copy of the MSFC-state fire code and the IFC will be retained on file in the city clerk’s office.

Section 3. Section 910.015 of the Minnetonka City Code is amended to read as follows:

1. The limits referred to in MSFC section 3404, in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited in the following zoning districts, are as follows: zoning districts R-1, R-2, R-3, R-4, R-5, B-1, B-2, B-3, PUD, and PID.

2. The limits referred to in NFPA Standard No.158, as adopted by MSFC section 3801.1, in which storage of liquefied petroleum gases is restricted, are as follows: zoning districts R-1, R-2, R-3, R-4, R-5, B-1, B-2, B-3, PUD, and PID.
The limits referred to in MSFC section 3304, in which storage of explosives and blasting agents are prohibited, are as follows: zoning districts R-1, R-2, R-3, R-4, R-5, B-1, B-2, B-3, PUD, and PID.

Section 4. Section 901.020 of the Minnetonka City Code is amended to read as follows:

910.020. Amendments to the MSFC Minnesota state fire code.

The Minnesota state fire code is amended as follows:

1. Section 307, “Open Burning and Recreational Fires,” is amended to read as follows to include the following section:

   307.1. General. A person must not kindle or maintain or authorize to be kindled or maintained a recreational fire unless conducted and approved in accordance with this section.

   307.2. Burning Permit required. The person who will be responsible for the recreational fire must obtain a permit from the fire department prior to kindling a recreational fire. The permit holder is responsible for conducting, controlling and extinguishing the fire in compliance with the city fire code.

   307.3. Extinguishment authority. The fire chief or designee has the authority to order extinguishment of any fire if: the fire creates or adds to a hazardous situation; the fire chief or designee determines that the smoke from the fire is unreasonably offensive or injurious to others; or, a required permit has not been obtained.

   307.4.2. Recreational fires. Recreational fires must not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions which could cause a fire to spread within 25 feet (7620 mm) of a structure must be eliminated prior to ignition. Fire pits must be located a minimum of 10 feet from any property line.

   307.4.3. Portable outdoor fireplaces. Portable outdoor fireplaces must be used in accordance with the manufacturer’s instructions and must not be operated within 15 feet (3048 mm) of a structure or combustible material.
307.4.4. Materials burned. Wood burned in a recreational fire or portable outdoor fireplace must be a minimum of 3 inches in diameter. No trash, brush, leaves or treated lumber may be burned.

307.5. Attendance. Permitted fires must be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher complying with Section 906 of the state fire code with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, must be available for immediate utilization.

(1) Except as provided below, a person must not set on fire, or cause or permit to be set on fire, any combustible material within the city, including grass, weeds, trees, other vegetation, wood, building materials or any structure, without first obtaining a burning permit from the fire marshal. An application for a permit must include a description of the material to be burned, the purpose of the burning, the area where the burning will take place, the time of the proposed burning, and the name and address of the person(s) who will be conducting the burning and who will be responsible for its control and extinguishing. If the purpose is other than a small recreational fire, the application must also contain justification for the burning.

(2) The fire marshal should generally grant an application for a small recreational fire but is not required to grant a permit for any other purpose. The fire marshal may deny any permit application, including one for a small recreational fire, when in the best interests of the public health, safety, and welfare. The fire marshal may consider such factors as atmospheric conditions, proximity of structures and other combustibles, the potential of fire spreading, and air quality. Any permit may be subject to conditions which, in the opinion of the fire marshal, are appropriate to protect the public health, safety, and welfare.

(3) A burning permit is not required for woodburning fireplaces and stoves that are located in buildings or for charcoal fires used solely for the preparation of food. A burning permit is also not required for the burning of tobacco in cigars, cigarettes, and pipes.

(4) A burning permit granted by the fire marshal does not relieve the permittee from any liability because of damage resulting from the fire.

2. Appendix K (Fires or Barbecues on Balconies or Patios) of the state fire code is amended to read as follows:

1.1 Open flame prohibited. In any apartment or condominium building two or more stories in height, no person may kindle, maintain, or cause any fire or open
flame on any balcony above ground level, or on any ground floor patio within 15 feet of the structure.

1.2 Fuel storage prohibited. No person may store or use any fuel, barbecue, torch, or other similar heating or lighting chemical or device in any apartment or condominium building two or more stores in height, except as provided in this section 1.2. The following devices are allowed under the circumstances specified, provided that all devices must maintain an 18-inch clearance on all sides to combustibles::

1.2.1 Listed electric barbecue grills are allowed on balconies and patios provided they are permanently mounted and hardwired to the building’s electrical system.

1.2.2 Listed natural gas fueled barbecue grills are allowed on balconies and patios provided they are permanently mounted and plumbed to the building’s natural gas supply.

1.2.3 Listed propane fueled barbecue grills are allowed only on ground level. Propane cylinder storage is prohibited within 15 feet of the building.

1.2.4 Listed charcoal barbecue grills are allowed only on ground level and may not be used or stored within 15 feet of the building.

Section 3301.1.3 is amended to read:

The chief may seize, take, remove or cause to be removed and destroyed at the expense of the owner all stocks of fireworks offered or exposed for sale stored or held in violation of this section.

6. Subpart 1 is amended to read:

Appendices A, B, C, D, E, F, G, H, I, and J of the Minnesota state fire code are deemed a part of this code and may be enforced as such.

Section 5. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 6. 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:  April 24, 2017
Date of adoption:  
Motion for adoption:  
Seconded by:  
Voted in favor of:  
Voted against:  
Abstained:  
Absent:  
Ordinance adopted.

Date of publication:

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

David E. Maeda, City Clerk

The stricken language is deleted; the underlined language is inserted.
City Council Agenda Item #14B
Meeting of May 8, 2017

**Brief Description**
Amendment to the liquor license for Zuhrah Shriners at 6120 Blue Circle Drive

**Recommendation**
Approve the amendment

**Background**

Zuhrah Shriners holds on-sale club and Sunday liquor licenses. Zuhrah Shriners is requesting that the liquor licenses be amended to include an outdoor patio in the licensed premise at 6120 Blue Circle Drive. The property is located in the southeast corner of the Opus II Development.

In 2014, the city approved a conditional use permit for a gathering space at 6120 Blue Circle Drive for Zuhrah Trustees Incorporated. The proposed patio addition is considered a minor alteration to the originally submitted plan and does not require an amendment to the approved conditional use permit. When a liquor license is involved, an enclosure is required and the enclosure shall not be interrupted; access must be only through the principal building. The outdoor area will be surrounded by a metal fence, and the entrance to the outdoor area will be from the main part of the building.

Noise levels are sometimes a concern for outdoor areas associated with a liquor license. The building is located in a commercial location so noise is not as concerning.

**Recommendation**

Staff recommends that the city council approve the amendment to include the outdoor patio in the licensed premise for Zuhrah Shriners.

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

Originated by:
- Kathy Leervig, Community Development Coordinator
Location Map

Applicant:     Zuhrah Shriners
Address:      6120 Blue Circle Dr.
City Council Agenda Item #14C  
Meeting of May 8, 2017

**Brief Description**  
Preliminary and final plats, with front yard setback variances, and waiving the McMansion Policy, for THE ENCLAVE AT REGAL OAK at 3639 Shady Oak Road and 3627 Regal Oak Lane

**Recommendation**  
Adopt the resolution approving the plats, with front yard setback variances, and waiving the McMansion Policy

**Background**

**July 2016.** The city conducted a concept plan review for subdivision of the existing residential properties at 3639 Shady Oak Road and 3627 Regal Oak Lane. The plan contemplated division of the properties into six, single-family lots ranging in size from 8,600 square feet to 29,000 square feet. The council generally expressed that the proposed number of lots was too high.

**August 2016.** Airborne Construction One, LLC submitted formal plans for subdivision of the two properties. The plan proposed division into five, single-family lots ranging in size from 15,020 square feet to 46,110 square feet. The home at 3639 Shady Oak Road would be removed, the home at 3627 Regal Oak would remain, and four new homes would be constructed. The proposal required approval of: (1) rezoning from R-1, low-density residential, to PUD, planned unit development; (2) a master development plan; and (3) preliminary and final plats.

**October 2016.** The planning commission considered the proposed five-lot subdivision. The commission concurred with staff recommendation and recommended the council deny the subdivision for three reasons:

1. The proposed subdivision would not result in a significant public benefit warranting use of PUD zoning. Rather, it would simply result in creation of five lots on an area where four lots could otherwise be achieved.

2. The city is legally obligated to allow reasonable use of a property; it is not obligated to allow maximum use. As currently configured, there are two residential lots on the east side of Regal Oak each containing a single-family home. This constitutes reasonable use of the site. In the event that a subdivision were proposed that met existing R-1 zoning standards, as well as the provisions of the tree protection ordinance, that too would constitute reasonable use of the properties.

3. The proposal would result in removal of, or significant impact to, 55 percent of the high-priority trees located outside of the sites’ woodland preservation area (WPA). This would exceed the 35 percent allowed under the tree protection ordinance.
This proposal was not considered by the council. Rather, the applicant chose to reevaluate the specifics of the plan.

November 2016. The applicant submitted revised information and plans, including: (1) imposition of design and size restrictions on new homes within the subdivision; and (2) revised grading. Staff evaluated the plans and still found that they would result in a significant impact to natural topography and trees. Staff then commissioned an engineering firm – different than that being used by the applicant – to take a “fresh” look at the proposed subdivision and offer general plan improvements (at the applicant’s expense). The general plan provided by the city’s consultant increased preservation of significant trees and an existing wooded area east of the proposed home sites, but would not necessarily increase preservation of high-priority trees. Staff presented the general plan to the applicant, who was amenable to making the changes suggested by the plan.

January 2017. The city council considered the November 2016 plans and consultant-drafted general grading plan. Staff continued to be of the opinion that the proposal did not warrant the use of PUD zoning. The council concurred with staff’s opinion. However, rather than denying the requests, the proposal was tabled to allow for further plan revisions.

Current Proposal

Airborne Construction One, LLC has now submitted applications for a subdivision consistent with the properties’ current R-1 zoning. As proposed, the properties at 3639 Shady Oak Road and 3627 Regal Oak would be divided into four lots. The home at 3639 Shady Oak Road would be removed, the home at 3627 Regal Oak would remain, and three new homes would be constructed.

Planning Commission Hearing and Recommendation

The planning commission considered the request on March 23, 2017. The commission report and associated plans are attached. Staff recommended approval of the plats, with setback variances, and waiving the McMansion Policy noting that:

1. The proposed lots would meet all minimum size and dimension standards as required by city code.

2. Though the amount of grading and tree impact would still be visually significant, the anticipated impact to high-priority trees would be as allowed by the tree protection ordinance.

3. While the homes could be constructed meeting the required 35-foot front yard setback, such location would likely result in more grading and associated tree loss along the eastern portion of the site. Though there are few high-priority trees along the property line outside of the WPA, the trees that do exist in the area create a wooded “feel.”
4. The requested front yard setback variances, with commensurate rear yard setback increases, would not impact the buildable area of any of the proposed lots. Rather, the variances would simply shift the buildable area with the intent of minimizing grading and associated trees loss.

At the meeting, a public hearing was opened to take comment. Three area residents addressed the commission. One expressed concern that while the original proposal was for smaller homes, the current proposal include no home size restrictions. The second resident requested that required tree mitigation be generally located along the east property line. The final speaker noted concerns about existing and possible drainage through the WPA. The commission asked questions and discussed the proposal, with particular emphasis on the McMansion Policy. The commission asked what maximum floor area ratio (FAR) and resulting home size could be if the policy were applied. Staff noted the following:

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<th>0.16 FAR max. for existing homes on Regal Oak</th>
<th>0.22 FAR max. per McMansion Policy review area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot 1</td>
<td>22,410*</td>
<td>3,585 sq.ft.</td>
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<tr>
<td>Lot 2</td>
<td>22,000</td>
<td>3,520 sq.ft.</td>
</tr>
<tr>
<td>Lot 3</td>
<td>23,100</td>
<td>3,695 sq.ft.</td>
</tr>
</tbody>
</table>

* area following 7-ft ROW dedication

By policy and city code definition, floor area includes the sum the fully exposed gross horizontal area of a building, including attached garage space and enclosed porch areas, and one-half the gross horizontal area of any partially exposed level such as a walkout or lookout level.

Ultimately, the commission indicated it was comfortable with the proposed lots and requested setback variances, but was not inclined to waive the McMansion Policy. On a 5-0 vote, the commission recommend the city council approve the preliminary and final plats, with setback variances, but enforce the McMansion Policy at a maximum FAR of 0.22. Meeting minutes are attached. There have been no changes to the proposal since the hearing.

**Previous City Council Consideration**

The proposal was scheduled for council consideration on April 10, 2017. However, consideration was postponed at the request of the applicant.

**Staff Recommendation**

Staff understands, but does not necessarily agree with, the planning commission’s position regarding the enforcement of the McMansion Policy.
As previously noted, the applicant’s proposal would result in a significant amount of grading and disturbance to the wooded area on the site. However, this disturbance and removal would not be over allowable thresholds outlined by city code. Given this, and the fact that no rezoning is requested, the city has little discretion related to grading and disturbance. In fact, the city’s only “leverage” is to allow a reduced front yard setback and require an increased rear yard setback. If the city chooses to enforce the McMansion Policy, the applicant could choose to remove the front yard setback variance request, and therefore the required increased rear yard setback, and push the homes closer to the east property line. The front yard setback variances, and commensurate rear yard setback increases, were not requested in order to “get” larger homes than could otherwise be constructed on site. They were suggested by staff in an effort to reduce site impact. From staff’s perspective, retaining some wooded area, even a relatively small amount, is worth allowing waiving the McMansion Policy in this instance.

Staff recommends the city council adopt the resolution approving preliminary and final plats, with front yard setback variances, and waiving the McMansion Policy, for THE ENCLAVE AT REGAL OAK at 3639 Shady Oak Road and 3627 Regal Oak Lane.

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

Originator: Susan Thomas, AICP, Assistant City Planner
Brief Description
Preliminary and final plats, with front yard setback variances, and waiving the McMansion Policy, for THE ENCLAVE AT REGAL OAK at 3639 Shady Oak Road and 3627 Regal Oak Lane.

Recommendation
Recommend the city council adopt the resolution approving the plats.

Background

July 2016. The city conducted a concept plan review for subdivision of the existing residential properties at 3639 Shady Oak Road and 3627 Regal Oak Lane. The plan contemplated division of the properties into six, single-family lots ranging in size from 8,600 square feet to 29,000 square feet. The council generally expressed that the proposed number of lots was too high.

August 2016. Airborne Construction One, LLC submitted formal plans for subdivision of the two properties. The plan proposed division into five, single-family lots ranging in size from 15,020 square feet to 46,110 square feet. The home at 3639 Shady Oak Road would be removed, the home at 3627 Regal Oak would remain, and four new homes would be constructed. The proposal required approval of: (1) rezoning from R-1, low-density residential, to PUD, planned unit development; (2) a master development plan; and (3) preliminary and final plats.

October 2016. The planning commission considered the proposed five-lot subdivision. The commission concurred with staff recommendation and recommended the council deny the subdivision for three reasons:

1. The proposed subdivision would not result in a significant public benefit warranting use of PUD zoning. Rather, it would simply result in creation of five lots on an area where four lots could otherwise be achieved.

2. The city is legally obligated to allow reasonable use of a property; it is not obligated to allow maximum use. As currently configured, there are two residential lots on the east side of Regal Oak each containing a single-family home. This constitutes reasonable use of the site. In the event that a subdivision were proposed that met existing R-1 zoning standards, as well as the provisions of the tree protection ordinance, that too would constitute reasonable use of the properties.

3. The proposal would result in removal of, or significant impact to, 55 percent of the high-priority trees located outside of the sites’ woodland preservation area. This would exceed the 35 percent allowed under the tree protection ordinance.
This proposal was not considered by the council. Rather, the applicant chose to reevaluate the specifics of the plan.

November 2016. The applicant submitted revised information and plans, including: (1) imposition of design and size restrictions on new homes within the subdivision; and (2) revised grading. Staff evaluated the plans and still found that they would result in a significant impact to natural topography and trees. Staff then commissioned an engineering firm – different than that being used by the applicant – to take a “fresh” look at the proposed subdivision and offer general plan improvements. The general plan provided by the city’s consultant increased preservation of significant trees and an existing wooded area east of the proposed home sites, but would not necessarily increase preservation of high-priority trees. Staff presented the general plan to the applicant, who was amenable to making the changes suggested by the plan.

January 2017. The city council considered the November 2016 plans and consultant-drafted general grading plan. Staff continued to be of the opinion that the proposal did not warrant the use of PUD zoning. The council concurred with staff’s opinion. However, rather than denying the requests, the proposal was tabled to allow for further plan revisions.

Current Proposal

Airborne Construction One, LLC has now submitted applications for a subdivision consistent with the properties’ current R-1 zoning. As proposed, the properties at 3639 Shady Oak Road and 3627 Regal Oak would be divided into four lots. The home at 3639 Shady Oak Road would be removed, the home at 3627 Regal Oak would remain, and three new homes would be constructed.

Current Proposal Summary

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

- **Existing Site Conditions.** The subject properties are located near the northeast corner of the Shady Oak Road/Regal Oak intersection. The 3639 Shady Oak Road property is roughly 2.2 acres in size. The existing home, constructed in 1960, is located near the highest point of the lot. Grade falls in all directions from this point; there is a 50-foot change in elevation from the highest to lowest point on the property. The 3627 Regal Oak property, on which a home was constructed in 1986, is 0.4 acres in size. It too contains a 50-foot change in elevation, with grade falling from south to north. In addition to mature oak, elm, and boxelder trees, both properties contain a mesic oak forest woodland preservation area (WPA).
• **Proposed Lots.** The applicant proposes to divide the two existing properties into four residential lots, ranging in size from 22,000 square feet to over 46,000 square feet.

• **Site impacts.** Significant grading would occur to accommodate construction on the proposed lots and installation of required utilities and stormwater management facilities.

**Primary Questions and Analysis**

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

• **Are the proposed lots reasonable?**

Yes. The proposed lots would meet all minimum size and dimension standards as required by city code.

<table>
<thead>
<tr>
<th>Area Width Average</th>
<th>Area</th>
<th>Buildable</th>
<th>Depth</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td></td>
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</tr>
<tr>
<td>Required</td>
<td>22,000 sq.ft.</td>
<td>3,500 sq.ft.</td>
<td>125 ft</td>
</tr>
<tr>
<td>Lot 1</td>
<td>23,410 sq.ft.</td>
<td>8,295 sq.ft.</td>
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</tr>
<tr>
<td>Lot 2</td>
<td>22,000 sq.ft.</td>
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<tr>
<td>Lot 3</td>
<td>23,100 sq.ft.</td>
<td>9,870 sq.ft.</td>
<td>165 ft</td>
</tr>
<tr>
<td>Lot 4</td>
<td>46,110 sq.ft.</td>
<td>10,065 sq.ft.</td>
<td>210 ft</td>
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</tbody>
</table>

*outside of proposed conservation easement

• **Are the proposed site impacts reasonable?**

Yes. The proposed subdivision has been evaluated for conformance with the city’s natural resource ordinances, including the tree protection and steep slope ordinances. These ordinances attempt to balance the community benefit of preserving natural resources with private development rights.

**Trees.** Under the tree ordinance, no more than 35% of a site’s high-priority trees may be removed or impacted during development. The subject property contains 31 high-priority trees and 92 significant trees. The proposed subdivision and resulting construction would result in removal of, or substantial damage to, 10 high-priority trees. This level of removal/damage would meet the standards of the tree protection ordinance.
**Steep Slope.** By code definition, a “steep slope” is one that: (1) rises at least 25 feet; (2) has an average grade change of at least 20%; and (3) has a width of at least 100 feet. There are several areas within the proposed subdivision that are visually steep and that meet one or two of the “steep slope” criteria. However, there is no area that meets all three criteria. Therefore, there is no code-defined “steep slope” on the site.

- **Is the requested front yard setback variance reasonable?**

Yes. The general plans submitted by the applicant illustrate homes generally located 25 feet from the front property lines adjacent to Regal Oak. While the homes could certainly be constructed meeting the required 35-foot front yard setback, such location would likely result in more grading and associated tree loss along the eastern portion of the site. Though there are few high-priority trees along the property line outside of the WPA, the trees that do exist in the area create a wooded “feel.”

In order to minimize grading and maximize tree protection during the initial construction phase, staff supports the requested 10-foot reduction in front yard setback with a commensurate 10-foot increase in rear yard setback. With a lesser front yard setback offset by greater rear yard setback, the allowable buildable area on each lot would not increase. Rather, it would simply shift to the west. Further, the proposed 25-foot front yard setback is consistent with the setback of other existing homes along the Regal Oak cul-de-sac. In 1979 when the properties were originally platted, front yard setback variances from 35 feet to 25 feet were granted for four of the five lots.

- **Should the McMansion Policy be waived?**

Yes. From staff’s perspective, the intent of the McMansion Policy is twofold: (1) to ensure that homes requiring variances – either due to non-conformance with lot standards or setback standards – have a visual mass similar to that of existing homes within a neighborhood; and (2) to ensure there is some connection between the buildable area of a property and the mass of the home constructed on it.

The requested front yard setback variances, with commensurate rear yard setback increases, would not impact the buildable area of any of the proposed lots. Rather, the variances would simply shift the buildable area with the intent of minimizing...
grading and associated trees loss. Given that the variance would not allow for larger homes to be constructed on the lots than would otherwise be allowed, staff supports waiving the McMansion Policy.

Staff Recommendation

Recommend the city council adopt the resolution approving preliminary and final plats, with front yard setback variances, and waiving the McMansion Policy, for THE ENCLAVE AT REGAL OAK at 3639 Shady Oak Road and 3627 Regal Oak Lane.

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

**Surrounding Uses**
The subject properties are surrounded by single-family residential lots.

**Surrounding Lots**
The properties within 400 feet of the subject properties and 1000 feet along Shady Oak Road have a mean average size of 27,635 square feet and a median average size of 23,079 square feet.

**Planning**
Guide Plan designation: low-density residential
Existing Zoning: R-1, low-density residential

**Grading**
Significant grading would occur to accommodate the proposed home sites and installation of utilities and stormwater management practices. Generally, excavation would occur on the southerly portion of the development and fill in the northerly portion. For example, on proposed Lot 1 two to nine feet of excavation would be required, while on Lot 3 six to eight feet of fill may occur.

**Stormwater**
Under the city’s stormwater rule, stormwater management must be provided for each individual home. Stormwater facilities, such as rain gardens, must control for runoff rate, volume and quality. Under the general plans submitted, runoff from new impervious surface would be directed to one of two raingardens that would be constructed adjacent to Regal Oak. As a condition of approval, specific stormwater plans must be submitted for staff review and approval in conjunction with building permit applications for each lot.

**Utilities**
Public water, sanitary, and storm sewer facilities are available to the site from both Shady Oak Road and Regal Oak.

**Variance Standard**
A variance may be granted from the requirements of the zoning ordinance when: (1) it is in harmony with the general purposes and intent of the ordinance; (2) it is consistent with the comprehensive plan; and (3) when an applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties mean that the applicant proposes to use a property in a reasonable manner not permitted by the ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and, the variance if granted, would not alter the essential character of the locality. (City Code §300.07)
Purpose and Intent. The intent of the front yard setback requirement is twofold: (1) to ensure adequate separation between structures and the traveled portion of streets; and (2) to establish consistent building lines with a neighborhood. The proposed setback would meet this intent:

1. A standard parking stall is 18 feet in length, as such the 25-foot setback would allow vehicles to be parked on driveways without encroaching on public right-of-way.

2. The setback would be consistent with other variances approved for the Regal Oak neighborhood.

Comprehensive Plan. The guiding principles in the comprehensive plan provide for maintaining, preserving, and enhancing existing single-family neighborhoods. The requested setback variances are not contrary to these principles. Rather, they could allow for construction at a building line consistent with that approved for the larger area.

Practical Difficulties.

1. Reasonableness. With a commensurate increase in rear yard setback, the requested decrease in front yard setback would not increase the buildable area of any lot. Rather, it would simply shift the buildable area to the west.

2. Unique Circumstance and Neighborhood Character. The proposed 25-foot setback would be consistent with the 25-foot setback also established by variance for other homes along Regal Oak.

McMansion Policy

The McMansion Policy is a tool the city can utilize to ensure new homes or additions requiring variances are consistent with the character of the existing homes within the neighborhood. By policy, the floor area ratio (FAR) of the subject property cannot be greater than the largest FAR of properties within 1,000 feet on the same street, and a distance of 400 feet from the subject property. The highest FAR on Regal Oak is 0.16.

Tree Removal

The tree protection ordinance establishes specific thresholds for tree removal and impact during subdivision and during the construction of new homes, additions, or accessory buildings. Two years after issuance of a certificate of occupancy for a home, and outside of construction activity, the protection standards no longer apply.
In other words, but for trees located within a conservation easement, a private property owner may choose to remove a tree on his or her property two years following issuance of a certificate of occupancy. In this way, the tree protection ordinance attempts to balance the potential impact of development and construction with the private property rights.

**Natural Resources**
Best management practices must be followed during the course of site preparation and construction activities. This would include installation and maintenance erosion control fencing.

**Outside Agencies**
The applicant’s proposal has been submitted to various outside agencies for review, including Hennepin County and Minnehaha Creek Watershed District.

**Pyramid of Discretion**

![Pyramid Diagram]

**Motion Options**
The planning commission has several options:

1. Approve as presented by staff. In this case, a motion should be made recommending the city council adopt the resolution approving the plats, with setback variances, and waiving the McMansion Policy.

2. Approve the plats, without setback variances. In this case, a motion should be made to recommend the city council approve the plats, but deny the front yard setback variances. This motion should include a statement as to why the denial is recommended.

3. Approve the plats with setback variances, but enforce the McMansion Policy. In this case, a motion should be made recommending the city council adopt the resolution approving the plats, with setback variances, and enforce the floor area ratio regulations as established by the McMansion Policy.
4. Deny the plats. In this case, a motion should be made to recommend the city council deny the plats. This motion should include a statement as to why the denial is recommended.

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

**Voting Requirement**

The planning commission will make a recommendation to the city council. A recommendation for approval requires an affirmative vote of five members, due to the setback variances. The city council’s final approval requires an affirmative vote of five members, again due to the setback variances.

**Neighborhood Comments**

The city sent notice to 116 area property owners and has no written comments to date.

**Deadline for Action**

120-day statutory deadline has been waived.
Project: Enclave at Regal Oak
Applicant: Airborne Construction One LLC
Address: 3639 Shady Oak Rd
Project No. 16007.16b

This map is for illustrative purposes only.
CONCEPT PLAN
JULY 2016
Enclave At Regal Oak - Concept Plan

Setbacks:
Front: 20'
Side: 10'
Rear: 35'

Regal Oak
Shady Oak Road
Lot 1 0.36 AC
Lot 2 0.24 AC
Lot 3 0.20 AC
Lot 4 0.24 AC
Lot 5 0.54 AC
Conservation Easement 0.67 AC
1. A resolution approving a conditional use permit for a restaurant and outdoor eating area, with variances, at 13008 Minnetonka Boulevard (see pages A35-A40).

2. A resolution approving final site and building plans, with variances, for site and building changes at 13008 Minnetonka Boulevard (see pages A41-A49).

O’Connell, Odland, Powers, Calvert, and Hanson voted yes. Knight and Kirk were absent. Motion carried.

9. Other Business

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

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

Thomas reported. Staff recommends the planning commission provide comments and feedback to assist the applicant with future direction that may lead to the preparation of more detailed development plans.

Roger Anderson, applicant, thanked staff and commissioners for their input and feedback on the proposal. He has enjoyed working with staff and thinks it will be great going forward. He is the developer and civil engineer on the project. He stated that:

- The plat makes sense to him. It has a nice flow. The drainage and utilities layout nicely.
- Jo Colleran did a good job of delineating the old-growth woods. A survey was done. There is a conservation easement on the north side of the property. He entered into discussions with the neighbor to join the conservation easement. A stormwater pond may be added.
- He wants to include a rain garden on each lot to treat and minimize stormwater impact.

Mike Haley stated that he is working with Mr. Anderson on the home designs. He stated that:

- The concept is simple. He wants to build 5 homes that are geared to empty nesters. He provided an illustration of a model with one level and 1,500 square feet on the main floor.
• The average homeowner is 65 years of age in Minnetonka. Most want to downsize, but stay in the community. The houses would be priced in the $600,000, but are considered affordable new construction in Minnetonka.
• Three of the 5 houses would have geothermal systems including the model.
• The houses would not be mcmansions. Three of the 5 would have master bedrooms on the main floor.
• The build out would be finished in 12 to 15 months since it is a high-demand product. It is scheduled to begin construction this fall.
• There would be a simple homeowner’s association to take care of the grass and snow.
• The houses would be built custom to each homeowner’s choice.

O’Connell thinks the concept is great and that it would work. He noted that there are similar developments being done. Mr. Haley emphasized that the location is what makes the proposed homes in great demand. Mr. Anderson said that the homes would be one-floor living with basements, so there would be rooms when the kids and grandchildren visit. There would be high-end finishes.

Acting Chair Odland asked how many bedrooms would be on the first floor. Mr. Haley said the houses would have a great-room concept where the kitchen, dining, and great room flow together. There would be two full baths on the main floor and a large walk-in closet. Sod and large trees would be planted and sprinklers would be installed immediately. A big impact can be made with landscaping on a small lot.

Calvert asked where the rain gardens would be located in relation to the gully. Mr. Anderson pointed out the area for a pond and the rain gardens. It would look like a rock garden area. The roof gutters would direct the runoff to the rain garden. Each house would take care of its own runoff. It would work well. This is the first year in 40 years where house sizes became smaller instead of bigger.

Calvert asked how much parking would be available. Mr. Anderson explained that Regal Oak would meet city street requirements and be 24-feet wide. Each of the houses would have a 2-vehicle garage. There would be room for 2 more vehicles in the driveway. That is generally enough parking.

Calvert asked if the entire area would be graded flat. Mr. Anderson said that it would not be flat. Colleran identified the significant trees and they are marked on the survey. It turned out that the majority of significant trees are in the
conservation easement. He would attempt to save the few in other areas, but many of them would be removed and replaced by other trees.

Powers liked the product and presentation.

Calvert asked why all of the houses would not have geothermal systems. Mr. Haley stated due to the cost. It would be included in the model and the buyer would be encouraged to include one, but it would be the homebuyer’s option. Mr. Haley stated that a back-up system would still have to be included. The increase in cost is $25,000. The loop system virtually lasts forever.

The audience was invited to provide input.

Ron Hanson, 12215 Mari Lane, stated that the area is wooded and the oak trees are large.

Cheryl Smith, 3624 Arbor Lane, stated that:

- She was concerned that the houses in the examples are larger than 15,000 square feet.
- She was concerned with tree mitigation. She loves the wildlife. The proposal would change it.
- The lots would be smaller and density increased compared to what is on the street now.

Hyde Thompson, 3616 Arbor Lane, requested that street lighting point downward. He liked the idea of the rain gardens and healing the gully.

Calvin Lee, 3636 Regal Oak, stated that:

- His view is currently of trees. He met with Mr. Haley and thinks that things seem copasetic. He wants to make sure that the trees and landscaping prevent a stark change.
- He was concerned with the safety of his kids riding bikes on the street during construction, where the construction vehicles would park, and the noise created by construction workers during the 12 to 18 months.
- There are two rental houses on the court.
- It would be nice if the houses would stay in tune with the existing houses. The proposed houses look too modern for the neighborhood.
• He and his wife have not decided if they like the project yet or not. He asked if there would be another step where the public would comment.
• He asked if all of the houses would be one story.

Annette Lee, 3636 Regal Oak, stated that:
• Parking for construction vehicles could be located where the existing home is on Shady Oak Road.
• She is concerned with the damage to her property during the construction.
• Her driveway is already used as a u-turn.
• She is concerned too many houses are being added to the area.

Vanessa Green, 3632 Arbor Lane, stated that:
• She is completely opposed to the proposal. This would destroy the large lot sizes and mature trees. This would be completely out of character with the neighborhood.
• The forest would be leveled. There are nesting hawks, owls, and woodpeckers. She is appalled.
• The density makes her uncomfortable.

O’Connell stated that this type of project has been reviewed by the commission before and they have been found generally favorable with some design tuques approved by staff along the way. He did not see this project to be any different.

Powers appreciates the neighbors’ input. He had a similar situation happen in his neighborhood. He agreed that issues can be worked out over time. Seniors in Minnetonka are looking to stay in the area in smaller houses. Small lots are a preferred reality going forward.

Calvert asked if approval of the proposal would set a precedent. Thomas explained the difference between legal and fairness precedents. Applications must be considered individually. After the concept plan review, the applicant may submit an application with plans that would be reviewed by the planning commission and city council with a public hearing being held at the planning commission. The planning commission would provide a recommendation to the city council.

Hanson agreed with O’Connell that the commission has seen this type of project a lot. He will support the proposal once slight changes have been made. The
existing road makes the proposal less forced. He liked the inclusion of the conservation easement. Four lots might be more comfortable for the neighborhood. The conservation easement does provide a long-term benefit for the house on Regal Oak. The proposal would preserve the neighborhood character. Trees would be preserved and some would be replaced. There would be nice landscaping and quality construction. He could not see denying this proposal when compared to others that have been approved.

Acting Chair Odland would be curious how four lots would fit.

Calvert applauded the developer for protecting the environment. There are advantages to the geothermal. She encouraged planting large trees to decrease the visual impact and impact to wildlife. Dead trees do provide habitat. She would like natural resources staff to address the steep gully, runoff, and wildlife. The city does not have adequate housing stock in this type of housing.

B. Concept plan for a 75-unit apartment building at 2828 and 2800 Jordan Avenue.

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

Cauley reported. Staff recommends the planning commission provide comments and feedback to assist the applicant with future direction that may lead to the preparation of more detailed development plans.

John Ferrier of CSM Corporation, applicant, stated that:

- He appreciated the planning commission reviewing the concept plan.
- He agreed that a traffic study is warranted. His company owns additional properties in the area. He wants to make sure the amount of traffic would be appropriate.
- Staff found a previous plan not viable due to a steep slope on the site. The multi-family housing market is on fire right now. The building would be located in an appropriate area to deal with the topography.
- There is a berm on the west side. That is not a naturally occurring slope. It was created when an adjacent site was graded. He explained the grading of the site. There would be tuck-under parking utilizing the topography. The slope preservation ordinance criteria would be followed.
- A lot of the trees are not quality. As many of the trees as possible would be preserved.
Larry Barenbaum, a partner at Big Top Liquors in Ridge Square, clarified that the business pays rent on over 8,500 square feet, not 5,000 as the previous speaker mentioned. Total Wine has changed the scope of the business for the better. The consumer benefits by the incredible operation that he has witnessed. There have been improvements over the years to address safety concerns caused by traffic. America provides a competitive retail world. Haskell's is a good retailer in this city and knows how to compete to make it better for their customers. He has a high level of regard for everyone he has dealt with at Total Wine.

The public hearing was closed.

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

14. Other Business:

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

City Planner Loren Gordon provided the staff report.

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

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

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

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

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

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

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

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

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

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

Cheryl Smith, 3624 Arbor Lane, stated that the size of the lots would be out of character with the neighborhood. She moved here because she loves the wildlife. There are currently a lot of water issues. There is a hill between Lots three and four. Her lot is downhill of the proposal and has a drainage pipe. The houses on her side of the street sell for $350,000. She requested councilmembers consider the proposal carefully.
Hanson identified that commissioners must decide the best location for the driveway.

Powers agreed. He stated that there would be no dramatic difference between the proposed drive and every other drive on Copperfield Place. The proposed lots meet all ordinance requirements. He agrees with staff's recommendation.

Chair Kirk noted that the only variance has to do with the driveway. He feels like he must support the proposal. A motion needs to be made to provide a recommendation to the city council.

Powers moved, second by Hanson, to recommend that the city council adopt the resolution approving the preliminary plat of Mayfair at Copperfield, a three-lot residential subdivision with lot access variance, at 14700 Copperfield Place (see pages A14-A26).

Powers, Hanson, and Knight voted yes. Odland, Calvert, and Kirk voted no. O'Connell was absent. Motion failed.

This item is scheduled to be reviewed by the city council October 24, 2016.

C. Items concerning The Enclave of Regal Oak at 3639 Shady Oak Road and 3627 Regal Oak Lane.

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

Thomas reported. She recommended denial of the application based on the findings listed in the staff report.

Chair Kirk clarified that the proposal would make two lots into five lots with one existing house that would remain.

Odland confirmed with Thomas that the item could be tabled. Chair Kirk added that the applicant could revise the proposal before it will be reviewed by the city council. Thomas stated that feedback from commissioners would be beneficial.

Thomas reviewed the suggestions provided by the applicant.

Roger Anderson, engineer representing the applicant, stated that:

- The six-lot concept laid out nicely.
- Councilmembers stated that they would prefer four lots.
• The proposal would meet R-1A requirements, but that would not work because the proposal does not include building a street as required by R-1A.

• Three R-1 lots could meet ordinance requirements, but the idea is to make the houses provide one-floor living.

• The floor area ratio (FAR) would comply with R-1A requirements and the applicant is happy with that size. It would restrict the size of the houses somewhat and keep the price point around $600,000.

• He compared the proposal to Cherrywood Pointe. The public benefit of the proposal would be providing a home for seniors. It is harder to see the public benefit for a 4-unit proposal than 99-unit proposal.

• The proposed type of housing is unavailable in Minnetonka right now. Large lots would support large houses. The proposed houses with floor area restrictions with 1,800-square-foot to 2,000-square-foot main floors and no second floors. That would provide a public benefit.

• Almost two thirds of an acre would be dedicated in a conservation easement.

• A pipe that directs water to the proposed property would be fixed, rain gardens would be installed, and geothermal would be used. The impact to the environment would be the same for four R-1A houses or three R-1 houses. The amount of grading would be approximately the same.

• The best plan is the proposed PUD for ramblers with walkouts and lookouts. The proposal would provide a public benefit by providing new, single-level living houses.

Hanson asked if the existing house on Lot 5 was included in a previous review of the proposal. Mr. Anderson explained that the property owner is a joint applicant who reached an agreement with the original applicant.

Powers asked for the size and price of houses that would be built with R-1 zoning. Mr. Anderson answered that he has received inquiries from buyers who want to build a 6,000-square-foot house.

The public hearing was opened.
Cheryl Smith, 3625 Arbor Lane, thanked Thomas for her responses to her emails. She stated that:

• She did not support the proposal.
• She saw a pileated woodpecker and owls on the site.
• She was concerned with stormwater drainage and the city having access to the retention pond to keep it clean.
• The land would be decimated and the woods would no longer soak up water.

Grace Sheely, 14325 Grenier Road, thought this would be a great opportunity to utilize R-1A zoning. She encouraged thinking long term. She was concerned that there would be a tax base loss due to the next generation not wanting to purchase the current houses. R-1A zoning may be able to save some of the woods, but she did not know. She suggested more stormwater drainage improvements to help the residents downhill.

Vanessa Green, 3632 Arbor Lane, stated that:
• She agreed with the other speakers.
• A river would form in her backyard when she was a kid when it rained. She was concerned that cutting down the trees would cause huge runoff.
• She was concerned with the extensive grading.
• Her neighborhood is all single-level living houses. One of those could be renovated.

Greg Bartholomew, 3653 Shady Oak Road, stated that:
• He had concerns with lot size and density.
• He was concerned with the target market.
• There are ramblers in the neighborhood.
• He asked if landscaping and tree replacement would be required.
• There is a steep grade.
• It would be helpful to see a rendering of what the site would look like. The change in the view would be dramatic.

No additional testimony was submitted and the hearing was closed.

Chair Kirk asked staff to compare PUD and R-1A zoning for the site. Thomas explained that rezoning to R-1A would not require the public benefit, which was necessary when rezoning from R-1 to a PUD. R-1A zoning standards have no control over house design, but there would be some control over house size. The tree ordinance applies to every type of zoning classification. In order to be zoned R-1A, 60 percent of the lots in the area must be less than 22,000 square feet in size or a new public street must be created. Neither of those applies to this proposal.
Dietrich explained the stormwater management requirements which are usually worked out at the time of the grading permit.

Colleran pointed out where grading and tree loss would occur.

In response to Chair Kirk’s question, Thomas estimated that tree loss would be similar whether the site would be zoned PUD, R-1A, or R-1. The grading permit would only be issued if all requirements would be met.

Powers noted the steepness and was concerned with the runoff. Mr. Anderson stated that a grading plan, stormwater management plan, and stormwater calculations have been submitted. The proposal meets all requirements. A pond would be built where a neighbor requested a pond to be built. Right now, there is no control of the stormwater. The proposal would pay to manage the stormwater and meet city requirements. A stormwater management system takes up room and causes more grading. The proposal would place a conservation easement over most of the significant trees. The grading plan would fix a three-foot gully to make it function properly. A maintenance agreement would be made with the city to service the pond and stormwater management system.

In response to Knight’s question, Mr. Anderson explained that a 3:1 slope is similar to the slope from the front of yard to the back yard of a house with a walk-out basement. Lawn mowers can be ridden on the slope just fine. The maintenance agreements would be recorded on each title.

Calvert agreed that diversified housing stock is needed. She opposed the proposal because it would result in too much tree loss.

Powers liked the developer’s ability to present the proposal. He favored three lots instead of four. He is less concerned about the overall size of the houses. He is not concerned with homeowners wanting to downsize to a single level. The overall feeling of the area is better suited for fewer houses.

Odland agreed. Fewer houses would have less impact on the wildlife.

Hanson recalled commissioners asking the applicant to reduce the number of houses from five to four at the concept plan review. He commended the applicant for doing that. Fine tuning needs to be done with the stormwater management. Four new houses could fit the site, but the details need to be more thought out.
Chair Kirk noted that new housing is lacking in Minnetonka. He agreed that the proposal is not ready for approval. The character of the neighborhood should also be taken into consideration.

Calvert appreciated Mr. Anderson’s presentation. She did not think the proposal was ready.

*Odland moved, second by Calvert, to recommend that the city council adopt the resolution denying the requested rezoning, master development plan, and preliminary and final plats (see pages A18-A21 of the staff report).*

*Odland, Powers, Calvert, Hanson, Knight, and Kirk voted yes. O'Connell was absent. Motion carried.*

This item is scheduled to be reviewed by the city council October 24, 2016.

**D. Conditional use permit, with variances, for a microbrewery and taproom with outdoor seating area at 14625 Excelsior Boulevard.**

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

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

In response to Chair Kirk’s question, Gordon explained that the animal hospital is a separate building that uses the west end of the Glen Lake Center parking lot. The lot would need to be restriped to add three stalls.

J.D. Park, 3941 Brown Lane, stated that he and his wife, Megan, are founders of Unmapped Brewing Company. Mr. Park stated that they are excited and proud at the prospect of opening their business in the community that they live. They want Unmapped to be a positive force in the Glen Lake community and city. They want to work with their neighbors to achieve this goal. He looks forward to the discussion.

Chair Kirk asked for the number of seats. Mr. Park explained that there would be tables, informal seating, and standing room. Seating would flow into the patio area.

Chair Kirk asked for the applicant’s idea for a “family taproom.” Mr. Park answered that alcohol would not be the only beverage available. He would encourage patrons to bring in food. It would not be structured like a restaurant. Patrons would be able to explore and see interesting things. There would be
JANUARY 2017
Wischnack gave the staff report.

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

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

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

Gordon gave the staff report.

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

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

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

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

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

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

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

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

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

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

15. Appointments and Reappointments:

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

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

16. Adjournment

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

Respectfully submitted,

David E. Maeda
City Clerk
CURRENT PLAN
ITEM 8A – Enclave at Regal Oak

The attached email was received after the packet was produced.

The applicant recently submitted the attached plan illustrating removal/impact to high-priority trees. Please make the following change to pages 5 and 6 of the resolution to reflect this plan:

Page 5:

2. Subject to staff approval, THE ENCLAVE AT REGAL OAK must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:
   - Site plan, dated February 15, 2017
   - Grading plan, dated February 15, 2017 and as amended by the tree removal plan received March 20, 2017
   - Roadway and Utility plan, dated February 15, 2017

Page 6:

5) Final grading and tree preservation plan for the lot. The plan must be in substantial conformance with Grading Plan dated February 15, 2017 and as amended by the tree removal plan received March 20, 2017. No more than 10 high-priority trees may be removed from the combined site.
To Whom It May Concern,

We wanted to write in about the proposed subdivision of 3639 Shady Oak Road and 3627 Regal Oak. We want to first say that we understand our cities necessity to accommodate population growth, however, NOT at the expense of the incredible natural habitat that exists in our neighborhood. This habitat is rapidly disappearing. Woods are such a treasure for our city. Once gone, it’s gone. Over the years we have watched fox, coyote, turkey, and deer travel through our woods and through the woods of the proposed development. You will push them away by taking their space. This is going to be a major disruption in our cities wildlife throughway. We are all for updating current homes and conservative growth, but not in the form of multi home developments. Just in the past year we have watched a two acre lot on Shady Oak completely cleared and loaded up with five houses. The only trees left (save one) belong to the lot next door. On the other side of my neighborhood, we now on walks, have to look at a massive development of apartments on Minnetonka Boulevard as opposed to trees. Now there is this proposal which will essentially clear out the other side of my neighborhood. Again we understand our cities desire for growth but why not growth to a smaller scale. All the homes in this neighborhood have beautiful yards and green space. Why a total of four homes on two acres? We believe this new development could be perhaps smaller in scale. Keep the yards reasonable and keep the trees. We are concerned the erosion and water runoff from a cleared lot could affect our property being at the bottom of the hill. Please, we urge you to try to keep some of Minnetonka as it is. Beautiful and wooded with character and charm.

Concerned Homeowners,

Wesley and Lindsay Dunham

Some of the wildlife that will be missed:
The development that took the view from the other side of my neighborhood and the development that left one tree standing:
The stricken language is deleted; the underlined language is inserted.
• Adopted a resolution approving a conditional use permit for an over-sized accessory structure and a second curb cut on Avondale Street.
• Adopted a resolution approving a replat of the Seville property. The nuisance conditions were rectified before the city council’s review of the proposal.
• Reviewed a concept plan for an apartment building with 240 units for Newport Midwest.

The next planning commission meeting will be April 6, 2017.

There will be a neighborhood meeting on March 30, 2017 at 7 p.m. at the Hopkins High School to review plans to improve baseball and soccer fields at Hopkins High School.

There will be a neighborhood meeting on April 6, 2017 from 5:30 p.m. to 6:30 p.m. at the fire station to review plans for improvements to the civic center campus and lighting of a soccer field north of Ice Arena B.

There will be another neighborhood meeting on April 6, 2017 from 4:30 p.m. to 6:30 p.m. in the Minnehaha Room to review revised concepts for the Shady Oak Road redevelopment project.

6. Report from Planning Commission Members: None

7. Public Hearings: Consent Agenda: None

8. Public Hearings

A. Preliminary and final plats with front setback variances and waiving of the Mcmansion Policy for The Enclave at Regal Oak at 3639 Shady Oak Road and 3627 Regal Oak Lane.

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

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

Powers asked if decreasing the house size would save more trees. Thomas explained that reducing the size of the houses would not be sufficient to save additional trees because the topography the site makes the proposed amount of grading necessary. Colleran agreed.
In response to Chair Kirk’s question, Thomas clarified that the buildable area would not be made larger by shifting the front and rear setbacks forward. According to R-1 ordinance requirements, the size of a single-family residence is not restricted as long as it meets setback requirements. The FAR in the report is based on Regal Oak. The Mcmansion Policy looks at properties within 400 feet and 1,000 feet on the same road. The highest FAR on Regal Oak is 0.16, within 400 feet 0.18, and up and down Shady Oak Road 1,000 feet 0.22.

Michael Halley, representing Airborne Construction One, applicant, stated that he supports everything in the staff report. The goal is to build three custom houses. He and the project’s engineer were available for questions.

In response to Chair Kirk’s question, Mr. Halley stated that the proposed lots are conventional, R-1 lots, so the Mcmansion Policy should not apply.

Chair Kirk asked for the size of the proposed houses. Mr. Halley said that the houses would be custom built for each buyer. He did not anticipate that the houses would be as large as the buildable area.

Calvert said that the slope is very steep. Mr. Halley answered that the driveways would have a modest elevation change of three or four percent grade angled up from the street to the garage. There would be some fill added.

Mr. Holley explained that shifting the front and rear setbacks forward would reduce the amount of fill and decrease the driveways’ amount of impervious surface. The front setbacks would be consistent with the rest of the houses in Regal Oak.

Chair Kirk confirmed with Colleran that the required tree mitigation for the proposal would be determined at the time of the building permit review. Colleran explained that under no circumstance could more than 10 of the high-priority trees be able to be impacted.

Thomas explained how FAR is calculated. Based on the Mcmansion Policy, Lot 1 would be allowed to have a house up to 4,900 square feet, Lot 2 up to 4,800 square feet, and Lot 3 up to 5,100 square feet in size. Mr. Halley felt that was a reasonable estimate of the sizes of the proposed houses. He stated that the builder and buyer want to preserve as many trees as possible. Building custom homes would allow as much tree preservation as possible.

Powers asked if he had an idea of the price. Mr. Halley estimated in the $800,000s.
The public hearing was opened.

Vanessa Greene, 3632 Arbor Lane, thought this felt like a bait and switch because she has been told that there is a need for single-level, senior living, but the proposed houses would be huge and trees would be removed. It was shocking to her. She wanted the Mcmansion Policy enforced so that the houses would fit with the character of the neighborhood.

Cheryl Smith, 3624 Arbor Lane, thanked Thomas for keeping her informed throughout the process. She would appreciate tree mitigation on the east side of the site.

Ron Hanson, 12215 Mari Lane, pointed out a slope and pond. There is a concern of erosion and water running off the hill. A two-story house would be visible from Arbor Lane.

No additional testimony was submitted and the hearing was closed.

Calvert said that the developer has worked very hard. She shared the neighbors’ sentiments regarding tree loss. All of the lots would meet ordinance requirements and the Mcmansion Policy would not be applied if the building pads would not be shifted forward 10 feet in order to preserve more green space and decrease fill. The shifting of the front and rear setbacks would not allow a larger house to be built. She encouraged staff to work closely with the developer during the grading and building permit review process to enforce the tree ordinance.

Chair Kirk stated that the lots would meet all R-1 ordinance requirements and the Mcmansion Policy would not be applied without the variance to decrease the front setback.

Schack noted that the other lots in the area have 25-foot front setbacks, but the houses are smaller than the proposed houses. She felt that not waiving the Mcmansion Policy would keep with the spirit of the policy by restricting the size of the houses if the setback would be decreased.

In response to Powers’ question, Colleran stated that removal of a tree that should have been saved would cost $500 per inch of diameter with a maximum of $5,000 per tree. A stop work order would be issued for the site until the issue would be resolved.
Chair Kirk noted that neighbors have enjoyed the view of 2.8 acres with one house for many years. The property owner has paid substantial property taxes and has rights to develop the site in accordance with ordinance requirements.

Sewall said that the setback variance seems to be a win-win situation and would not cause the loss of additional trees.

Calvert encouraged the developer to be mindful of the neighbors. It would disrupt the character of the neighborhood to have houses two times larger than the existing houses.

Thomas explained the stormwater management for the site. Dietrich explained that the rate of runoff would be controlled to maintain or reduce the existing conditions. There would be a slight reduction across the board for all of the rain events modeled. Raingardens would be moved to the west, off of Regal Oak, and receive drainage from all three lots. The proposal would reduce the rate of runoff and meet all stormwater requirements while reducing the steep-slope area.

Chair Kirk thanked the neighbors for attending the meetings. He supports the setback. He would like the Mcmansion Policy applied. The final plat makes sense.

**Calvert moved, second by Schack, to recommend that the city council adopt the resolution approving preliminary and final plats with front yard setback variances and enforcing the Mcmansion Policy for The Enclave at Regal Oak at 3639 Shady Oak Road and 3627 Regal Oak Lane.**

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

9. **Adjournment**

**Knight moved, second by Sewall, to adjourn the meeting at 7:40 p.m. Motion carried unanimously.**

By:  
Lois T. Mason  
Planning Secretary
Resolution No. 2017-
Resolution approving the preliminary and final plats, with front yard setback variances, and waiving the McMansion Policy, for THE ENCLAVE AT REGAL OAK at 3639 Shady Oak Road and 3627 Regal Oak

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

Section 1. Background.

1.01 Airborne Construction One, LLC has proposed subdivision of the properties at 3639 Shady Oak Road and 3627 Regal Oak. The home at 3639 Shady Oak Road would be removed, the home at 3627 Regal Oak would remain, and three new homes would be constructed. The properties are legally described on EXHIBIT A of this resolution.

1.02 The applicant has further requested front yard setback variances from 35 feet to 25 feet for proposed Lots 1, 2, and 3.

1.03 Minnesota Statute §462.357 Subd. 6, and City Code §300.07 authorizes the city to grant variances.

1.04 On March 23, 2017, the planning commission held a hearing on the proposed plat. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the preliminary and final plats with front yard setback variances. The commission recommended the council enforce the McMansion Policy.
Section 2. General Standards.

2.01 City Code §400.030 outlines general design requirements for residential subdivisions. These standards are incorporated by reference into this resolution.

2.02 By City Code §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.

2.03 The McMansion Policy is a tool the city can use to ensure new homes requiring variances are consistent with the character of the existing homes within the neighborhood. By policy, the floor area ratio (FAR) of the subject property cannot be greater than the largest FAR of properties within 1,000 feet on the same street, and a distance of 400 feet from the subject property.

Section 3. Findings.

3.01 The proposed preliminary and final plats would meet the design requirements as outlined in City Code §400.030.

3.02 The requested front yard setback variances would meet the variance standard outlined in City Code §300.07 Subd. 1(a):

1. Purpose and Intent. The intent of the front yard setback requirement is twofold: (1) to ensure adequate separation between structures and the traveled portion of streets; and (2) to establish consistent building lines with a neighborhood. The proposed setback would meet this intent:

a) A standard parking stall is 18 feet in length. As such, the 25-foot setback would allow vehicles to be parked on driveways without encroaching on public right-of-way.

b) The 25-foot setback would be consistent with other variances approved for the Regal Oak neighborhood.
2. Comprehensive Plan. The guiding principles in the comprehensive plan provide for maintaining, preserving, and enhancing existing single-family neighborhoods. The requested setback variances are not contrary to these principles. Rather, they could allow for construction at a building line consistent with that approved for the larger area.

3. Practical Difficulties.

a) Reasonableness.

1) While a typical home could be constructed meeting the required 35-foot front yard setback, such location would likely result in more grading and associated tree loss along the eastern portion of the site. Though there are few high-priority trees along the property line outside of the woodland preservation area, the trees that do exist in the area create a wooded “feel.” For construction of a typical home, a reduced front yard setback and commensurately increased rear yard setback would minimize grading and maximize tree protection during the initial construction phase.

2) With a commensurate 10-foot increase in rear yard setback, which is a condition of this resolution, the requested decrease in front yard setback would not increase the buildable area of any lot. Rather, it would simply shift the buildable area to the west.

b) Unique Circumstance and Neighborhood Character. The proposed 25-foot setback would be consistent with the 25-foot setbacks also established by variance for other homes along Regal Oak.

3.03 The intent of the McMansion Policy is twofold: (1) to ensure that homes requiring variances – either due to non-conformance with lot standards or setback standards – have a visual mass similar to that of existing homes within a neighborhood; and (2) to ensure there is some connection between the buildable area of a property and the mass of the home constructed on it. The requested front yard setback variances, with commensurate rear yard setback increases, would not impact the buildable area of any of the proposed lots or allow larger homes to be constructed than would otherwise be allowed. Rather, the variances would simply shift the buildable area with the intent of minimizing grading and associated trees loss.

4.01 The above-described preliminary and final plat, with front yard setback variance is hereby approved. Approval is based on the findings outlined in Section 3 of this resolution.

4.02 The McMansion Policy related to the requested setback variances is hereby waived. This waiver is based on the findings outlined in Section 3 of this resolution.

4.03 Approval and waiver are subject the following conditions:

1. Prior to release of the final plat for recording, submit the following:

   a) A revised final plat drawing that clearly illustrates the following:
      1) Dedication of seven feet of right-of-way adjacent to Shady Oak Road.
      2) Minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way(s) and minimum 7-foot wide drainage and utility easements along all other lot lines.

   b) Documents for the city attorney’s review and approval. These documents must be prepared by an attorney knowledgeable in the area of real estate.
      1) Title evidence that is current within thirty days before release of the final plat.
      2) Conservation easement over the woodland preservation area as depicted on the plan set dated February 15, 2017.
      3) Minimum 10-foot wide easement trail and retaining wall purposes adjacent to the Shady Oak Road right-of-way.

   c) Two sets of mylars for city signatures.

   d) An electronic CAD file of the plat in microstation or DXF.
e) Park dedication fee of $10,000.

f) Any outstanding taxes and assessments.

2. Subject to staff approval, THE ENCLAVE AT REGAL OAK must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:

- Site plan, dated February 15, 2017
- Grading plan, dated February 15, 2017 and as amended by the tree removal plan received March 20, 2017 and attached as Exhibit B of this resolution.
- Roadway and Utility plan, dated February 15, 2017

3. Prior to issuance of a building permit for the first new house within the development, submit a letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.

4. Prior to issuance of a building permit for any of the lots within the development:

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

1) Stormwater narrative and calculations illustrating conformance with the following stormwater rule:

   a. Volume Control. One inch of retention over the site’s impervious surface must be retained on-site.

   b. Rate Control. Peak flow rates must be limited to that of existing conditions at all points where stormwater leaves the site.

   c. Water Quality. 60% total phosphorus and 90% total suspended solids must be removed.

2) A stormwater easement agreement over any raingarden on the property.

3) A stormwater maintenance agreement.
4) Final grading and tree preservation plan for the lot. The plan must be in substantial conformance with Grading Plan dated February 15, 2017 and as amended by the tree removal plan received March 20, 2017 and attached as Exhibit B.

   a. No more than 10 high-priority trees may be removed from the combined site.

   b. High-priority trees shown to be preserved must be protected during all grading and construction activity.

   c. Tree protection fencing and erosion control must be installed and inspected prior to issuance of the permit.

5) A code compliant tree mitigation plan with species and sizes.

6) An appropriate seed mix/plants list for the rain gardens.

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

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

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

b) Install a temporary rock driveway, erosion control and tree protection fencing and any other measures identified on the SWPPP for staff inspection. These items must be maintained throughout the course of construction.
c) Install heavy duty fencing, which may include chain-link fencing, as determined by city staff to protect the critical root zones of the trees. This fencing must be maintained throughout the course of construction.

d) Submit all required hook-up fees.

e) Unless specifically authorized by city staff, no site work or tree removal may occur until issuance of the building permit for each lot.

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

a) Principal structure setbacks are required as follows:

<table>
<thead>
<tr>
<th>Lot</th>
<th>Front Yard</th>
<th>Side Yard</th>
<th>Rear Yard</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>25 ft from Regal Oak</td>
<td>Aggregate 30 feet and</td>
<td>38 ft</td>
</tr>
<tr>
<td></td>
<td>40 ft from Shady Oak Rd</td>
<td>no one side</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>25 feet</td>
<td>less than 10 feet</td>
<td>38 ft</td>
</tr>
<tr>
<td>3</td>
<td>25 feet</td>
<td>Aggregate 30 feet and</td>
<td>50 ft</td>
</tr>
<tr>
<td></td>
<td></td>
<td>no one side</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>25 feet*</td>
<td>Aggregate 30 feet and</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td></td>
<td>no one side</td>
<td></td>
</tr>
</tbody>
</table>

* approved by variance in 1979

b) If a new home cannot be encompassed by 150 feet of fire hose coverage, either: (1) the home must be protected by a 13D automatic fire sprinkler system or an approved alternative system; or (2) the driveway must be 20 feet wide of paved surface at less than 10% grade.

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

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

8. Street disturbances must be minimized. If street cuts are made in close proximity to each other, one contiguous repair may be required to ensure no gap between patches.

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

10. Any work within Hennepin County right-of-way will require a specific permit from the County. Proof of such permit must be submitted to the city prior to work in the right-of-way.

11. This approval will be void on April 10, 2018 if: (1) the final plat has not been recorded with the county; and (2) the city has not received and approved a written application for a time extension.

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 8, 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 May 8, 2017.

________________________
David E. Maeda, City Clerk
EXHIBIT A

Lot 5, Block 1, REGAL OAK 2ND ADDITION according to the recorded plat thereof, Hennepin County, Minnesota. (Abstract)

AND

That part of the Southeast Quarter of the Southwest Quarter of Section 14, Township 117 North, Range 22 west of the 5th Principal Meridian, Hennepin County, lying west of the plat of REGAL OAK as monumented, east of the plat of REGAL OAK 2nd ADDITION and north of the northerly right-of-way line of County Road 61.
City Council Agenda Item #14D
Meeting of May 8, 2017

**Brief Description**

Items concerning Ridgedale Restaurants at 12415 Wayzata Blvd.:

1) Final site and building plans,

2) Conditional use permit

**Recommendation**

Recommend the city council approve the proposal.

**Introduction**

The applicant, FRCH, has submitted plans on behalf of Ridgedale Anchor Acquisition, LLC, owner, to build 24,498 square feet of restaurant/entertainment use. The buildings would be constructed in the northwest portion of the Ridgedale Mall parking lot. As proposed, the existing parking area along the “ring road” would be converted to development area for the three pad sites. (See attachments)

**Background**

On March 7, 2013, the city council approved the master development plan for Ridgedale Mall. The master development plan consists of three phases:

- **Phase 1:** The first phase included construction of an 80,000 square foot addition to Macy’s, updating the exterior of the Macy’s store, as well as parking lot, stormwater and landscaping improvements on the north side of the site.

- **Phase 2:** The second phase consisted of demolishing the existing Macy’s Men’s and Home store, and constructing an addition to the mall and a new 140,000 square foot anchor department store. Phase 2 also included parking lot, stormwater, and landscaping improvements along the south side of the mall property.

- **Phase 3:** Phase 3 consists of three new freestanding restaurants on the northwest side of the mall, as well as the final parking lot and landscaping improvements.

**Staff Comments**

The proposed plans are consistent with the approved three phase master development plan. The proposed architectural building and site guidelines provide a high level of architectural treatment that is consistent with recent mall investments. Building pads two and three would receive a future review for building design and potentially conditional use permit review depending on the type of tenant.
Planning Commission meeting

The planning commission reviewed the application at the April 20, 2017 meeting. The commission discussed the proposal and commented on the type of restaurants, the number of seats, sidewalk linkages at the mall, parking ratios, building height and building design.

During the public hearing, one resident provided input about planning and density around the mall also asking a number of questions to which the commission and staff provided context and answers.

The planning commission recommended city council approve the final site and building plan and conditional use permits with a unanimous vote.

Since the Planning Commission meeting

Since the planning commission meeting there has been no additional information or input received.

Staff Recommendation

Recommend the city council adopt the following for Ridgedale Restaurants located at 12415 Wayzata Blvd.: 

1) A resolution approving final site and building plans.

2) A resolution approving conditional use permits for restaurant uses and outdoor seating areas.

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

Originator: Loren Gordon, AICP, City Planner
Brief Description
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1) Final site and building plans,

2) Conditional use permit

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- **Phase 3:** Phase 3 consists of three new freestanding restaurants on the northwest side of the mall, as well as the final parking lot and landscaping improvements.

Proposal Summary
The following is intended to summarize the applicant’s proposal. Additional information associated with the proposal can be found in the “Supporting Information” section of this report.
• **Existing Site Conditions.** The proposed development pad sites would be located in an existing parking area of Ridgedale Mall. This area is entirely hardsurface with drainage from north to south. The proposed location was formerly the Sinclair gas fueling station for many years. Currently, soil contamination remediation is occurring.

• **Proposed Building.** As proposed, three buildings would be constructed on the site. The submitted site and building plan application and associated design guidelines includes building and site plan details for pad site 1 and the four restaurant tenant spaces identified as tenant 1A - 1D. The adjacent pad sites 2 and 3 are not included in the design guidelines at this time. A review of these building plans would occur at a future date when tenants are known. Façade materials for the new building would include natural or man-made stone, brick, metal panels and metal linear siding and limited amounts of stucco or exterior insulated finish systems.

• **Proposed Site Design.** As proposed, the buildings would be located on the northern portion of the existing surface parking lot. The buildings would face south with entries facing a redesigned parking area. Outdoor patio areas for each restaurant would be located between the south building face and parking lot. Landscape and fence dividers would enclose and separate the patio areas.

**Primary Questions and Analysis**

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

• **Is the proposed land use appropriate?**

Yes. The restaurant/entertainment uses are appropriate for the site. The comprehensive guide plan suggest that “service commercial, office, and other commercial uses should occur” in this area, to “complete the commercial profile of the Ridgedale Mall, and introduce a pedestrian-friendly transition starting at the edges of the Mall.”¹ The restaurants will provide additional development opportunities and pedestrian connections on outparcels consistent with the master development plan.

• **Is the proposed building and design reasonable?**

Yes. The proposed building design is reasonable. The material palette contains high quality materials that reflect many of the design features in more recent mall anchor tenant additions and mall entry renovations. Staff finds that this proposal is

¹ 2030 Comprehensive Guide Plan, page IV-32
attractive and complimentary to the high-quality and aesthetic. Staff would recommend that treatment of the north building façade also incorporate materials from the building material palette to provide a consistent four-sided architectural appearance.

The proposed site design is generally appropriate. Although parking would be removed to provide development pad sites, vehicle circulation on the ring road and east/west drive-isle configuration would remain unchanged. The plan provides additional sidewalk connections through the parking lot to connect the Bonaventure shopping center, restaurant/entertainment site and Ridgedale Mall.

The city’s traffic consultant reviewed the proposal and has suggested some slight modifications to improve traffic circulation, reduce potential conflicts and improve safety.

1. Install a raised concrete median with appropriate signage along the north ring road at the north mall entry from I-394.

2. Eliminate parking lot access to the ring road from the parking lot directly west of tenant pad 1A.

3. Consider an alternative parking configuration for this area.

4. Remove spaces at the east and west ends of the drive aisle to improve mobility and reduce conflicts.

Staff has included these modifications as conditions of approval.

**Staff Recommendation**

Recommend the city council adopt the following for Ridgedale Restaurants located at 12415 Wayzata Blvd.:

1. A resolution approving final site and building plans.

2. A resolution approving conditional use permits for restaurant uses and outdoor seating areas.

Originator: Loren Gordon, AICP, City Planner
Supporting Information

**Surrounding Land Uses**
- Northerly: Ridgedale ring road and I-394
- Easterly: Ridgedale Mall and parking
- Southerly: Ridgedale Mall and parking
- Westerly: Bonaventure commercial building beyond

**Planning**
- Guide Plan designation: mixed-use
- Existing Zoning: PID, Planned I-394 District

**City Actions**
The proposal necessitates the following applications:

- **Final site and building plans, with variances.** By City Code §300.27 Subd.2, site and building plan review is required for construction of any new commercial building.

- **Conditional use permit.** By City Code §300.31 Subd.4(b)(2)(k),

- **Preliminary and final plats.** Platting of the site would allow for separate ownership of the bank and retail portions of the building and associated parking lot.

**Setbacks, Etc.** The proposed redevelopment requires six variances to zoning standards.

<table>
<thead>
<tr>
<th>Building Setbacks</th>
<th>REQUIRED</th>
<th>EXISTING</th>
<th>PROPOSED</th>
</tr>
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<tbody>
<tr>
<td>North</td>
<td>50 ft</td>
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</tr>
<tr>
<td>South</td>
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<tr>
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<td>N/A</td>
<td>120 ft</td>
</tr>
<tr>
<td>West</td>
<td>50 ft</td>
<td>N/A</td>
<td>52 ft</td>
</tr>
<tr>
<td>FAR</td>
<td>0.3</td>
<td>0.0</td>
<td>0.19</td>
</tr>
<tr>
<td>Impervious</td>
<td>80%</td>
<td>100%</td>
<td>85.6%*</td>
</tr>
</tbody>
</table>

* Improvement of an existing condition
SBP Standards

By City Code §300.27 Subd.5, in evaluating a site and building plan, the planning commission and city council must consider its compliance with certain standards. The proposal would meet these standards.

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

   **Finding:** The proposal has been reviewed by planning, building, engineer, natural resources, fire, and public works staff. Staff finds it to be generally consistent with the city's development guides.

2. Consistency with this ordinance;

   **Finding:** The proposed site and building are consistent with minimum ordinance standards.

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

   **Finding:** The subject property is a developed site with 100 percent impervious surface. In the proposed redeveloped condition, the site would gain 14.4 percent or nearly one-half acre of pervious surface and landscaping.

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

   **Finding:** The proposal would result in an intuitive and attractive redevelopment of an existing parking lot into a productive commercial site.

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

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

   b) The amount and location of open space and landscaping;
c) Materials, textures, colors and details of construction as an expression of the design concept and the compatibility of the same with the adjacent and neighboring structures and uses; and

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

Finding: The proposal would result in a high quality redevelopment with a logical placement of buildings, use of high quality materials, incorporation of landscaping and open space, and orderly routes for vehicle and pedestrian circulation and parking.

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

Finding: As new construction, the proposed building would meet minimum energy standards.

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

Finding: The proposal would not negatively impact neighboring land uses. Rather, it is anticipated that such redevelopment would result in both a physical and visual improvement to the Ridgedale Mall.

CUP Standards

City Code §300.31 Subd.4(b)(2)(n), outlines standards for freestanding restaurants as conditional uses in the PID district. The restaurants would meet these standards.

Freestanding restaurants on property designated for retail or service commercial use:

1. shall have minimum seating capacity of 150;
**Finding:** The building and up to 4 tenant spaces would provide a seating capacity exceeding 150.

2. shall be part of an overall master development plan consisting of more than one structure;

**Finding:** This project represents phase 3 of the overall Ridgedale Mall master development plan.

3. shall be architecturally consistent and compatible with other structures in the master development plan;

**Finding:** The proposed building design and materials identified in the design criteria are consistent with the aesthetic and quality of those used in major anchor tenant additions and mall entry renovations in phase 1 and 2 of the master development plan.

4. shall have parking in compliance with the requirements of section 300.28 of this code;

**Finding:** The proposed parking will reduce parking spaces in the redevelopment area from 366 spaces to 92 spaces. A total of 274 spaces would be removed. Overall, the mall provides 4,900 parking stalls upon the completion of the third phase for the nearly 1.2 million square feet of building space. A parking study was performed in 2007 concluding that adequate parking exists on the mall property due to the substantial amount of common area that is not leasable, and does not directly contribute to parking demand. Upon completion of phase 3, parking ratios would maintain code minimums for retail commercial standards of 1 space per 1000 square feet of building area. Staff is confident that there is adequate parking on the mall property to meet parking demands. The master development plan also provides a proof of parking area on the east side of the site which could be constructed if it was warranted by future demand.

5. shall be permitted only when it can be demonstrated that operation will not lower significantly the existing level of service as defined by the institute of traffic engineers on the roadway system;

**Finding:** The city’s traffic consultant reviewed the proposal finding no level of service operational concerns with the proposed project.

6. shall not include a drive-up window; and

**Finding:** The proposal does not include a drive-up window.
7. shall not be located within 100 feet of any low density residential parcel or adjacent to medium or high density residential parcels. The city may reduce separation requirements if the following are provided:

   a) landscaping and berming to shield the restaurant use;
   b) parking lots not located in proximity to residential uses; and
   c) lighting plans which are unobtrusive to surrounding uses.

**Finding:** The proposal would be located 880 feet from the closest low density residential area. The proposal is not directly adjacent to medium or high density residential but is across the I-394 freeway from The Ridge apartments. Project landscaping, landscaping along the I-394 frontage road and changes in topography help buffer and shield the restaurants from these apartments.

**Utilities**

The subject property is served by private water and sewer mains.

**Stormwater**

The subject property was developed prior to current stormwater management requirements. This existing condition would be improved under the redevelopment. As proposed, runoff would be captured by catch basins located at various points in the new parking lot. From these catch basins runoff would be directed via pipe to an underground treatment facility and, ultimately directed to the larger Ridgedale Center storm sewer system.

**Landscaping**

The proposal provides landscaping along the building face however, a full landscaping plan will need to be provided. The final landscape plan will require staff review and approval which should meet the required landscape value of 2 percent. This amount may be reduced at the sole discretion of city staff. The plan should include landscaping the “backyard view” so it feels more like a boulevard to Ridgedale’s northern ring road and it should include components to help soften the hardscape of the mechanical and trash areas. Additionally, the landscape “as-builts or as-planted” for Phase I and II need to be provided.

**Traffic**

A traffic study was conducted to: (1) review the existing roadway and intersection operations; (2) evaluate the impacts the proposal may have on operations; and (3) to recommend any necessary improvements to provide safe and efficient operations. The study concluded:

- Install a raised concrete median with appropriate signage along the north ring road at the north mall entry from I-394.
• Eliminate parking lot access to the ring road from the parking lot directly west of tenant pad 1A.

• Consider an alternative parking configuration for this area.

• Remove spaces at the east and west ends of the drive aisle to improve mobility and reduce conflicts.

Outside Agencies

The applicant’s proposal has been submitted to various outside agencies for review.

Pyramid of Discretion

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 ordinance and various resolutions.

2. Disagree with staff’s recommendation. In this case, a motion should be made recommending the city council deny the requested final site and building plans and conditional use permit. 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 notice to 337 area property owners. No comments have been received.
Subject: Ridgedale Restaurants, 12415 Wayzata Blvd.

**Deadline for Action**  May 22, 2017
Location Map

Project: Ridgeland Restaurants
Applicant: Chad Kohler
Address: 12415 Wayzata Blvd
Project No. 17004.17a

This map is for illustrative purposes only.
PRE-DEVELOPMENT

PRIORITY AREA: 0.00 AC.

[(4,912 SF x 3.5') - 5,746] x 40% = 4,578 CF

UNDERDRAIN OUTLET - 944.50'
B底部滤镜 - 944.00'

CORE DRILL AND PROVIDE

Minnetonka, MN
TC 952.23
INV 947.60 E
2.5%
TC 950.60
G 950.00
TC 950.50
951

EXACT LOCATION IN FIELD PRIOR TO THE CONSTRUCTION OF THE PROPOSED UTILITY LINE TO BE CONNECTED.

CONNECT TO ROOF DRAIN PIPE (SEE MECH. PLANS)

TC 952.20
G 951.70
TC 950.73
RIM 949.90
G 950.60
G 951.78
4.6%
G 950.20
MH #5
FG 951.96
FFE = 953.00
TC 952.90
G 952.60
29A
CB #9
FFE = 953.00
FG 952.76
FG 952.68
FG 952.77
TC 954.60
G 952.27
FFE = 953.50
RIM 952.90
73C
PATIO
G 952.80
@ 0.50%
TC 953.30
70 LF - 12" PVC
FG 953.41
TC 952.77
4.0:1
G 953.50
952
TC 953.16
INV 949.05 S
953
4.0:1
DB #2
G 953.40
952
954
F.F.E. = 953.00
CB #1
G 953.50
952
954
1.0%
1.5%
2.0%
2.8%
3.0%
3.3%
@ 0.50%
1.00%
2.0%
@ 0.50%
1.00%

OWNER.

1.0%
1.5%
2.5%
3.5%
4.0%
4.6%
0.5%
1.0%
2.0%
2.5%
3.3%

MEP: (651) 639-9606

TRAFFIC SIGNAL

GENERAL GROWTH PROPERTIES
Ownerp: (312) 960-5000

WATER WELL

CATCH BASIN

STORM DRAIN

UNDERGROUND GAS

UTE
1 BUILDING WILL BE PAD ONLY. ONLY SERVICES INDICATED ON CIVIL DRAWINGS ARE TO BE PROVIDED.

2 TYPICAL OF LIGHT POLES. LUMINAIRE TYPE INDICATED. SINGLE LETTER INDICATES BASE TYPE. REFER TO DETAIL FOR BASE TYPES. "1/24" EXAMPLE INDICATES ABBREVIATED PANELBOARD "P4N-101" AND CIRCUIT 24. PROVIDE 2" CONDUIT FOR BRANCH CIRCUIT WIRING.

1/16" = 1'-0"
DESIGN CRITERIA
Ridegedale Center-Outparcel Restaurant, Minnetonka, MN
The Outparcel Design Criteria is established as a reference guide for Multi-tenant Outparcel Development projects at Ridgedale Center located in Minnetonka, MN. The intent of the Design Criteria is to communicate the design principals and objectives for tenants and establish the overall architectural quality of the Development. The goal is to create an activated streetscape of restaurants. The criteria is designed for the tenant to express themselves within the framework of a modern minimal feel with a bit of edge.

The Landlord will apply these guidelines to all Multi-tenant Outparcel Development projects in conjunction with the Mall Tenant Criteria Manual.

The Outparcels are located in the Planned I-394 District of the City of Minnetonka. The intent is to establish additional Landlord design standards to supplement the Architectural standards of the City of Minnetonka per Section 300.31 Section 7.
Tenant Streetscape Elements

The goal of this development is to create unique dining destinations. In order to create an active streetscape, a number of elements need to come together some of which are the responsibility of the Tenant. In order to maintain a consistent look and feel of the Outparcels, guidelines have been established for these elements:

- **Green Buffer**: 24” minimum zone of planting which screens the dining patio from the parking. (See page 3.)
- **Patio**: Outdoor dining or seating area to create a street cafe environment. (See page 3.)
- **Tenant Facade and Storefront**: Tenant facade design is vital to the energy of each space. (See page 4.)
  - **Storefront**: Clean and minimal. (See page 5.)
  - **Tenant Entrance frame**: Contemporary and simple statement to define the entrance at the storefront. (See page 5.)
  - **Materials and Colors**: The overall palette of the Outparcels is primarily neutral. (See page 5.)
- **Signage**: While individual tenant logos are permitted, a zone has been developed for the location of signs at the building and pedestrian level. (See page 6.)
**Green Buffer**

Green Buffer zone is to screen guests sitting at patio from vehicles traveling along the patio perimeter lease line that abuts the sidewalk. The minimum width is 2'-0". Tenants are encouraged to use a raised planting bed with black edge to create a separation between public and private. Plants may be a mixture of grasses, groundcovers and ornamental shrubs. Plants that provide screening the entire year are preferred. Shrubs should be a minimum of 18" in height. Groundcovers may include rocks or pebbles. Fencing should be maximum 36" high with minimum open area of 50%. Fence design subject to Landlord approval.

**Patio**

Patos should enhance the customer experience. Pavers or concrete in a simple pattern reinforce the clean minimal feel of the development. Stamped concrete should be contemporary in pattern. Integral color or stained concrete is permitted.

**Tenant Entry Zone**

Tenant Entry Zone is a break in the Green Buffer to the Tenant entrance. The minimum width is 6'-0". Paving should coordinate with the Patio Paving.
DESIGN CRITERIA
Ridegedale Center-Outparcel Restaurant, Minnetonka, MN

Tenant Facade and Storefront

Facade - A majority of Facade below 12'-0" a.f.f. should be storefront. At the head of the storefront is a metal reveal that connects around the building and coordinates with the signage. Above the metal reveal is the facade. Tenants are permitted to use a maximum of 4 materials and 2 minimum for solid areas of the facade. Materials must be submitted for review for Landlord approval. Permitted materials:
- Natural or Man-Made stone
- Brick
- Metal panels and metal linear siding are permitted.
- Stucco or exterior insulated finish system may be used in limited amount.

Windows - Windows create an active and inviting environment. Tenants are encouraged to minimize the amount of solid walls in their facades to keep a synergy between inside and outside dining. Storefront height in the development is 12'-0" with clear glass. Storefront color should align with Development Palette on page 6.

Tenant entrance frame - Tenant is encouraged to frame the entrance with a simple and clean frame. Frame may extend past the lease line 2’. The objective is the separate the entrance from the storefront.
DESIGN CRITERIA
Ridegedale Center-Outparcel Restaurant, Minnetonka, MN

Materials and Colors:

The overall goal is to create a streetscape that has modern edge to it. The facades have a level of minimalism to enhance the more colorful activities inside each restaurant. Exterior colors should be neutral, natural, and clean. Texture of materials similarly should be natural, geometric or abstract, not faux representations of historic elements or theming. Stronger accents colors may be used at entrances subject to Landlord approval. There should be a difference in color and material between adjacent tenants.
Design Criteria
Ridegedale Center-Outparcel Restaurant, Minnetonka, MN

TYPICAL TENANT SIGNAGE

Signage

Facade Signage - Building signage floats off the building on a black metal channel. The minimum projection from the building is 4'-0" and maximum projection is 8'-0". Projection should be at least 50% of the storefront. The layout of this metal channel is determined by the Tenant. Maximum letter height is 2'. The metal channel should wrap the storefront when a corner storefront condition occurs. This channel aligns with the metal reveal at the storefront. Maximum letter height is 2'. A guideline for signage length for a 2' tall letter is .38 x length of frontage. Signage must conform with City of Minnetonka Ordinance No. 2016-08 Section 325.
**Signage**

**Pedestrian Monument Sign** - Pedestrian Sign serves as a screen between tenant patios and also as a pedestrian level identification. Screen details to be provided to the tenant. Maximum letter height is 12”. When located at the lease line adjacent to another tenant, each tenant is responsible for their half of the sign wall. First Tenant to build Pedestrian Monument Sign is to finish the 4th face to with metal panel prior to construction of adjacent sign.
Introduction

SRF has completed a traffic review for Phase 3 of the proposed Master Development Plan for Ridgedale Mall in Minnetonka, MN. Phase 3 is located on the northern portion of the northwest mall parking lot. The main objectives of the study are to assess the existing conditions at the northwest access, compare the proposed development trip generation to the previous master plan assumptions, and evaluate the site plan to ensure safe and efficient operations. The following information provides the assumptions, analysis, and recommendations offered for consideration.

Existing Conditions

Peak period intersection turning movement counts and observations were collected at the Northwest Access with the Internal Mall Roadway, as well as the adjacent Macy’s Driveway Aisle along the west side of the mall. These traffic counts were collected on Tuesday April 4, 2017 between 4:15 p.m. and 5:45 p.m. to understand general travel patterns and order of magnitude. The p.m. peak hour traffic volumes collected within the study area are illustrated in Figure 1. It should be noted that during the peak holiday timeframe (November to January), area traffic volumes generally increase by approximately 35 percent within the study area.

Based on the data collected, approximately five (5) vehicles were observed performing an illegal southbound left-turn maneuver from the Northwest Access to the Internal Mall Roadway during the p.m. peak period. Furthermore, approximately two-thirds of southbound right-turning vehicles at the Northwest Access to the Internal Mall Roadway were destined to the adjacent Macy’s Driveway Aisle, some of which made a U-turn maneuver to head back to the east along the Internal Mall Roadway.

The intersection spacing along the Internal Mall Roadway between the Northwest Access and the Macy’s Driveway Aisle is approximately 100 feet, which creates driver confusion as these motorists need to quickly process their maneuvers in this area. Additionally, the current traffic control (westbound stop control with southbound and eastbound free-movements) is relatively uncommon. Further discussion regarding the Northwest Access and Macy’s Driveway Aisle areas is provided later in this document.
LEGEND
XX  - P.M. Peak Hour Volume
      - Side Street Stop Control

Note: Red indicates illegal maneuvers

Existing Conditions
Ridgedale Master Development Phase 3 Traffic Review
City of Minnetonka

Figure 1
Proposed Development

The proposed project would develop the northern portion of the existing northwest Ridgedale Mall surface lot. The development includes approximately 24,000 square feet of retail space, which will be primarily guided towards restaurant type use. These land uses and their location within the site are generally consistent with the previous Ridgedale Master Development Plan envisioned in 2013. Access to the proposed outlot development is primarily planned via a reconfigured northwest parking lot area. However, there are three access locations proposed along the Internal Mall Roadway, which will primarily accommodate delivery and refuse access. The proposed development is assumed to be fully operational by 2019.

Trip Generation Comparison

Since the proposed development was previously reviewed as part of the Ridgedale Master Development Plan, a trip generation comparison was completed to determine how the proposed outlot development compares to the previous Phase 3 assumptions. Results of the trip generation comparison, shown in Table 1, indicate that the proposed Phase 3 Master Development Plan is consistent with the previous planning efforts. The only difference in trip generation is associated with the Institute of Transportation Engineers (ITE), which released a newer version of the Trip Generation Handbook since completion of the initial master plan. Therefore, the proposed Phase 3 Master Development Plan is consistent with previous evaluations within the area and no further traffic operations analysis is considered necessary. It should be noted that there is the potential that one of the retail tenants could be a unique land use that may generate trips differently than the assumed restaurant land uses. However, this alternative land use would likely generate trips at a lower rate than the assumed restaurant land uses.

Table 1 Trip Generation Comparison

<table>
<thead>
<tr>
<th>Land Use Type (ITE Code)</th>
<th>Size</th>
<th>Weekday P.M. Peak Hour Trips</th>
<th>Weekday Daily Trips</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>In</td>
<td>Out</td>
</tr>
<tr>
<td>Proposed Land Use (2017 Mast Plan)</td>
<td></td>
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<tr>
<td>High-Turnover Restaurant (932) – 9th Edition</td>
<td>24,000 SF</td>
<td>142</td>
<td>95</td>
</tr>
<tr>
<td>Previously Assumed Land Use (2013 Master Plan)</td>
<td></td>
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<tr>
<td>High-Turnover Restaurant (932) – 8th Edition</td>
<td>24,000 SF</td>
<td>158</td>
<td>110</td>
</tr>
<tr>
<td>Difference</td>
<td>No Change</td>
<td>-16</td>
<td>-15</td>
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Site Plan Review

A review of the proposed site plan was completed to identify any issues and recommend potential improvements regarding site access, circulation, and parking. Based on this review, the following issues and mitigation were identified that should be discussed further. A summary of the site plan improvement considerations are illustrated in Figure 2.

1) Eliminate the proposed access on the northwest portion of the site (adjacent to Tenant 1A) to reduce conflicts along the Internal Mall Roadway.
   a. This access is expected to service a small number of patrons that could be easily accommodated at other proposed access locations to the Internal Mall Roadway.
   b. An alternative in this area could be to eliminate the small northwest parking lot in favor of additional parking along the new driveway aisle. This would reduce potential conflicts along the driveway aisle, as well as provide pedestrians with a more continuous separated facility.

2) Remove parking spaces near the end of the driveway aisles to improve mobility and reduce potential conflicts.

3) As proposed, the Macy’s Driveway Aisle access to the Internal Mall Roadway would be converted to a right-in/right-out access by installing 3-foot high vertical delineator posts (spaced at six feet) along the center line of the Internal Mall Roadway. Although this configuration is not expected to create any issues from a capacity perspective, a more permanent separation (such as a raised concrete median with appropriate signage) should be consider to improve driver compliance and reduce maintenance concerns. The vertical delineators can be easily displaced, particularly during snow events, which often coincide with the busiest periods for the Ridgedale Shopping Center.
   a. If a concrete median is not desired, alternative access configurations should be considered to improve ingress/egress operations within the area. Potential alternative access configurations include the addition of a westbound left-turn lane from the Internal Mall Roadway to the Macy’s Driveway Aisle or relocation of the Northwest Access to align with the Macy’s Driveway, creating a four-legged intersection. A cursory review from a traffic operations perspective indicates these alternative access considerations would provide adequate operations. Further discussion should occur to determine an access configuration that balances the needs of area stakeholders.

4) Limit any sight distance impacts from future structures, landscaping, and signing.

5) Review turning movements to ensure that heavy vehicles have adequate accommodations to maneuver.
Site Plan Considerations
Ridgedale Master Development Phase 3 Traffic Review
City of Minnetonka

Figure 2

1A) Eliminate access to reduce conflicts
1B) Consider an alternative parking configuration
2) Remove parking spaces near the end of the driveway aisle to improve mobility and reduce conflicts.
3) Install a raised concrete median with appropriate signage
3A) Consider alternative access configurations to improve ingress/egress within the area

General
Limit any sight distance impacts from future structures, landscaping, and signing.
Review turning movements to ensure that heavy vehicles have adequate accommodations to maneuver.
Conclusions and Recommendations

The following study conclusions and recommendations are offered for consideration:

1) The proposed Phase 3 development and land uses are generally consistent with the previous Master Plan Development assumptions developed and evaluated in 2013. Therefore, no further traffic operations analysis is considered necessary.

2) Motorists were observed performing illegal southbound left-turn maneuvers from the Northwest Access to the Internal Mall Roadway. As part of the proposed Phase 3 Master Plan Development, alternative access configurations as noted within the Site Plan Review section should be considered to eliminate this situation from occurring, as well as to improve ingress/egress within the area.

3) Additional site plan modifications, as illustrated in Figure 2 (Site Plan Considerations), should be incorporated and/or discussed further to determine a site plan configuration that balances the needs of area stakeholders.
B. Items concerning Ridgedale restaurants at 12415 Wayzata Boulevard.

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

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

Calvert asked how four restaurants on one pad would impact the master development plan. Gordon explained the history of the site. The style of restaurants is changing.

Chair Kirk asked if the site would have walkability. Gordon pointed out proposed sidewalks on the site plan. The site would be much more walkable than it is now.

Powers asked if the sidewalks would be handicap accessible. Gordon answered in the affirmative.

Ben Freeman, representing General Growth Properties, applicant, thanked the commissioners for their consideration. He appreciated staff’s input. The proposal is an opportunity to invest in and improve Ridgedale Center. The company is proud of how far the center has come and excited to continue the momentum with the current proposal. There has been an evolution in restaurant demand. He envisioned pads two and three being used by single users. He looked forward to resolving minor traffic issues with staff. The applicant is more than willing to incorporate the recommended changes.

Knight asked for the height of the façade. Mr. Freeman answered 25 feet.

Schack asked for the number of seats in the restaurants. Mr. Freeman said that it would really depend on the layout.

The public hearing was opened.

Annette Bertelsen, 13513 Larkin Drive, spoke on behalf of a group of residents who live in the Essex neighborhood west of Ridgedale Village. She stated that:
• The group is beyond thrilled that the developer continues to improve Ridgedale Center. She thanked staff and commissioners for creating design standards.
• They liked the idea of having new restaurants and redevelopment that align with the city’s growth strategies.
• The city council did not discuss restaurant land use and density. Those discussions need to take place. The commission exists to follow the comprehensive guide plan.
• The strategy is to drive robust growth.
• The comprehensive guide plan says that Ridgedale Village is guided for mixed uses and housing. The proposal has no mixed uses or housing.
• The comprehensive guide plan does not prohibit the type of use being proposed, but the proposal does not meet the goals of the comprehensive guide plan.
• The proposal would have extremely low density in an area that is designated for big growth.
• The PID allows a use with much higher density on the site.
• The proposal is proposing 30 Legos when 75 Legos would be allowed and be closer to the city’s goals.
• The Ridgedale Village Center study calls for a floor area ratio of 1.1 which would represent 110 Legos. The proposed development and land use would represent 19 Legos.
• Building heights should be taller closer to the mall and get shorter as buildings get closer to neighborhoods. That provides a good transition. This proposal would be contrary to that because the proposed buildings would be too short.
• She asked if there is room to improve the proposal; if the development must remain retail or commercial, then what can be done to increase the density; can the proposal be adjusted to include mixed use or housing; and what incentives are available to offer to a developer to get mixed use or housing.

No additional testimony was submitted and the hearing was closed.

Calvert asked if parking regulations would be met. Gordon explained that the current parking ratio is 4.4 vehicle stalls per 1,000 square feet of shopping center. The proposal would have 4.1 stalls per 1,000 square feet. A shopping center typically has 3 stalls per 1,000 square feet for a non-December event. There would be proof of parking east of Nordstrom’s. There would be sufficient parking. Someday parking might become a concern with additional development.
Gordon explained the creation of the village study and the variety of uses included in a “mixed use” designation. New development leads to additional development and improvements. Public improvements, such as the construction of the on-ramp to Interstate 394, spurs private investments.

Chair Kirk thought the pads at the end of the parking lot seem too dense. He questioned where snow would be stored and if there would be enough parking stalls in December. The proposal is located within the Ridgedale Center inner loop. He could not imagine adding housing or increasing the density further in the inner loop.

Calvert asked if a taller and denser project would be allowed. Gordon answered that a more dense use could be approved. A market study found that Ridgedale is lacking food and beverage stores, grocery stores, full-service restaurants, and drinking places. There is also a need for additional general merchandise stores.

Schack noted that the Bonaventure corner is an already congested area. Having a variety of food choices in one area is appealing. The proposal is consistent with what is allowed.

Powers likes the plan.

Mr. Freeman stated that competitors like being located next to each other because it attracts patrons to the area. He was not against increasing the density. Reciprocal parking agreements would be made between tenants.

Calvert asked if the third phase was discussed by the city council. Gordon explained that the minutes did not reflect the discussion of the third phase, but the third phase was reviewed by the city council and included in the approval of the master development plan. Chair Kirk recalled the planning commission discussing the phases. General Growth Properties has done a great job promoting new development.

Chair Kirk thought that the building pads would be able to provide a use with more density in the future. He was comfortable recommending approval to the city council. The inner ring is different than the second ring from Ridgedale Center. He could see structured parking and a theater in the future. There is still a lot of potential to develop the inner ring in the future. He appreciated the residents attending the meeting.

Calvert loved the proposed materials and design. The proposal would be very attractive. Chair Kirk agreed.
Schack moved, second by Calvert, to recommend that the city council adopt the following resolution approving final site and building plans and a resolution approving conditional use permits for restaurant uses and outdoor seating areas for Ridgedale Restaurants located at 12415 Wayzata Boulevard with a modification provided in the change memo dated April 20, 2017.

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

9. Adjournment

Knight moved, second by Powers, to adjourn the meeting at 8:33 p.m. Motion carried unanimously.

By: ___________________________

Lois T. Mason
Planning Secretary
Resolution No. 2017 - ___

Resolution approving final site and building plans for Ridgedale Restaurants at 12415 Wayzata Blvd.

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

Section 1. Background.

1.01 Ridgedale Anchor Acquisition, LLC, owner, has requested approval of final site and building plans for the proposed development Ridgedale Restaurants. Proposed plans include 24,498 square feet of restaurant/entertainment use.

1.02 The property is located at 12415 Wayzata Blvd. It is legally described as Tract B, Registered Land Survey No. 1826

1.03 As proposed, three buildings would be constructed on the site. The submitted site and building plan application and associated design guidelines includes building and site plan details for pad site 1 and the four restaurant tenant spaces identified as tenant 1A - 1D. Façade materials for the new building would include natural or man-made stone, brick, metal panels and metal linear siding and limited amounts of stucco or exterior insulated finish systems.

1.04 Development pad sites 2 and 3 are not included in the design guidelines at this time. A review of these building plans would occur at a future date when tenants are known.

1.05 On April 20, 2017, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the final site and building plans.
Section 2. Standards

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

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

2. Consistency with the ordinance;

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

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

5. Creation of a functional and harmonious design for structures and site features, with special attention to the following:
   a) an internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors and the general community;
   b) the amount and location of open space and landscaping;
   c) materials, textures, colors and details of construction as an expression of the design concept and the compatibility of the same with the adjacent and neighboring structures and uses; and
   d) vehicular and pedestrian circulation, including walkways, interior drives and parking in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking.

6. Promotion of energy conservation through design, location, orientation and elevation of structures, the use and location of glass in structures and the use of landscape materials and site grading; and
7. Protection of adjacent and neighboring properties through reasonable provision for surface water drainage, sound and sight buffers, preservation of views, light and air and those aspects of design not adequately covered by other regulations which may have substantial effects on neighboring land uses.

Section 3. Findings

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

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

2. The proposed site and building are consistent with minimum ordinance standards.

3. The subject property is a developed site with 100 percent impervious surface. In the proposed redeveloped condition, the site would gain 14.4 percent or nearly one-half acre of pervious surface and landscaping.

4. The proposal would result in a high quality redevelopment with a logical placement of buildings, use of high quality materials, incorporation of landscaping and open space, and orderly routes for vehicle and pedestrian circulation and parking.

5. As new construction, the proposed building would meet minimum energy standards.

6. The proposal would not negatively impact neighboring land uses. Rather, it is anticipated that such redevelopment would result in both a physical and visual improvement to the Ridgedale Mall.

Section 4. City Council Action.

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

1. Subject to staff approval, Ridgedale Restaurants must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:
2. A grading permit is required. Unless authorized by appropriate staff, no site work may begin until a complete grading permit application has been submitted, reviewed by staff, and approved.

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

      1) An electronic PDF copy of all required plans and specifications.
      2) Three full size sets of construction drawings and project specifications.
      3) Final site, grading, stormwater management, utility, landscape, tree mitigation, and natural resource protection plans, and a stormwater pollution prevention plan (SWPPP) for staff approval.

         a. Final site plan must:

            1. Install a raised concrete median with appropriate signage along the north ring road at the north mall entry from I-394.

            2. Eliminate parking lot access to the ring road from the parking lot directly west of tenant pad 1A.

            3. Consider an alternative parking configuration for this area.

            4. Remove spaces at the east and west ends of the drive aisle to improve mobility and reduce conflicts.
b. Final stormwater management plan must meet the requirements of the city’s Water Resources Management Plan, Appendix A. Design.

c. Final utility plan must:

1. Obtain a sanitary sewer extension permit from MPCA.

2. Must be 8-inch pipe between manholes.

3. Confirm presence of service stubs from existing manhole that is being connected to; if service stubs are present, remove.

4. Provide traffic control plan; sanitary sewer construction will result in ring road needing to be closed.

5. Contact MDH and obtain permit if required.

d. Final landscaping and tree mitigation plans must:

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

2. The proposal provides landscaping along the building face however, a full landscaping plan will need to be provided. The final landscape plan will require staff review and approval which should meet the required landscape value of 2 percent. This amount may be reduced at the sole discretion of city staff. The plan should include landscaping the “backyard view” so it feels more like a boulevard to Ridgedale’s northern ring road and it should include components to
help soften the hardscape of the mechanical and trash areas.

3. The landscape “as-builts or as-planted” for Phase I and II need to be provided.

4. Include rain sensors on any irrigation systems.

4) An exhibit showing property line, building footprint, and water, sanitary sewer, and storm sewer lines and clearly labelling all lines as “private.”

5) Manufacturer’s information or confirmation from a structural engineer indicating that the proposed underground storage facility is capable of supporting fire apparatus weighing at least 83,000 pounds and outrigger pressures up to a maximum of 10,800 pounds per square foot.

6) The following documents for the review and approval of the city attorney:

a. A private fire hydrant agreement.

b. Stormwater maintenance agreement over the proposed underground stormwater treatment facility.

c. A tree maintenance agreement. The property owner is responsible for trimming trees in location of conflict between trees, vehicles, and pedestrians.

d. Snow removal agreement. The agreement must address snow removal operations for the parking lot and sidewalks. The property owner is responsible for snow removal and maintenance of the public sidewalks adjacent to the development. The agreement must outline the plowing schedule and timelines to avoid conflicts with plowing of the public street, and avoid redundancy of sidewalk plowing. The agreement must also outline de-icing needs and provide chloride guidelines that winter snow and
ice removal contractors will adhere to. The de-icing practices should minimize salt and chloride use to protect the landscape investments.

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

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

      1. A final as-built survey has been submitted;

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

      3. Vegetated ground cover has been established; and

      4. Required landscaping or vegetation has survived one full growing season.

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

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

   b. If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion or grading problems.
9) A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance.

10) All required administration and engineering fees.

b) Prior to issuance of the grading permit:

1) Obtain and submit a permit from the Minnesota Department of Health or documentation from the department that no such permit is required.

2) Obtain and submit a sanitary sewer extension permit from the Minnesota Pollution Control Agency or documentation from the agency that no such permit is required.

3) Obtain and submit a right-of-way permit from Hennepin County or documentation that no such permit is required.

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

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

4. Prior to issuance of a building permit:

a) Submit the following documents:

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

2) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance. If the builder is the same entity doing grading work on the site, the construction management
b) Submit a final material and color palate board for staff review and approval.

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

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

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

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

d) Submit all required hook-up fees.

e) Submit any outstanding delinquent fire alarm fees.

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

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

9. The property owner is responsible for maintaining records and continuing to locate abandoned, in-place utility facilities.

10. This resolution does not approve any signs. Separate sign permit applications must be submitted.

11. The approvals granted under this resolution will expire on December 31, 2018 unless: (1) a building permit has been issued for the proposal as outlined; or (2) the city has received and approved a written request for extension of the approvals.
Adopted by the City Council of the City of Minnetonka, Minnesota, on May 8, 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 May 8, 2017.

David E. Maeda, City Clerk
Resolution No. 2017 - Resolution approving a conditional use permit for restaurants with outdoor seating areas at 12415 Wayzata Blvd.

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

Section 1. Background.

1.01 Ridgedale Anchor Acquisition, LLC, owner, has requested approval of a conditional use permit for four restaurants with outdoor seating areas.

1.02 The property is located at 12415 Wayzata Blvd. It is legally described as Tract B, Registered Land Survey No. 1826.

1.03 By City Code §300.31 Subd.4(b)(2)(n), restaurants are conditionally-permitted in the Planned I-394 zoning district.

1.04 The conditional use permit is applicable to those buildings and outdoor seating areas as depicted in the design criteria for tenant spaces 1A – 1D.

1.05 On April 20, 2017, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended the council approve the conditional use permit.

Section 2. Standards.

2.01 City Code §300.31 Subd.4(b)(2)(n), outlines standards for freestanding restaurants as conditional uses in the PID district. The restaurants would meet these standards.

1. shall have minimum seating capacity of 150;
2. shall be part of an overall master development plan consisting of more than one structure;

3. shall be architecturally consistent and compatible with other structures in the master development plan;

4. shall have parking in compliance with the requirements of section 300.28 of this code;

5. shall be permitted only when it can be demonstrated that operation will not lower significantly the existing level of service as defined by the institute of traffic engineers on the roadway system;

6. shall not include a drive-up window; and

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

   a) landscaping and berming to shield the restaurant use;
   b) parking lots not located in proximity to residential uses; and
   c) lighting plans which are unobtrusive to surrounding uses.

Section 3. Findings.

3.01 The proposal would meet all of the specific conditional use permit standards outlined in City Code §300.31 Subd.4(b)(2)(n).

1. The building and up to 4 tenant spaces would provide a seating capacity exceeding 150.

2. This project represents phase 3 of the overall Ridgedale Mall master development plan.

3. The proposed building design and materials identified in the design criteria are consistent with the aesthetic and quality of those used in major anchor tenant additions and mall entry renovations in phase 1 and 2 of the master development plan.

4. The proposed project would maintain parking code minimums for retail commercial standards of 1 space per 1000 square feet of building area for the mall.
5. The city’s traffic consultant reviewed the proposal finding no level of service operational concerns with the proposed project.

6. The proposal does not include a drive-up window.

Section 4. City Council Action.

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

1. The site must be developed and maintained in substantial compliance with plans and conditions outlined in Resolution No. 2017 -___.

2. The approvals do not approve any other city licenses that may be required to operate the restaurants or patio area.

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 8, 2017.

_______________________________________
Terry Schneider, Mayor

Attest:

_________________________________
David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on May 8, 2017.

________________________
David E. Maeda, City Clerk
Addenda
Minnetonka City Council
Meeting of May 8, 2017

14C - Preliminary and final plats, with front yard setback variances, and waiving the McMansion Policy, for THE ENCLAVE AT REGAL OAK at 3639 Shady Oak Road and 3627 Regal Oak Lane

Attached are emails received after the council packet was distributed.

14D - Items concerning Ridgedale Restaurants at 12415 Wayzata Blvd

Attached is change memo from the city planner with correspondence that was inadvertently left out of the council packet after having been received prior to the planning commission meeting. Also included in the change memo are corrections to the planning commission meeting minutes that were approved by the planning commission.
Memorandum

To: City Council

From: Loren Gordon, AICP, City Planner

Date: May 8, 2017

Subject: Change Memo for May 8, 2017

14C  Preliminary and Final Plat with front yard setback variances and waiving the McMansion Policy - The Enclave at Regal Oak at 3639 Shady Oak Road and 3627 Wayzata Blvd.

The attached correspondence was received after the packet was distributed.

14D  Items concerning Ridgedale Restaurants at 12415 Wayzata Blvd.

The following correspondence was received prior to the planning commission meeting as a change memorandum. The correspondence was mistakenly left out of the city council packet:

April 20, 2017

We are excited to learn that we may be getting some new restaurants in the Ridgedale Village, and we thank the Ridgedale Restaurants developer for their interest in our community and their commitment to taking a cohesive, quality design approach.

However, the proposal does not meet the vision that the community has agreed upon for this area. In 2015 (when the first public engagement meetings were held on the Ridgedale Village Study), a list of 13 Guiding Principles was developed, reflecting input from more than 150 Minnetonka residents who collaborated with city staff. The principles were designed to “inform potential redevelopment, help evaluate projects and provide guidance to the city’s decision-makers.”

Foremost among those principles: “Building height should transition from taller closer to the mall to shorter closer to the neighborhoods.” In numerous discussions between the public and city in recent years, we’ve agreed that this principle could help us achieve growth while meeting Minnetonka’s
The Ridgedale Restaurants proposal is completely contrary to this principle of putting taller buildings closer to the mall. In fact, it proposes building the shortest possible structures (one story) next to the mall – while a six-story building is being constructed nearer to neighborhoods.

In addition, the proposal falls short of meeting density/growth strategies guided by the 2012 Ridgedale Village Study, the Planned I-394 District (PID) zoning ordinance (Mtka Ordinance 300.31 section 5d), and the Minnetonka Comprehensive Guide Plan (p. VI-32).

- This proposal is far below the density guided by the Ridgedale Vision Study; the proposed floor area ratio is only 0.19, versus a target of around 1.1 for the southwest quadrant.
- This proposal is also well below the floor area ratio that our zoning allows for retail commercial, which is the land use category with the lowest floor area ratio of all.
- This proposal doesn’t meet our comprehensive guide plan’s “specific land use guidance and strategy” for the Ridgedale Mall & Bonaventure land parcels in the comp guide plan, which specifies that mixed uses are allowed and residential uses can be considered. This proposal is neither mixed use nor residential; it is restaurants only.
- Unlike the confined/constrained TCF Bank property, this property appears to be able to support a much larger/taller redevelopment, such as a mixed-use development to help meet the Ridgedale Village Study’s goals of adding housing, office space, or a hotel.

We support redevelopment in the Ridgedale area, but it needs to be controlled if we are going to meet both our vision/values and our growth goals.

- Please deny this proposal and ask for a significantly larger development.
- Please ask staff to provide an update on the framework for PID ordinance changes that it promised to draft in the April 18, 2016 study session, which staff said would “map out possible density for each area” (of Ridgedale) and “tie in some incentives.”

Derek Diesen   Jayme Neary   Bob & Annette Bertelsen
13525 Larkin Drive  13537 Larkin Drive  13513 Larkin Drive

The following represents changes requested to the April 20, 2017 planning commission meeting minutes. The meeting minutes were corrected as indicated at the May 4, 2017 planning commission meeting:

Annette Bertelsen, 13513 Larkin Drive, spoke on behalf of a group of residents who live in the Essex neighborhood west of Ridgedale Village. She stated that:

- The group is beyond thrilled that the developer continues to improve Ridgedale Center. She thanked staff and commissioners for creating design standards.
- They liked the idea of having new restaurants and redevelopment that align with the city’s growth strategies. As much as we like the idea of having new restaurants, we like the idea of having redevelopment that aligns with the city’s growth strategies even more.
The following correspondence was received after the packet was distributed:

From: Susan Kaufman
Sent: Sunday, May 7, 2017 1:56 PM
To: twagner@eminnetonka.com; pacomb@eminnetonka.com
Subject: Restaurant and housing development at Ridgedale

Tony and Patty,

I am writing to express my strong support against further development in Minnetonka. Specifically regarding the current activity at Ridgedale Mall, I would support increasing the single story restaurant in the Ridgedale parking lot to a multi-story building to include residential units, keeping these close to the mall and away from existing residential areas. This would maximize efficiency of the current project and enable the council to more stringently consider reducing proposed apartment building in close proximity to residential neighborhoods, as the council has permitted with Highland Bank, which is already exceeding the established density and setback regulations, causing undue pressure on current residents.

I am an active voter with support from 30 people in my neighborhood.

Susan Kaufman
13931 Hill Ridge Drive
Minnetonka
Hello Ms. Greene,

Thank you for asking about the tree ordinance, it can be somewhat confusing so I will do my best to explain the details and answer your questions. I fear that the ordinance could be better explained with a phone conversation but I’ll start with this email. Please feel free to give me a call to discuss it after you read this material. For your reference, the ordinance is in Chapter 3 of City Code, section 300.28, subdivision 19. Please refer to the link below.

http://library.amlegal.com/nxt/gateway.dll/Minnesota/minnetonka/cityofminnetonkahomerulecharter?f=templates$fn=default.htm$3.0$vid=amlegal:minnetonka_mn

First let’s look at the ordinance and then I can discuss the details of the development. The ordinance identifies three categories of trees: woodland preservation areas, high priority trees and significant trees.

- **Woodland Preservation Area** is a remnant woodland that exists within the city. The ordinance defines it as “a remnant woodland ecosystem that is at least two acres in size regardless of property boundaries, is generally mapped in the city's Minnesota Land Cover Classification System, and although it may be degraded it generally meets the criteria for one of the following types of ecosystems as reasonably determined by the city”. The ordinance describes the ecotype or characteristic of each woodland which can include: floodplain forest, lowland hardwood forest, mesic oak forest, oak woodland brushland, maple basswood etc.

- **The ordinance defines a High Priority Tree** as “a tree that is not in a woodland preservation area but is still important to the site and the neighborhood character, that is structurally sound and healthy, and that meets at least one of the following standards:

  a. a deciduous tree that is at least 15 inches dbh, except ash, box elders, elm species, poplar species, willow, silver maple, black locust, amur maple, fruit tree species, mulberry, and Norway maple.

  b. a coniferous tree that is at least 20 feet in height, except a Colorado spruce that is not in a buffer as described in c below; or

  c. a tree that is in a group of deciduous trees that are at least eight inches dbh or coniferous trees that are at least 15 feet in height, that provide a buffer or screening along an adjacent public street, and that are within 50 feet of an arterial road and 35 feet of a minor collector, local, or private street and a trail. This distance will be measured from the edge of the pavement or curb of the road, street or trail.” DBH
means diameter at breast height.

- The ordinance defines a Significant Tree as “a tree that is structurally sound and healthy and that is either a deciduous tree at least eight inches dbh or a coniferous tree at least 15 feet in height.”

When there is a subdivision of land such as the case with Regal Oaks the ordinance allows the following:

a. Significant trees may be removed for any construction in a subdivision of land without mitigation only:
   1. within the basic tree removal area (basically means within the footprint of the building and 20-feet around the building and within the driveway or parking areas and 10-feet around those areas. Please refer to the code for the definition.); and
   2. within the width of required easements for public and private streets and utilities, including areas required for surface water ponding.

b. If more than 35% of the site's high priority trees or more than 25% of a woodland preservation area on the site are to be removed for any construction in a subdivision of land, there can be no more than one lot per developable acre of land. High priority trees and trees within a woodland preservation area may be removed for any construction in a subdivision of land without mitigation only:
   1. for the basic tree removal area; and
   2. for the width of required easements for public and private streets and utilities, except in areas required for surface water ponding. The removal of high priority trees or trees in woodland preservation areas for surface water ponding must be mitigated.

c. A subdivision of land that proposes to remove more than 35% of the site's high priority trees or more than 25% of a woodland preservation area on the site can be developed up to the full density normally allowed under other development regulations in the applicable zoning district if the property is developed under an approved planned unit development (PUD). There is no minimum size required for a PUD in this situation. In reviewing a PUD application, the city will consider the extent to which steps are taken to preserve protected trees, such as:
   1. using creative design, which may include the clustering of homes, reducing lot sizes, reducing or expanding normal setbacks, custom grading, retaining walls, buffers, and establishing the size and location of building pads, roads, utilities and driveways;
   2. preserving the continuity of woodland preservation areas by developing at the edges of those areas rather than at the core;
   3. exercising good faith stewardship of the land and the trees both before subdivision and after, including the use of conservation easements when appropriate; and
   4. minimizing the impact to the character of the existing landscape and neighborhood.

In the case of the Enclave at Regal Oaks they have a Woodland Preservation Area that will not be
impacted. A conservation easement will be placed over the woodland area to protect it into the future.

They also have 31 high priority trees on the site. Twenty-one meet the High Priority item a. definition above (qualifying species and larger than 15-inches dbh) and 10 of them meet the High Priority item c. definition above (are in a group near the road and are a deciduous tree that is at least eight inches dbh or coniferous trees that is at least 15 feet in height regardless of species).

Additionally they have 92 Significant trees on the property.

The original subdivision proposal with 5-lots, 4 new homes, proposed removing over 55% of the High Priority trees. The developer did not want to develop at one lot per acre nor did they want to apply for a planned unit development, which were their choices as outlined under the subdivision component of the ordinance in b and c above. They then looked at the overall grading to make adjustments to save High Priority trees and dropped a lot.

The 5-lot proposal also proposed removing 66% of the Significant trees but the Significant tree loss does not trigger a change in the type of subdivision application as is the case with High Priority tree loss.

The 4-lot, 3 new homes proposal reflects the removal of 10 (32%) of the High Priority trees and 57% of the significant trees. Since this is under the High Priority threshold of 35% the ordinance allows the R-1 density.

I should point out that when I say removed or lost it means that the tree is physically removed or that 30 percent of the critical root zone for all species, except 40 percent for ash, elm, poplar species, silver maple and boxelder is compacted, cut, filled or paved. The critical root zone generally is the root area under the dripline or canopy of the tree and is defined by code as: “The critical root radius is calculated by measuring the tree’s diameter at breast height. For each inch of tree diameter, 1.5 feet of root zone radius must be protected. For example, if a tree's dbh is 10 inches, then its critical root zone radius is 15 feet (10 x 1.5 = 15).”

I hope this helps clarify the regulation and that I answered your questions. I also tried to answer your specific questions (noted in red) in your original email below. Please give me a call if you have additional questions.

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-----Original Message-----
From: Vanessa Greene [mailto:osprey.mn@gmail.com]
Sent: Wednesday, May 03, 2017 8:30 AM
To: Jo Colleran <jcolleran@eminnetonka.com>
Cc: Bob Ellingson <bellingson@eminnetonka.com>
Subject: Enclave at regal oaks

Hello....
I have been concerned about some things that were said at the last planning commission meeting regarding the enclave at regal oaks development and am hoping I can get some information to help clarify some issues.

Originally this development was turned down in part because the numbers of trees that would be destroyed was too high, 55% - 55% of the high priority trees not all the trees. Now the number of trees being destroyed has been reduced to 32%, - only high priority trees coming in just under the city's tree protection plan number of 35% - regulated high priority tree threshold yes. I am at a bit of a loss to understand how this number has been reduced so dramatically given some of the comments made at the last planning commission meeting.

Although the number of houses has been reduced from five to three, the homes have become potentially much larger, with twice as many square feet. How can this size of homes result in so many fewer trees being disturbed? 5-lot plat had 18 high priority and 62 significant trees (total of 80) being removed, 4-lot plat has 10 high priority and 54 significant trees (total of 64) being removed. They reduced the grading on the south side of the parcel by removing the storm pond proposed in the 5-lot plat and tightened up the grading around the homes as well as dropping one lot. As you can see it is only a total tree protection saving of 8 high priority trees and 8 significant trees but it was enough to meet the tree ordinance to allow the R-1 proposal.

I would like to know exactly how a "high priority" tree is determined. See above You stated that a high priority tree is based upon its location, not its size or species and the example given was that a boxelder tree in the front yard is considered a high priority tree while the same tree in the back yard is not a high priority tree. I don’t remember the exact context but I think I was responding to an inquiry about why a tree normally considered significant like an elm was considered high priority. I was trying to explain to the planning commissioner that in this instance the trees’ locations makes them high priority.

What exactly is the difference between a high priority tree and a significant tree and how are these categories determined? See above

On the surface, it seems somewhat arbitrary. Of course to those of us who chose to live in Minnetonka, at this site, drawn there by the trees, the natural habitat, the wildlife....ALL trees are significant and high priority, especially those in the backyards that provide privacy. Thank you for valuing your trees. Trees are important to our community and our woodland character is a big part of what makes Minnetonka, Minnetonka. There was much thought, requests for public input and conversation back in 2007 and 2008 when the ordinance was considered and ultimately adopted by the council. The council spent a lot of time discussing the details in order to try to protect trees while still recognizing property owners’ rights, hence the ordinance we have today.
Any information you can provide to explain how these numbers are arrived at will be helpful.

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Sent from my iPad