Minnetonka City Council

Regular Meeting, Monday, May 22, 2017

6:30 P.M.
Council Chambers

1. Call to Order

2. Pledge of Allegiance

3. Roll Call: Acomb-Wiersum-Bergstedt-Wagner-Ellingson-Allendorf-Schneider

4. Approval of Agenda

5. Approval of Minutes: April 24 and May 1, 2017 regular council meetings

6. Special Matters: None

7. Reports from City Manager & Council Members

8. Citizens Wishing to Discuss Matters Not on the Agenda

9. Bids and Purchases: None

10. Consent Agenda - Items Requiring a Majority Vote:

   A. Resolution approving agreement with MnDOT

   B. Resolution approving a conditional use permit for an eight-resident licensed residential care facility at 5531 Eden Prairie Road

   C. Request for temporary banners at Destiny Hill Church at 13207 Lake Street Extension

11. Consent Agenda - Items Requiring Five Votes: None

12. Introduction of Ordinances:

   A. Items concerning implementation of a SAC/REC deferral program:

      1) Resolution amending Council Policy No. 12.4 regarding Sanitary Sewer and Water Connection Fees and adopting Council Policy No. 12.10 regarding Met Council Sewer Availability Charge and City Residential Equivalency Charge Payment Deferral Program

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2) Master SAC Deferral Agreement with Metropolitan Council
3) Introduce the ordinance amending city code

Recommendation: Adopt the resolution to implement a SAC/REC Deferral Program, approve the Master SAC Deferral Agreement and introduce the ordinance amending city code (4 votes)

13. Public Hearings:

A. Temporary on-sale liquor license for The Rotary Club of Minnetonka Foundation, 14600 Minnetonka Blvd.

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

B. On-sale Wine and On-sale 3.2% Malt Beverage liquor licenses for Greenfield Farm + Vine, Inc., DBA Farm + Vine at 1700 Plymouth Road

Recommendation: Open the public hearing and continue to June 26, 2017 (4 votes)

C. Off-sale liquor licenses for Target Corporation, 4848 Co Rd 101

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

D. Resolution vacating public drainage and utility easements at 15815 Minnetonka Boulevard and 15820 Wood Knoll Lane

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

14. Other Business:

A. Conditional use permit for a telecommunications tower with a height variance on the property located at 4525 Williston Road

Recommendation: Recommend the city council adopt the resolution approving the request (5 votes)

B. Appeal of planning commission denial of a sign plan amendment for the CycleBar at Ridgedale Center

Recommendation: Adopt the resolution upholding the planning commission decision (4 votes)

15. Appointments and Reappointments:

A. Reappointments to the senior citizen advisory board

Recommendation: Approve the recommended reappointments
B. Appointments to the comprehensive guide plan steering committee

Recommendation: Approve the recommended appointments

16. Adjournment
Minutes
Minnetonka City Council
Monday, April 24, 2017

1. Call to Order

Mayor Terry Schneider called the meeting to order at 6:47 p.m.

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

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

4. Approval of Agenda

Wagner moved, Wiersum seconded a motion to accept the agenda with an addendum to item 14C and moving item 14E before item 14A. All voted “yes.” Motion carried.

5. Approval of Minutes: March 6, March 27, and April 10, 2017 regular meetings

Bergstedt moved, Wiersum seconded a motion to approve the March 6, 2017 council minutes, as presented. All voted “yes.” Motion carried.

Bergstedt moved, Wiersum seconded a motion to approve the March 27, 2017 and April 10, 2017 council minutes, as presented. Ellingson, Wiersum, Bergstedt and Schneider voted “yes.” Wagner and Acomb abstained. Motion carried.

6. Special Matters: None

7. Reports from City Manager & Council Members

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

8. Citizens Wishing to Discuss Matters not on the Agenda

Bob Ashmun, 3529 Orchard Lane, noted he appeared before the council at its last meeting. He bought his dream house in 2006 and has regularly received his water and sewer bill and city newsletter. In 2013 he got a letter that he owed a $40,000 fee. When he purchased the property, he had a professional title search
company do a title search and he purchased title insurance. Because the statute of limitations, he has no recourse at this point and asked the council to waive the $25,000 worth of interest that has accumulated. If he had been notified in a timely fashion, he would have had some recourse with the previous property owner, the title search company, or the title insurance company. He spoke with city staff and was told the same thing he was told three and a half years ago that the city had no obligation to notify Ashmun of the fee and interest. He said the city attorney had said the city would be willing to spread the cost over the three properties and this was a step in the right direction.

Barone said Ashmun met with staff. Staff provided the option of spreading the cost over the three properties in order to make things less painful for Ashmun. The city has been consistent about not forgiving the interest for any of the properties that fell into the same situation. She said this was the first staff had seen or heard from Ashmun since providing the option and suggested he continue to work with staff. Schneider agreed Ashmun’s best recourse was to continue to work with staff.

Inna Glusker, 920 Delaware Street, Minneapolis, said she was an undergraduate at the University of Minnesota. One of her policy classes is looking to reduce runoff pollution into Lake Minnetonka. She proposed for future road construction projects that vegetative filter strips be used. Water quality would be increased by decreasing maintenance costs while increasing traffic safety. Schneider suggested Glusker speak with the city engineer.

9. Bids and Purchases: None

10. Consent Agenda – Items Requiring a Majority Vote:

   A. Request to approve a five-year extension for Minnetonka Farmer’s Market temporary signs on the Civic Center Campus at 14600 Minnetonka Boulevard

   Acomb moved, Bergstedt seconded a motion to approve five temporary signs associated with the Minnetonka Farmer’s Market to be displayed on the Minnetonka Civic Center Campus. Signs may be displayed every Tuesday during the Minnetonka Farmer’s Market season through 2021. All voted “yes.” Motion carried.

   B. Ordinance amending park regulations

   Wagner asked that the item be pulled from the consent agenda. He said he wasn’t at the meeting when the ordinance was introduced. He was concerned about a provision in the new regulations that would prohibit the use of a sled in city parks. He understood the liability concern about
allowing sledding on hills but prohibiting them in parks went against being a Minnesotan in the wintertime. He supported all the other changes but suggested striking the word “sled” or refer the provision back to the park board for further review.

City Attorney Corrine Heine said she didn’t believe the park board discussed the provision. Staff had recommended the change to make the ordinance consistent with what the city’s actual practice was. For a number of years staff had thought people were not allowed to sled in city parks unless there was a designated area but this wasn’t the way the ordinance was written. There was a concern about potential injury if free sledding down a slope was allowed without restriction. Wagner said he understood this but didn’t think it made logical sense. He didn’t want people restricting from pulling their children on a sled in a city park. He understood risk and insurance but he didn’t think the proposed wording made sense.

Wagner moved, Acomb seconded a motion to adopt ordinance 2017-04 striking the changes in the former number 15, now the new number 16, under the “Specific Activities” section of the ordinance. All voted “yes.” Motion carried.

C. Ordinance amending miscellaneous criminal offenses

Acomb moved, Bergstedt seconded a motion to adopt ordinance 2017-05. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances:

A. Ordinance amending City Code Section 525, concerning property maintenance

Community Development Director Julie Wischnack gave the staff report.

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

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

1) Major amendment to an existing master development plan;
2) Site and building plan review, with a parking variance;
3) Preliminary and final plats; and
4) Vacation of easements.

City Planner Loren Gordon gave the staff report.

Wagner said there was a safety concern from nearby neighborhoods about the driveway sightlines. He said a resident raised a second concern about the massive gully and what the foundation would look like.

Acomb asked if consideration would be given to a conservation easement because of the woodland preservation area. She also asked if there would be consideration given to a percentage of the units being affordable. Gordon said it was common practice to evaluate using a conservation easement to protect the area that is not developed and what would be preserved long term. He said the affordability component had not been discussed with the developer but could be asked prior to the planning commission hearing.

Wagner said the staff report indicated the woodland preservation area was at 25 percent. He asked if this was always calculated as the percentage of the total woodland preservation area as opposed to just what was on the property. Gordon said the ordinance stated 25 percent of the woodland preservation area could be impacted.

Schneider said the development may trigger a tree replacement of some kind. Replacing trees on a fully wooded site was not too realistic. He asked what the city’s practice was on requiring the replacement be done offsite where there would be public benefit. Gordon said he couldn’t point to examples of where replacement was required that could not be done onsite. There were times the full landscaping package wasn’t required because it would make the site too dense. He said staff would look into Schneider’s idea.

Wiersum said he thought Schneider's idea was an interesting one. There were a lot of trees being removed. If the trees couldn’t be replaced he would be OK with a trade for affordable housing.

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

C. Ordinance amending fire code

Heine gave the staff report.

Schneider said for recreational fires, he thought the city needed to take a closer look at balancing recreational activity and the impact that had on
health or allergy issues for people on adjacent properties. He said currently this was out of balance. A long time ago, people could burn anything. Then burning was not allowed at all. In the past 10-15 years recreational fires and fire pits were allowed because there was nothing preventing them with a permit. He suggested adding limitations when a person applies for a permit to address health related objections from people living on the surrounding properties. He said he knew several instances in his neighborhood where a resident could not go outside in their backyard for several days because of the recreational burning occurring on a neighboring property. This was not fair to those residents. There was no reason that a person who was creating a problem could not convert to a gas fire instead of a log fire.

Fire Chief John Vance said there was a requirement in the current permit process that provides that if a neighbor complains due to a health issue like asthma, the permit holder is required to extinguish the fire. The police can be contacted to speak to a permit holder if this occurs. He said often times what was found was the person burning inappropriate materials.

Schneider said he was aware of the provision but was encouraging that the city be more proactive to have something more like the streetlight ordinance that requires a certain percentage of the neighbors to sign off before a light can be put in. He thought some upfront notification would be beneficial. This might have to be developed over time, but he thought it was bigger issue than most people were aware of.

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

13. Public Hearings:

A. Items concerning The Cheesecake Factory at Ridgedale Center:

1) Conditional use permit for a restaurant with outdoor seating area; Site and building plan review; and Sign plan amendment.

2) On-sale liquor licenses for The Cheesecake Factory Restaurants, Inc. (The Cheesecake Factory) at 12735 Wayzata Blvd (Ridgedale Mall)

Gordon gave the staff report.

Brian MacKellar, senior vice president of the Cheesecake Factory, said the company was trying to bring some excitement to the eastside of Ridgedale Mall. The outdoor patio would bring in lots of activity to the entrance. In developing the signage and the elevation, it was felt things
were being approached from a relatively normal standpoint. The company uses an unusually large “C” and “F.” The rest of the letters are rather small. They agreed to go with the 42 inch size but this would cause all the letters other than the “C” and “F” to be extremely small. Traditionally the company uses the tagline “Restaurant, Bakery, Bar” below because there still are plenty of people who do not know what the Cheesecake Factory really is. The company likes to have its name above the entrance. The proposed design was what the company felt was best for the project. The sign over the doors would have a two foot seven inch “C.”

Schneider opened the public hearing at 7:42 p.m. No one spoke. He closed the public hearing at 7:42 p.m.

Schneider agreed the eastside was the most boring corner of the mall. It could definitely use the life the Cheesecake Factory would generate. There was a balance between allowing the signage to be enough to pop out without it becoming so cluttered to make it look offensive. He thought the council should discuss the three elements: the main sign, the tagline, and the secondary sign. He agreed forcing all the letters to be really small because of the 42 inch standard was overkill. Would it be a reasonable exchange to allow the “C” and the “F” to be 52 inches as requested in order to eliminate the second sign? Other options included leaving the signs as is and removing the tagline or leaving the signs as is and allowing the tagline.

Wagner noted there was also a large “Ridgedale” sign that would be located in front of the restaurant and this was not shown in the picture. He agreed the restaurant was setback a distance from the road and no one thinks about coming to the eastside of the mall. People would not think about coming to the restaurant because there had never been a restaurant located there before. His preference was to eliminate the sign over the door because it could be put directly on the glass. The main focus would be on the big sign.

Wiersum said going back to some of the council’s past discussions about signs, the issue was about proportionality. In the past the council had long discussions about the Fidelity sign on 394 and the Macy’s sign. The council decided to walk a little away from the standards to reflect the branding that was relevant to the businesses. He thought the sign ordinance was important and he didn’t like to change it cavalierly. However he also thought it was important to look at the opportunity that this represents and the branding for a very nice restaurant that would enliven this part of the mall and hopefully be a catalyst to further development in the future. The residents were very fortunate to have a vital mall in the city. “Vital mall” was almost an oxymoron these days. He
was very comfortable with the Cheesecake Factory façade sign along with
the tagline but thought the second sign had to go.

Acomb said she tends to take the road around mall to get from 394 to
Plymouth Road. She agreed the restaurant would be difficult to see from
the road. She would support allowing a larger main sign without the one
over the door. She wouldn’t go for allowing a larger main sign and the
tagline.

Bergstedt said he agreed with the other council members and couldn’t go
along with the sign above the door. The site was setback a ways so he
wouldn’t be opposed to larger letters. Since the Cheesecake Factory
wasn’t everywhere like McDonalds, he would be OK with the tagline.

Schneider said he agreed. He liked the design of the top of the tower
shown in the council packet over the later version. It looked more
contemporary and inviting.

Wagner moved, Acomb seconded a motion to adopt resolution 2017-036
approving the conditional use permit and final site and building plans for a
restaurant with outdoor seating; and resolution 2017-037 with the signage
shown on page 19 of the staff report excluding the sign over the door with
54.5 inch “C” and “F” letters in the Cheesecake Factory sign. All voted
“yes.” Motion carried.

Schneider opened the public hearing for the liquor licenses at 7:56 p.m.

Howard Roston, Fredrikson & Byron, said he was present to represent the
applicant.

Schneider closed the public hearing at 7:57 p.m.

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

B. Off-sale liquor license for Target Corporation, 4848 Co Rd 101

Wischnack gave the staff report.

Schneider opened the public hearing at 7:59 p.m.

Joe Conrucci, senior vice president at Target Stores, said recently Target
had committed $7 billion to redoing its stores and ensuring brick and
mortar continues to be an important part of the business. He said the
Minnetonka Super Target was the first to be remodeled to see exactly how
it would go over with its guests. It has been a tremendous success but a big piece the guests have asked for is alcohol. Sixty six percent of the guests are looking to purchase alcohol from Target. The Ridgedale store has been selling 3.2 beer since 2002 and there has never been a violation. There have been no liquor violations statewide since 2008.

Acomb asked how much 3.2 beer is sold at the Ridgedale store. Contrucci said not much is sold since 3.2 beer is only available in a few states.

Bergstedt asked Contrucci to talk more about how nationally and in Minnesota Target has been adding liquor sales to its stores. Contrucci said because of Minnesota law it was different in this state than the rest of the country. There are seven liquor stores within its stores in Minnesota. Over 1,400 of the total 1,850 stores across the country sell alcohol within the store itself.

Wiersum asked what was different now from Target’s previous application for a liquor license. An unidentified Target representative said the biggest difference was the store was remodeled in 2015. A lot was learned from the changes particularly related to the food offerings. Guests have indicated consistently adult beverages were important for their trips to the stores. Contrucci added that guests expect to be able to buy liquor at the store since it is available in other Super Target locations.

Wiersum moved, Bergstedt seconded a motion to continue the public hearing to May 22, 2017. All voted “yes.” Motion carried.

14. Other Business:

E. Resolution establishing four “20-Minute Parking Only” signs along the north side of Minnetonka Boulevard in Minnetonka Mills

Wischnack gave the staff report.

Acomb asked if there would be 20 minute parking in front of Peoples Organic as well. Wischnack said that was not the current request. Acomb said she was concerned about the consistency. All the businesses have a stop and go component to them. She was concerned there would be compliance issues.

Wiersum said currently there are three branded signs outside of Station Pizzeria that will be replaced with three 20-minute signs that are non-branded. There will be a new 20-minute sign outside of Dairy Queen and the yellow dot loading zone and the green dot 20 minute parking sign will remain. Adding in the proposed parking restrictions it would bring all the
parking restrictions in the area fully up to date. Wischnack confirmed that was correct.

Bergstedt asked how the 20-minute signs would be enforced. Wischnack said they would be enforced on a complaint basis. Bergstedt said it was likely people would eat lunch at Peoples Organic and park in the 20-minute spots. It would be the business owners who would help the city by communicating violations.

Schneider said in a way it was a good problem to have because people were visiting the businesses. The area was much more vibrant. In time, if the parking lot to the east were expanded, it would provide more options. Wischnack said the city was looking at Bridge Street for the more formal spaces.

Acomb noted more and more people are biking to the area.

Wagner moved, Acomb seconded a motion to adopt resolution 2017-038 replacing Station Pizzeria’s three branded signs with three “20 Minute Parking Only” signs and add one additional “20 Minute Parking Only” sign in front of the Dairy Queen. All voted “yes.” Motion carried.

A. Resolution approving an amendment to an existing conditional use permit for new recreational fields, scoreboards, and lighting at the Hopkins High School Campus at 2400 Lindbergh Drive

Gordon gave the staff report.

Wagner noted at the planning commission hearing, neighbors raised concerns about Hopkins School District not having a master development plan. Given the challenges that occurred with the Minnetonka High School, he asked staff to comment about the concerns. Wischnack said she participated in the 2012 Hopkins facilities planning committee process when the school district had a deep evaluation of all its facilities and future planning for each of the sites. The city has details on each site and building in the city. She said the city requires master development plans mostly for commercial projects.

Schneider asked representatives from the Hopkins School District to comment about neighbors’ concerns about what was next. He said having a better communication technique showing the things that are not yet done but are being planned when financing becomes available would be helpful.
Dan Johnson, the district’s director of student activities, said the 92-acre site has the high school, a middle school, and one of the district’s larger elementary schools. The footprint was not being changed but rather changes were being made to how the space is used. Currently there are thousands of field users, not all at the same time and same day, during the outdoor season that runs from March through November. He said the biggest issue was the ability to maintain and take care of the fields.

Wagner said in talking with one of the neighbors, he explained the pros and cons of a master development plan. If a plan exists, the expectation was it would happen. In reality, it likely wouldn’t happen that way. Changes would be made. He said the Minnetonka School District’s master development plan helped mitigate concerns.

Acomb said at the planning commission hearing there were a lot of concerns from neighbors and the planning commissioners about not understanding this particular proposal and what might be coming next.

Wiersum asked what fencing the district was intending to use. Neil Tessier, SAFEEngineering, said the plan was for seasonal fences that would come down when the baseball and softball seasons end and the soccer season begins. Wiersum said people who live next to schools generally know what to expect. If one lives next to an athletic field they know athletic activity will occur. In general the neighbors view it as open space so he encouraged the district, where feasible, to use the open chain link fencing.

Schneider said he appreciated 15 trees were being added given natural grass was being replaced by artificial turf. Adding more trees would help even more.

Wagner asked what materials were being used for the dugouts. Tessier said they were block dugouts with blue-shingled roofs. They would be identical to the existing baseball dugouts.

Bergstedt said it was a really good plan and he liked the landscaping. It was fabulous that athletic participation was going through the roof. The lighting technology had evolved and there was little spillover. He thought the school district had been very sensitive to neighbors’ concerns.

Acomb said the complex had changed dramatically from the days she went to Hopkins High School. She thought it was great participation was so high.
Sam Black, 2265 Cape Cod Place, asked the city to keep reminding the school district to make the area around the outside of the development look nice. Any extent nature can be added would be helpful given the conversion from grass to turf. He asked the council to remember the next time the school district comes before them wanting to add lights above the tennis courts and the other softball diamond, or adding a parking garage or an ice rink, that there is some continuity. The council just can’t keep approving the next iteration because it would always be consistent with the existing uses. He asked that the next time the school district asks for something on the site, the council gets information about what the plans are for the whole site and how active it was going to become. At some point the city and residents deserved to know when the development would stop. He asked for permanent bathrooms to replace the porta potties. While the school district had its CIP process, the city was responsible for the planning and enforcement for the site.

Bergstedt moved, Wagner seconded a motion to adopt resolution 2017-039 with conditions, approving an amendment to the existing conditional use permit for new recreational fields, scoreboards, and lighting at the Hopkins High School Campus at 2400 Lindbergh Drive. All voted “yes.” Motion carried.

Schneider called a recess at 8:40 p.m. He called the meeting back to order at 8:51 p.m.

B. Items concerning recreational facility improvements on the Minnetonka Civic Center Campus at 14600 Minnetonka Boulevard:

1) Conditional use permit, with wetland setback variance, for trails/boardwalks within required wetland buffers; and
2) Conditional use permit for installation of lighting on an existing recreational field.

Gordon gave the staff report.

Acomb said she would like more information about the materials used for the boardwalks. In some places the recommendation was to use wood. She has seen recycled materials used in other boardwalk locations. Streets and Parks Operation Manager Darin Ellingson said recycled materials could be used instead if that was the preference. Acomb noted there were other boardwalks in the city that used recycled material. D. Ellingson said there was a variation throughout the city. Both had their pros and cons. It was felt that a more natural look was better for this area even though there would be more maintenance needed long term.
Schneider said he liked the natural look of the wood but in today’s environment it deteriorates rapidly. It looks good for a year or two. He suggested looking at something that was more stable that looks good long term.

Wiersum said the boardwalk between Crosby Cove and Grays Bay dam was particularly well done and was extremely durable given the amount of traffic. He suggested using that same material for this boardwalk. He asked if there was a place in the city that used the same lighting as was being proposed for this project. D. Ellingson said this would be the first LED lighting used in Minnetonka.

Bergstedt said he preferred the synthetic material for the boardwalk. He questioned the durability of wood and had even bigger questions about how slippery wood can become when it’s wet.

Wagner moved, Bergstedt seconded a motion to adopt resolution 2017-040 approving the conditional use permit, with wetland setback variances, for trails and boardwalks within required wetland buffers; and resolution 2017-041 approving the conditional use permit for installation lighting on an existing athletic field until 9:45 p.m. All voted “yes.” Motion carried.

C. Continued concept plan review for the Shady Oak Redevelopment located at 4312 Shady Oak Road

Gordon, and City Engineer Will Manchester gave the staff report.

Tony Heppelmann, WSB & Associates, said he was directly involved with the Shady Oak Road reconstruction project. As soon as the city contacted his company to do the study, they went and put out video cameras to count the traffic. Simulation models are used to model the traffic. The modeled data is used to compare with the visual data. What the data showed was the 54-unit apartment building would increase the delay for drivers on Oak Drive Lane turning on to Shady Oak Road by three seconds. The traffic study also looked at what the traffic would be if the current building were fully occupied. He said in the p.m. peak hour it would generate almost three times the traffic amount compared with the apartment building. Other types of redevelopment like a Walgreens were also looked at and it was determined something like that would generate almost twice the amount of traffic compared with the apartment building. He said the apartment building would probably be the lowest traffic generator of anything that could be put on the site.

Heppelmann said currently the Oak Drive Lane is about 28 feet wide, only wide enough for a single vehicle approach so vehicles making a left turn
have the potential to block vehicles making a right turn. The study showed that at most there would be a couple vehicle queue. The information was provided at the open house and there was a question about when the counts were taken and if spring breaks might have impacted the count. He said WSB went out a second time and the counts on Oak Drive Lane were pretty much identical. The numbers on Shady Oak Road were up for unknown reasons. He noted the counts on Shady Oak Road were up about 70 percent from 2012 likely due to the diversion off Highway 169.

Wagner asked what could be expected in terms of stacking on Oak Drive Lane. Heppelmann said the model indicated the longest expected queue was two vehicles but there was enough room for four vehicles.

Schneider noted Heppelmann had said there was a potential for a vehicle making a left turn to block the ability of another vehicle to make a right turn. He asked if the recommendation was to put in a right turn lane. Heppelmann said currently the road isn’t wide enough to add a right turn lane so in order to accomplish this, the curb would have to be moved. Given that most of the time there weren’t vehicles on Oak Drive Lane at the intersection, he didn’t think the cost of moving the curb was justified. The study showed the average overall delay was about 16 seconds.

Wischnack continued the staff report. She said there were three questions staff was presenting to the council to help guide the council discussion.

1) Is the council comfortable with the proposed multi-family apartment building with the monthly rents falling in the range of $800-$1,200?
2) Is the council comfortable with this density (30-32 units per acre)?
3) Comments about the design of the building.

Tim Whitten, Whitten Associates, presented the revised concept plan.

Mike Waldo, Ron Clark Construction and Design, showed examples of the company’s buildings in other communities. He went over some of the changes to the plan meant to address concerns that had been raised at the neighborhood meetings.

Wagner noted a lot had changed through the process. The current plan was for affordable and tax credit housing. He asked if anything had change in terms of the viability of the project given the potential changes at the federal level. Waldo said there had been changes since they started working on the RFI at the beginning of the process. The election and the expectation of tax reform had reduced the value of the credits. The difference is probably round 10 or 11 cents less than a year ago. He said he thinks the credits will go back up two or three cents.
Wiersum asked if the amount of habitable square footage had changed from earlier concepts. He also asked if there had been a change to the mix of one, two, and three bedroom units. Waldo said 98 percent of the mixture was the same. He said the overall square footage was substantially the same.

Fartun Ahmed, 14528 Moonlight Hill Road, said she is a business owner in the city and her parents run a daycare near this site. She supports the project and asked the council to support it as well. Affordable housing is very important for the city and discussions about affordable housing need to happen. She said young people like herself think very differently than the older generation that lives in the city. A lot of her generation is not looking to settle down and buy homes right away. A lot of her peers have school loans that they are trying to pay off so affordable housing was important to them. She said she read a lot of the rhetoric that was on the Minnetonka Matters portion of the city website. Comments like “this is going to be another Blake Road” were very inappropriate. She grew up in Westside Village on Blake Road and she doesn’t use drugs or trash neighborhoods and the same could be said with a lot of people in that neighborhood. She said the racial inequality that exists in Minnetonka is something that needs to be discussed. Comments like “those people” refer to members of her community. It was important to have affordable housing for the law-abiding citizens who are very innovative and who want to contribute to the community. She said a lot of the parents who use her childcare center have had to move out of the city because they can’t find affordable housing. A lot of the young people who grew up in the city are looking for diversity, innovation and community building.

Paul Burgett, a Hopkins resident, said he was opposed the project. He agreed with Ahmed that affordable housing was a good thing. He thought it should have been part of the discussion for the 75-unit development off Highway 169 where it wouldn’t impact the neighborhood as much. He was opposed to the size of the building, which would be two-thirds the size of the Titanic. The huge building would be dropped into a neighborhood that wasn’t made for it. He supported affordable housing in the city but thought jamming this building into this neighborhood would hurt affordable housing going forward. He suggested townhomes would be a better fit for the site or that the city wait five to ten years to see what happens to the market.

Elizabeth Miller submitted a petition signed by people opposed to the plan. She asked the architect at the open house what the tangible size difference in height was between this plan and the previous plan. She said the architect had no idea. If the city was investing taxpayer money to the developer, she thought the developer should at least know the height of
the building. If the developer could not live without 54 units and the neighbors couldn’t live with 54 units there was a disconnect and maybe this wasn’t the right developer. She said she appreciated Acomb’s inquiry during the Minnetonka Hills Apartments’ discussion about if affordable housing had been considered for that development because that’s where Miller thought affordable housing should go. She noted a map was emailed to staff showing where affordable housing was located in the city. She noted there was a very high amount within a one-mile radius of this neighborhood and little in the rest of the city. There were affordable homes in the neighborhood through the Homes Within Reach program. She would like to see more of that type of housing. She said the traffic engineer didn’t take into consideration the increased traffic that would occur with the park and ride if the LRT is built. She lives on Bradford Road and turning onto Shady Oak Road is very dangerous. She asked for a traffic study in that area too. She noted there was no easy access to Junction Park. The trees shown in the drawing were 50 feet high and in reality it would take years for the trees to grow that high.

Jen Westmoreland Bouchard, 4640 Caribou Drive, said she seconded everything Ahmed said. She had noticed a dangerous and very harmful thread of rhetoric in the comments on the online petition and the Minnetonka Matters site as well. She asked those opposed to the plan that had valid concerns to talk with their neighbors who are conflating crime with affordable housing and disparaging members of the community who live on Blake Road. She said she was impressed with the clear communication coming from the city but she was noticing there were voices being left out of the conversation. Westmoreland Bouchard said another resident, Angélique Ellis, asked her to share her comments with the council. Ellis looked for months to find affordable housing in the city. She needed a space that would accommodate her as someone in a wheelchair. Ellis indicated there was a lack of affordable housing for people with disabilities.

Chris Aanestad, 4255 Oak Drive Lane, asked what the buildable area was for the property. He said staff indicated it was 30-32 units per acre. According to his calculations using 54 units, the buildable area was 1.2 acres. This equates to 45 units per acre. He noted 15 business owners had been knocked off the property. He questioned if the city wanted tax credits for developers or jobs and taxes collected from business owners.

Farhia Mohamed said she was a resident in Ward 3. She was supportive of the project. It was deeply disturbing that some of the neighbors leapt to unwarranted conclusions such as thinking an individual was unfit and undesirable due to their financial bracket. Everyone wanted to live in a safe and secure neighborhood. If the sole concern about the project had
to do with the landscape then the discussion should focus on what could be done to create conscientiousness behind the design. However if the opposition perpetuated racial segregation within the city, a city that was mostly white, then the city has failed. Race matters. She quoted a Somali proverb that translated meant a person doesn’t enter a home simply because the door was open but rather a person enters a home because there was a welcoming face at the door. She said this was the community people want in Minnetonka.

Joyce Fiedler said she was a huge proponent of affordable housing. With her disappointment in the presidential election, her goal for the year was to find common ground in all she did. This plan was a good example. The people raising concerns about the building size, the number of people in it, and the traffic, had reasonable concerns. The people concerned about affordable housing also had reasonable concerns. She said the racial component should not be ignored. Everyone should recognize and listen to each other’s concerns.

Jim Reinitz, 4252 Oak Drive Lane, said he was a member of the Ford site task force in St. Paul. He had not heard any discussion about the pollution on the Shady Oak Road site. He supported affordable housing in areas where people could walk or bike to their jobs. This would reduce pollution and help the ozone layer. He said affordable housing should be put all around the city not just in certain sections.

Steve Philbrook, 4222 Oak Drive Lane, said most of the neighbors did not have an issue with affordable housing. He didn’t know anyone in the neighborhood who was a racist. His mother participated in the walk for peace march on Washington. He grew up as a hippie and was very liberal. His problem was the big monstrosity being shoved down the neighbors’ throats. One can put pearls on a pig and it still will be a pig. He said the traffic in the area already was horrible and dangerous. Research had to be done to determine if the site was polluted. Further research was needed to study the traffic.

Ellen Cousins, 4531 Greenwood Drive, said she wanted the council to remember the times when they were surprised by how big other buildings were once they were built. Buildings on drawings look a lot smaller than when they actually are built. She also wanted the council to keep in mind this would not just impact people on Oak Drive Lane but also people on Bradford Lane, Crawford Road and the whole neighborhood behind. She said the traffic engineer reported traffic was 75 percent higher than it was in 2012. She wondered what the projection had been in 2012. She asked the council to take a step back and determine if the project should be built now or if it was better to wait to build the right project.
Abbey Holm, 4234 Oak Drive Lane, said she thought affordable housing was terrific. She had lived in affordable housing. She thought this specific site was not conducive to the size of the building being discussed. She noted she had a discussion with Wiersum and she appreciated his comments about compromise being about meeting in the middle. If the developer could not lower the number of units from 54 then there was no ability to make a compromise.

Tim Gustafson, 12340 James Road, said the renderings looked beautiful from the Hopkins side but not the Minnetonka side. He said it appeared the decision had already been made that the only solution was a multi-unit building. The options for other types of community projects like a public garden or expanding the park were not being considered. The taxpayers of the city had already paid for the property. Why not consider what the people would like to see on the property?

Wagner said the council had been discussing the Shady Oak Road corridor for over a decade and the corridor’s proximity to the potential light rail station. The council had been told that residential development generates less traffic than commercial development. With the desire to have a more walkable community, this area was probably at the edge of where housing could occur. He said he always thought this corridor could blend commercial services and housing. He thought multi-family housing for this property was appropriate. The site was close to transit, both current and future. He’s always been an avid believer that affordable housing should be near transit.

Wiersum agreed multi-family housing was appropriate for this site. In discussing the village centers the council had often discussed the notion of combining affordable housing with transit.

Acomb agreed multi-family housing was appropriate for the site for the reasons Wagner and Wiersum had mentioned. The city wanted a diversity of housing stock and affordable housing was something the city wanted to make sure was provided for. She thought affordable housing needs to be looked at throughout the city.

Ellingson noted there was a townhouse development just kitty korner from this site on Main Street so there already was housing close to the location. The road reconstruction took away parking in front of the buildings so it made it more difficult for commercial businesses. He thought housing was appropriate for the site. He thought one of the best things about the plan was it was 100 percent affordable housing.
Bergstedt said the city desperately needed affordable housing throughout the city so anytime it can be added, it was a good thing. This location being close to downtown Hopkins, good transit and possibly the LRT, made it very appropriate for some type of multi-family affordable housing.

Wagner said everyone would like R1 housing or a park on the site but for him that would be a massive underutilization of the property. There weren’t locations in the city that have characteristics of this property, being near transit. The city was falling behind on its affordable housing targets and affordable housing was appropriate for this site.

Schneider noted there was a comment that the property should be used for Home Within Reach homes. He was part of the steering group that created that program and serves on its board. While doable, it takes a lot of extra effort and resources. Nothing of any substance can be done quickly. There have been 40-50 homes built through the program in the city, but it has taken 12-15 years to do so. This plan would provide over 50 units immediately. He thought the walkability to transit and tying it in with LRT was critical but the proximity to downtown Hopkins was just as important. He said the concept and scope of the project was very appropriate. It was important to keep in mind the challenging tax credit financing and its connection with the feasibility of the project happening. There was a difficult process the developer has to go through so the profit earned was well deserved. People who thought the number of units could be cut in half didn’t understand the dynamics of affordable housing and how difficult it was, particularly in the tax credit market.

Wiersum thanked Ron Clark and his team for their work. He said he gets offended when people talk about developer greed because everyone wants to get paid. People have a right to make a living. Developers play a valuable role in the community. He noted he was paraphrased but paraphrased badly. He didn’t say compromise was having people get to the middle. What he said was the best compromises occur when nobody was happy. That’s where he saw the challenge with the plan. If somebody wins somebody was going to lose. The developer was saying to get a quality building, 54 units were needed. This would allow for fulltime management. This made sense. He said he was the one that said looking at other developments, none looked smaller than he expected. He was concerned about that for this site. It was a small site. It was ideally located for housing and well located for affordable housing. Getting this right was important because he didn’t want to build the wrong project in the wrong place where people got mad enough that general support for affordable housing diminished. He was hoping for a compromise that would make everybody unhappy and that the end result was a multi-unit building with
significant number affordable units that was scaled appropriately for this site. He thought the concept plan was a little on the high side.

Bergstedt commended everyone who attended the meeting and for people being respectful with those that didn’t share the same point of view. He said he found himself feeling strongly both ways. The city needs affordable housing and this was a fabulous location for affordable housing. The part that makes it difficult was what the neighbors were saying. When he looked at the size of the parcel, the mass of the building and the lack of green space, a lot of things that were done with other developments could not be done here. This would be a huge building on a very small parcel. He thought townhouses would be a nice transition into the single family neighborhood on each side. The problem was to do affordable housing required more mass to make it work economically. If the council decided it wanted less units, he believed the developer would not submit an application. They had put in a lot of effort to try and make the building look smaller.

Acomb said one comment that resonated with her was the need to look for common ground. She supported the importance of using affordability in this location. She also was concerned with the size of the building and the impact on the neighbors. Her desire was to do something that made the building smaller. She preferred a two story building even if this meant it couldn’t be 100 percent affordable units. This might be a compromise that needed to be made even if it meant the development couldn’t be with this developer. She thought that would be unfortunate and didn’t want to see that happen.

Ellingson said most of the other commercial buildings along Shady Oak Road were one story. The townhouses were two stories. To have a three-story building would be out of scale with the other buildings. He said his other concern was there already were traffic issues and access to Shady Oak Road. He didn’t want to create another access issue for those living in the building. The original proposal was a building that was over 300 feet long, equal to a football field. This seemed like a big footprint. He wondered why the roof couldn’t be flat. This would be one way to make it look smaller.

Wagner said this was a classic dilemma for the council. There were neighborhood concerns about size and density. There were council and community goals for affordable housing. There were constraints with the site no matter what went there because of the easement. He was thinking about this site and the Shady Oak LRT station in the context of a 100-year transformation. What is seen today won’t be what will be seen tomorrow. The question for the council was if this building was the start of the
inevitable transition in this corridor. Would the transition start in 2020 when 
this building might go up or would it start in 2030, or 2040 when the light 
rail station goes in. Eventually the area would become more dense. He 
would like to have 54 units on a bigger site but that wasn’t the hand the 
city was dealt here. He saw the corridor intensifying in use and that it 
would become more walkable. He said the size of other recent 
developments do not bother him as much as some of the other council 
members. He thought the new building on Plymouth Road looks nice and 
was a great addition to the Ridgedale area. He thought Cherrywood 
Pointe and Applewood Pointe would be good additions to the city. The city 
could wait to see if something else gets proposed, but the math probably 
would not change. He didn’t disagree with anything the neighbors said but 
in reality, it wasn’t going to become a garden.

Schneider said before Council Member Allendorf left the country, he 
shared his thoughts about this plan with him. Allendorf was very 
supportive of affordable housing and felt this was the right site but he felt 
the building was too big. He would be willing to add additional incentives 
from the city contribution, whether it be reduced price or a combination of 
things to allow the number of units to be reduced while still making it 
feasible to reduce the size. This still would not mean a story could be 
eliminated from the building but it could be made smaller.

Schneider said he was reluctant for the city to put more money into the 
project but with the shared pain that was discussed maybe that was 
something that should be on the table. The city did not want to get so 
prescriptive that the development just did not work because nobody would 
benefit from that. The question was trying to find the right balance in 
getting the building to be as palatable as possible without jeopardizing the 
feasibility. This was the direction he would give the developer. He 
suggested fleshing out the design perhaps taking into account Allendorf’s 
suggestion to see if something more palatable could be considered. He 
thought there was a solution in that mix. The reason he didn’t think going 
from a three story to a two story building was feasible was because it 
would eliminate the underground parking. The challenge was making the 
three stories compact and designed enough to become more attractive. 
He thought being more creative with the edges of the building while 
potentially losing a few units might work. While the neighbors might not 
like to look at the building it would be an asset to the neighborhood with all 
the noise, traffic, light and activity on Shady Oak Road. The challenge 
would be finding the right mix and this would require the developer 
working with staff, and perhaps an open-minded neighborhood 
representative who could contribute a perspective that would contribute to 
the process.
D. Resolution supporting an application for a grant from the Metropolitan Council’s Local Housing Incentive Account Program under the Tax Base Revitalization Account (TBRA)

Wischnack gave the staff report.

Wiersum moved, Wagner seconded a motion to adopt resolution 2017-042 supporting the application for grant funds. All voted “yes.” Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Wagner moved, Bergstedt seconded a motion to adjourn the meeting at 11:10 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
Minutes
Minnetonka City Council
Monday, May 1, 2017

1. Call to Order

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

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

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

4. Approval of Agenda

Acomb moved, Bergstedt seconded a motion to accept the agenda, with an addendum to item 13A. All voted “yes.” Motion carried.

5. Approval of Minutes: April 24, 2017 LBAE meeting minutes

Wiersum moved, Wagner seconded a motion to approve the April 24, 2017 LBAE meeting minutes, as presented. Ellingson, Acomb, Wiersum, Bergstedt, Wagner and Schneider voted “yes.” Allendorf abstained. Motion carried.

6. Special Matters: None

7. Reports from City Manager & Council Members

Barone reported on upcoming council meetings.

Wagner reported he recently attended a meeting hosted by Hennepin County Commissioner Jan Callison related to the solid waste management plan. There was discussion about the current state of collection that is going to landfills instead of incineration, energy, recycling, composting and the targets by the county and state for 2030.

Schneider reported that the SWLRT project got a $10 million advance from the Federal Transit Administration as part of the adoption of the federal budget extension.

8. Citizens Wishing to Discuss Matters not on the Agenda
9. **Bids and Purchases:** None

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

   A. **Resolution establishing new polling place locations for Ward 1 Precinct D, Ward 1 Precinct E, and Ward 2 Precinct D**

   Allendorf moved, Acomb seconded a motion to adopt resolution 2017-043 changing the polling place for Ward 1 Precinct D from Grace Apostolic Church to Mzizi International Church; the polling place for Ward 1 Precinct E from Mzizi International Church to Bet Shalom Congregation; and the polling place for Ward 2 Precinct D from the Ridgedale Hennepin County Library to the Ridgedale YMCA. All voted “yes.” Motion carried.

   B. **Approval of community solar garden subscription agreements**

   Allendorf moved, Acomb seconded a motion to authorize the mayor and city manager to execute solar garden subscription agreements for Subscription A and Subscription B, subject to approval of the final language by the city manager and city attorney. All voted “yes.” Motion carried.

   Wagner said it was worth celebrating the contract to get the city 100 percent solar certified. Schneider agreed it was a major accomplishment.

   Public Works Director Brian Wagstrom gave a staff update.

11. **Consent Agenda – Items requiring Five Votes:** None

12. **Introduction of Ordinances:** None

13. **Public Hearings:**

   A. **Off-sale liquor licenses for Minnesota Fine Wine & Spirits, LLC, (DBA Total Wine) 14200 Wayzata Blvd**

   Community Development Director Julie Wischnack gave the staff report.

   Craig Vaughn, traffic consultant with SRF Consulting Group, presented the traffic and parking study.

   Wagner said because of the short turn movement between the 394 ramp and Wayzata Boulevard that many times the queuing is so full that vehicles can’t get off the ramp. He asked if this was seen during the study and if a combination of signal timing between signals could work to
alleviate the issue. Vaughn said the movement Wagner referenced was considered as part of the signal timing optimization improvements.

Schneider praised the context and detail of Vaughn’s presentation. He noted that the signal improvements would be beneficial in other nearby areas as well.

Wiersum asked how likely it was to get the approval from the Met Council and Metro Transit to use the bus lanes. City Engineer Will Manchester said staff has talked with the Metro Transit and he thought it was highly likely.

Edward Cooper, head of public affairs and community relations for Total Wine and More, said the company very much wants to become a contributing member of the community. He said a number of council members voted against the previous application because of concerns with the site, traffic and parking. There were comments about having 10 and not 11 liquor stores in the city. Total Wine started again from scratch and worked with city staff to address the concerns. A new site was located. There was plenty of parking and far better access. The company agreed to buy both Big Top Liquor and U.S. Liquor to reduce the number of licenses and reward the owner for his work in the community. He said staff has advised that a condition of the license is that Total Wine pays for 80 percent of the cost of the traffic improvements. He said the company didn’t believe this was a fair or justified condition for licensure but has agreed to do it.

Mark Powers, a traffic engineer for Stantec Consultant Services, said his company was hired by Total Wine to review the traffic analysis done by SRF Consulting Group. He said SRF’s analysis was reviewed and it was determined it was very well done. Stantec then did an analysis using SRF’s model without making any of the improvements to the east/west approaches to Wayzata Boulevard. The analysis showed the intersections at Wayzata Boulevard and at the north ramp were of equal standing in levels of service. The conclusion was the improvements other than the altered signal timing were unnecessary.

Allendorf asked Total Wine to clarify their commitment to pay for the improvements. Cooper said the company would pay for the improvements even though they disagreed with the findings.

Robert Bodeau, 17709 Leemans Drive, said Total Wine’s stores were superb and provide a better price than anyone else. He said this would benefit the residents of Minnetonka.
Tim Bevins, the owner of the Tonka Bottle Shop, said he was here in 1977 when the Tonka Bottle Shop was one of the first stores in the city. The needs of the residents have changed over the years. There have been a lot of changes to the liquor industry in the city. He said Minnetonka was unique compared to other cities in the area. No other city has similar license requirements. Things that were addressed over the years included the location of liquor stores, the size of liquor stores, and the number of liquor stores. He said in newspaper articles Total Wine has indicated it was a destination store. There already were three Total Wine stores within 10-15 minutes from the city. He noted the number of trips in the analysis were determined the day before and the day after St. Patrick’s Day. Anyone in the liquor industry knows St. Patrick’s Day is a bar holiday. The study was conducted during the slowest quarter of the year. By removing U.S. Liquor, it would leave that part of the city without a liquor store. He said Total Wine would saturate the market and make it difficult for the smaller retailers to survive.

Laurie Nelson, 13808 Knollway Drive South, said she has seen a lot of changes in the area. There have been promises from the city that were not kept. This was a small neighborhood smack in between businesses. There is a lot of traffic. The Goodwill, which most of the neighbors were against, has generated a lot of traffic. Semi-trucks make U-turns in the neighborhood. There are noises during the middle of the night. More trees are being taken down. She said it was frustrating that there already was Haskells, Byerlys, the liquor store by the workhouse, and a nearby store in Wayzata. She questioned if another huge liquor store in the area was needed. People come in and out of the stores rather than spending time in the stores. She wanted her money to go to local stores.

Chris Erickson, from Spasso and the Wine Shop, questioned if the council had reviewed the purchase agreement of the two other stores. Schneider said that was done by the city attorney and staff. Erickson said common sense told him if a company was buying a store with no plans of operating in that store, and the purchase was contingent on getting a different liquor license, and it was paying a breakup fee if a license was not granted, then it was really was buying a license. This meant the council was condoning something that should not be done. He said looking at the square footage of the stores, and the amount Total Wine was paying to get a license, they must be planning on selling an astronomical amount of liquor. The economics wouldn’t work if this didn’t occur. Because there were already Total Wine locations in Chanhassen, Maple Grove and Bloomington, so people have to drive past one of those stores to get to this destination store. He questioned if the traffic study was based on a grocery store or a destination store. The store would be equal to the six smallest stores in the city. If approved it meant putting many of these stores out of business.
Ted Farrell, from Haskells, said the council and staff had developed a city so attractive that this large national chain kept trying multiple ways to get a license. He said the current attempt was unprecedented. In all his years in operating stores in the state he has never seen somebody acquire two businesses in order to open one store. He questioned what actually was being purchased if not the license.

Tom Taylor, a Burnsville business owner and resident, said he believes very strongly in the positive impact Total Wine can make in a community. After Burnsville modified its requirements to allow an increased number of stores in the city, and eliminating its liquor store density rules, there has been no measurable increase in crime or underage drinking in the city. Since he appeared before the council last year, all the liquor stores in Burnsville have remained open. One store just completed a remodel. The mall that Total Wine is located in has not lost any of its tenants. Total Wine continues to be a good corporate citizen in terms of preventing underage sales and with financial support of local nonprofits. Like Minnetonka, Burnsville relies heavily on a retail tax base. Given the decline in conventional retail, Burnsville was increasingly grateful to have a retailer like Total Wine in the community. It is a retailer not only financially stable but is unique and large enough to draw people into the retail district from a hundred miles around. These people not only shop at Total Wine but other stores and restaurants in the district as well.

Schneider closed the public hearing at 7:44 p.m.

Wiersum said last time Total Wine applied for a license and was turned down by the council, the issue for him was determining what the right number of liquor stores in the city was. He held that one store for every 5,000 residents seemed logical. Currently the city had 11 stores and Total Wine was proposing to add a store and eliminate two others bringing the total to 10. This was a number that made sense to him. The amount of square footage dedicated to liquor sales would increase by 20 percent in the city. His argument has never been about square footage but was about the number of liquor stores. For this item to pass Total Wine had to change one vote from its last application. He felt pressured because he was prescriptive in the right number of stores in the city and this had been addressed. He said he was a believer in competition and how it made everyone better. After a lot of thinking, and given this was a different proposal in a dramatically improved location, he would support the application.

Wagner said the council laid out a policy and Total Wine addressed all the concerns. He said all the council members had concerns with the previous
location. Traffic flow was improved with this location. The store would have an impact on this area’s traffic. He said it was important Total Wine was a responsible retailer in how it had outlined how they manage and monitor preventing underage sales. He continued to support the application.

Bergstedt said he was one of the yes votes the last time Total Wine was before the council and he would be supportive again. He thought this was a much better site in terms of parking, stacking distances, and traffic sight lines. He said Total Wine was a disrupter and had new way of selling beer, wine and spirits that wasn’t around before. The business model has been very successful nationwide and in the metro area. He didn’t think the council would support the application if it was in any other part of the city. The proposal was in the regional center, the lifeblood, retail wise, of the city. If approved it will not only serve the city’s residents but will be a regional draw as well. He hoped Minnetonka would see similar results as Burnsville.

Acomb said voting on liquor licenses was never an easy vote. The council had been split on the issue since she had been on the council. The comments from residents showed the community was split as well. The policy was not prescriptive and included exceptions. Because the council has broad discretion, the decision really was up to the opinions and perceptions of the council members. The reason there was a policy was the recognition that increased access to alcohol could lead to increased issues with public health and safety. There was the argument of letting the market decide the proper number of businesses and she thought this made sense for everything except regulated industries. Alcohol was regulated because of its impact on public health and safety. Acomb noted she was involved in the Tonka Cares coalition, and the Hopkins One Voice, organizations that work hard at decreasing underage substance abuse. Underage substance abuse doesn’t happen at restaurants and bars but happens when alcohol was purchased and taken offsite. Increased access leads to an increased potential of underage substance abuse. She said she thought Total Wine did a great job in paying attention to not selling to underage patrons. She had nothing but good things to say about the company and the way it does business. She voted no last time because she felt the Ridgedale area was adequately served by the number of liquor stores that were in the area. Even though Total Wine was buying two stores, only one was in the Ridgedale area. She did not support the proposal.

Allendorf said it was gratifying to have an applicant listen to the council’s comments and address concerns that were raised. Total Wine heard the concerns about traffic and changed the location to a better one. They
heard the concerns about the number of liquor stores in the city and positively addressed the concern. He said he was a free market person and remembered during a previous discussion Farrell had said he welcomes competition. He hoped the competition would help all the other liquor stores in the city to be the best purveyors they could possibly be and hoped they prospered along with Total Wine.

Ellingson complimented Total Wine for addressing the concerns. He said he agreed with Acomb that this part of the city was adequately served. He didn’t think the issue was just the number of stores but also was the volume of sales. With the size of this store, there would have to be a large volume of sales to make it successful. This would mean an increase in the alcohol consumption in the city. This would not be beneficial to the public health and safety.

Schneider said he supported the previous application because he has always been a free market individual. Even though Total Wine was a disrupter, it was part of the evolution of progress in retail. Overall retail will be changing significantly because of the dynamics of the internet and other things. People are trying to figure out what to do next and changing their model to be more inclusive and to tie in with the younger generation. This hasn’t quite been figured out yet and there will be pockets in the Twin Cities where retailers that are unable to adapt will fade away. He said Minnetonka was fortunate to have Ridgedale. He thought the Mall of America, Southdale, Rosedale and Ridgedale have certain elements that gave them an opportunity to succeed and adapt, be more vibrant and more of a community asset. There were other medium sized to larger malls that will struggle because they don’t adapt. By and large whenever there was a model like Total Wine that draws from a broader area it was beneficial. Adding another destination use will cause people who already have been visiting the area to change their habits and get used to traveling the unique road system and visiting other businesses. There will be a long term ripple effect caused by having another destination use. This will add to the vibrancy of the Ridgedale area. He said having a responsible seller like Total Wine concerned about youth access to alcohol, who is a significant contributor to nonprofits similar to Tonka Cares, will be a huge asset to addressing that issue. He has heard that in the other communities with Total Wine stores, they have been a huge contributor to local efforts.

Wagner moved, Allendorf seconded a motion to grant the license with the following conditions: (1) the improvements identified in the traffic report for the area roadways will be paid for by the applicant; and (2) the licenses for the other store locations that are being purchased by the applicant will be surrendered or revoked prior to certificate of occupancy of the Total Wine
Allendorf, Wiersum, Bergstedt, Wagner and Schneider voted “yes.” Ellingson and Acomb voted “no.” **Motion carried.**

14. **Other Business:**

A. **Amendment to the existing Ridgedale Festival master development plan for façade changes**

City Planner Loren Gordon gave the staff report.

Schneider said he wasn’t exactly sure what the right widths, heights, and proportions were at this time. He really didn’t want to think about that until it was known it could be combined with an actual signage application. For him, this was what was missing. There were too many assumptions. Now that there was an approved use, Total Wine with its own specific sign. He thought it was premature to approve just a façade and suggested continuing the item and sending it back to the owner of the building and Total Wine to work with staff to come up with a plan that made sense.

Bergstedt agreed. The only options were to continue the item or deny the proposed amendment. It was hard to make a good decision with only half the information.

Wiersum also agreed and said the city does not have a façade ordinance but rather it has a sign ordinance. He supported tabling the item.

Allendorf asked for clarification of staff’s comments about massing. Gordon said he was trying to convey that the relationship between the parts of the parapet that were changing more greatly than what happened with Toys R Us caused almost an exaggeration of height.

Wagner said he agreed with the idea of continuing the item to allow more work to be done to come up with a completed package.

Dan Gibson, representing Kimco Realty Corporation, the owner of the building, said he was excited to have Total Wine coming in. Not only would they add traffic to the area, which would help the retail node, and help fill vacancies in the area. From an adapting perspective a lot has changed since the center was approved in 1990. The Toys R Us was modified around 2010 and even more has changed since then. Adapting the façade was just a natural progression of what retailers will and will not accept in terms of their prototype. He said he met with staff last week and wasn’t in a position to show the signage and the façade together which was what everybody needed to see. He was now prepared to do that.
Wagner moved, Wiersum seconded a motion to continue the item to May 22, 2017. All voted “yes.” Motion carried.

15. Appointments and Reappointments:

A. Appointments to the 2040 Minnetonka Comprehensive Guide Plan Steering Committee

Schneider moved, Bergstedt seconded a motion to approve the recommended appointments to the 2040 Minnetonka Comprehensive Guide Plan Steering Committee.

Bergstedt said he thought it was a great group and thanked Schneider for his time and effort.

Wagner said there were a number of good applicants and was hoping the mayor was open to adding a couple of other committee members. He was concerned that over time a few committee members would have to leave the committee because of life events because that’s what always happens. The other council members were not excited about using alternates, and nobody wanted the committee to be too big, but he thought adding a couple more residents and trying to have better gender balance on the committee would be helpful. He said he received a couple of calls about the lack of gender balance and it not representing what the city and the council aspire to.

Acomb agreed with Wagner. The city was so fortunate to have so many willing to participate. The committee members will be great but she would appreciate more gender balance.

Wiersum said it was an encouraging time that people want to be involved. He said he spoke with a resident who wanted to make sure all three school districts in the city were represented. Wiersum said that he and Colbert Boyd’s kids lived in the Wayzata School District but did not go to schools in the district. He felt it was a valid point to have committee members who have kids in each of the three districts in the city.

Schneider said he thought about the pros and cons of adding alternates to the committee. Putting himself in the shoes of an alternate, he thought it would be difficult attending all the meetings and not being able to participate. He didn’t think this was the right thing to ask someone to do. He agreed looking at the committee there were not enough female members and not enough diversity particularly ethnic diversity. He said he had some ideas and would reach out to certain individuals.
All voted “yes.” Motion carried.

16. **Adjournment**

Wagner moved, Wiersum seconded a motion to adjourn the meeting at 8:34 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
Brief Description: Resolution approving agreement with MnDOT

Recommended Action: Adopt the resolution

Background

On November 23, 2015, the city council approved a master partnership agreement with the Minnesota Department of Transportation (MnDOT). The master partnership agreement is essentially a housekeeping agreement related to services between MnDOT and the city of Minnetonka. The agreement is needed to allow MnDOT to work on various services for the city, and then invoice the city for their work. An example of this work arrangement would include MnDOT’s maintenance operations for a number of our traffic signal systems throughout the city.

The attached agreement simply replaces and supersedes the existing master contract agreement with updated language modifications and does not impact existing practices, procedures, or costs which are currently in place. The agreement has been approved by the city attorney.

Recommendation

Adopt the attached resolution authorizing a master partnership contract with the Minnesota Department of Transportation.

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

Originated by:
   Jeremy Koenen, P.E., Senior Civil Engineer
BE IT RESOLVED by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1.  Background.

1.01. The city of Minnetonka and the Minnesota Department of Transportation (MnDOT) wish to cooperate closely to coordinate the delivery of transportation services and maximize the efficient delivery of such services at all levels of government.

1.02. MnDOT and local governments are authorized by Minnesota Statutes sections 471.59, 174.02, and 161.20, to undertake collaborative efforts for the design, construction, maintenance and operation of state and local roads.

1.03. The city and MnDOT wish to be able to respond quickly and efficiently to such opportunities for collaboration, and have determined that having the ability to write “work orders” against a master contract would provide the greatest speed and flexibility in responding to identified needs.

Section 2.  Council Action.

2.01. The city council of the city of Minnetonka determines that it is in the best interests of the city to enter into a Master Partnership Contract with the Minnesota Department of Transportation, a copy of which was presented to the council at its meeting on May 22, 2017.

2.02. The mayor and city manager are authorized to execute this Contract and any amendments thereto.

2.03. The city engineer is authorized to negotiate work order contracts pursuant to the Master Partnership Contract, which may provide for payment to or from MnDOT, and the city engineer may execute such work order contracts on behalf of the city without further approval by this council if the amount of the work order does not exceed $100,000.
Adopted by the City Council of the City of Minnetonka, Minnesota, on May 22, 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 22, 2017.

__________________________
David E. Maeda, City Clerk
STATE OF MINNESOTA  
AND  
CITY OF MINNETONKA  
MASTER PARTNERSHIP CONTRACT

This master contract is between the State of Minnesota, acting through its Commissioner of Transportation in this contract referred to as the “State” and the City of Minnetonka, acting through its City Council in this contract referred to as the “Local Government.”

Recitals

1. The parties are authorized to enter into this contract pursuant to Minnesota Statutes, §§15.061, 471.59 and 174.02.

2. Minn. Stat. § 161.20, subd. 2, authorizes the Commissioner of Transportation to make arrangements with and cooperate with any governmental authority for the purposes of constructing, maintaining and improving the trunk highway system.

3. Each party to this contract is a “road authority” as defined by Minn. Stat. §160.02, subd. 25.

4. Minn. Stat. § 161.39, subd. 1, authorizes a road authority to perform work for another road authority. Such work may include providing technical and engineering advice, assistance and supervision, surveying, preparing plans for the construction or reconstruction of roadways, and performing roadway maintenance.

5. Minn. Stat. §174.02, subd. 6, authorizes the Commissioner of Transportation to enter into contracts with other governmental entities for research and experimentation; for sharing facilities, equipment, staff, data, or other means of providing transportation-related services; or for other cooperative programs that promote efficiencies in providing governmental services, or that further development of innovation in transportation for the benefit of the citizens of Minnesota.

6. Each party wishes to occasionally purchase services from the other party, which the parties agree will enhance the efficiency of delivering governmental services at all levels. This Master Partnership Contract (MPC) provides a framework for the efficient handling of such requests. This MPC contains terms generally governing the relationship between the parties. When specific services are requested, the parties will (unless otherwise specified) enter into a “Work Order” contracts.

7. After the execution of this MPC, the parties may (but are not required to) enter into “Work Order” contracts. These Work Orders will specify the work to be done, timelines for completion, and compensation to be paid for the specific work.

8. The parties are entering into this MPC to establish terms that will govern all of the Work Orders subsequently issued under the authority of this Contract.

Master Partnership Contract

1. Term of Master Partnership Contract; Use of Work Order Contracts; Survival of Terms

1.1. Effective Date: This contract will be effective on the date last signed by the Local Government, and all State officials as required under Minn. Stat. § 16C.05, subd. 2.

1.2. A party must not accept work under this Contract until it is fully executed.

1.3. Expiration Date. This Contract will expire on June 30, 2022.

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CM Master Partnership Contract (CM Rev. 04/10/2017)
1.4. **Work Order Contracts.** A work order contract must be negotiated and executed (by both the State and the Local Government) for each particular engagement, except for Technical Services provided by the State to the Local Government as specified in Article 2. The work order contract must specify the detailed scope of work and deliverables for that project. A party must not begin work under a work order until the work order is fully executed. The terms of this MPC will apply to all work orders contracts issued, unless specifically varied in the work order. The Local Government understands that this MPC is not a guarantee of any payments or work order assignments, and that payments will only be issued for work actually performed under fully-executed work orders.

1.5. **Survival of Terms.** The following clauses survive the expiration or cancellation of this master contract and all work order contracts: 12. Liability; 13. State Audits; 14. Government Data Practices and Intellectual Property; 17. Publicity; 18. Governing Law, Jurisdiction, and Venue; and 22. Data Disclosure. All terms of this MPC will survive with respect to any work order contract issued prior to the expiration date of the MPC.

1.6. **Sample Work Order.** A sample work order contract is available upon request from the State.

1.7. **Definition of “Providing Party” and “Requesting Party.”** For the purpose of assigning certain duties and obligations in the MPC to work order contracts, the following definitions will apply throughout the MPC. “Requesting Party” is defined as the party requesting the other party to perform work under a work order contract. “Providing Party” is defined as the party performing the scope of work under a work order contract.

2. **Technical Services**

2.1. **Technical Services** include repetitive low-cost services routinely performed by the State for the Local Government. These services may be performed by the State for the Local Government without the execution of a work order, as these services are provided in accordance with standardized practices and processes and do not require a detailed scope of work. Exhibit A – Table of Technical Services is attached.

2.1.1. Every other service not falling under the services listed in Exhibit A will require a work order contract.

2.2. The Local Government may request the State to perform Technical Services in an informal manner, such as by the use of email, a purchase order, or by delivering materials to a State lab and requesting testing. A request may be made via telephone, but will not be considered accepted unless acknowledged in writing by the State.

2.3. The State will promptly inform the Local Government if the State will be unable to perform the requested Technical Services. Otherwise, the State will perform the Technical Services in accordance with the State’s normal processes and practices, including scheduling practices taking into account the availability of State staff and equipment.

2.4. Payment Basis. Unless otherwise agreed to by the parties prior to performance of the services, the State will charge the Local Government the State’s then-current rate for performing the Technical Services. The then-current rate may include the State’s normal and customary additives. The State will invoice the Local Government upon completion of the services, or at regular intervals not more than once monthly as agreed upon by the parties. The invoice will provide a summary of the Technical Services provided by the State during the invoice period.

3. **Services Requiring A Work Order Contract**

3.1. **Work Order Contracts:** A party may request the other party to perform any of the following services under individual work order contracts.
3.2. **Professional and Technical Services.** A party may provide professional and technical services upon the request of the other party. As defined by Minn. Stat. §16C.08, subd. 1, professional/technical services “means services that are intellectual in character, including consultation, analysis, evaluation, prediction, planning, programming, or recommendation; and result in the production of a report or completion of a task.” Professional and technical services do not include providing supplies or materials except as incidental to performing such services. Professional and technical services include (by way of example and without limitation) engineering services, surveying, foundation recommendations and reports, environmental documentation, right-of-way assistance (such as performing appraisals or providing relocation assistance, but excluding the exercise of the power of eminent domain), geometric layouts, final construction plans, graphic presentations, public relations, and facilitating open houses. A party will normally provide such services with its own personnel; however, a party’s professional/technical services may also include hiring and managing outside consultants to perform work provided that a party itself provides active project management for the use of such outside consultants.

3.3. **Roadway Maintenance.** A party may provide roadway maintenance upon the request of the other party. Roadway maintenance does not include roadway reconstruction. This work may include but is not limited to snow removal, ditch spraying, roadside mowing, bituminous mill and overlay (only small projects), seal coat, bridge hits, major retaining wall failures, major drainage failures, and message painting. All services must be performed by an employee with sufficient skills, training, expertise or certification to perform such work, and work must be supervised by a qualified employee of the party performing the work.

3.4. **Construction Administration.** A party may administer roadway construction projects upon the request of the other party. Roadway construction includes (by way of example and without limitation) the construction, reconstruction, or rehabilitation of mainline, shoulder, median, pedestrian or bicycle pathway, lighting and signal systems, pavement mill and overlays, seal coating, guardrail installation, and channelization. These services may be performed by the Providing Party’s own forces, or the Providing Party may administer outside contracts for such work. Construction administration may include letting and awarding construction contracts for such work (including state projects to be completed in conjunction with local projects). All contract administration services must be performed by an employee with sufficient skills, training, expertise or certification to perform such work.

3.5. **Emergency Services.** A party may provide aid upon request of the other party in the event of a man-made disaster, natural disaster or other act of God. Emergency services includes all those services as the parties mutually agree are necessary to plan for, prepare for, deal with, and recover from emergency situations. These services include, without limitation, planning, engineering, construction, maintenance, and removal and disposal services related to things such as road closures, traffic control, debris removal, flood protection and mitigation, sign repair, sandbag activities and general cleanup. Work will be performed by an employee with sufficient skills, training, expertise or certification to perform such work, and work must be supervised by a qualified employee of the party performing the work. If it is not feasible to have an executed work order prior to performance of the work, the parties will promptly confer to determine whether work may be commenced without a fully-executed work order in place. If work commences without a fully-executed work order, the parties will follow up with execution of a work order as soon as feasible.

3.6. When a need is identified, the State and the Local Government will discuss the proposed work and the resources needed to perform the work. If a party desires to perform such work, the parties will negotiate the specific and detailed work tasks and cost. The State will then prepare a work order contract. Generally, a work order contract will be limited to one specific project/engagement, although “on call” work orders may be prepared for certain types of services, especially for “Technical Services” items as identified section 2.1. The work order will also identify specific deliverables required, and timeframes for completing work. A work order must be fully executed by the parties prior to work being commenced.
4. Responsibilities of the Providing Party

4.1. Terms Applicable to ALL Work Order Contracts. The terms in this section 4.1 will apply to ALL work order contracts.

4.1.1. Each work order will identify an Authorized Representative for each party. Each party’s authorized representative is responsible for administering the work order, and has the authority to make any decisions regarding the work, and to give and receive any notices required or permitted under this MPC or the work order.

4.1.2. The Providing Party will furnish and assign a publicly employed licensed engineer (Project Engineer), to be in responsible charge of the project(s) and to supervise and direct the work to be performed under each work order contract. For services not requiring an engineer, the Providing Party will furnish and assign another responsible employee to be in charge of the project. The services of the Providing Party under a work order contract may not be otherwise assigned, sublet, or transferred unless approved in writing by the Requesting Party’s authorized representative. This written consent will in no way relieve the Providing Party from its primary responsibility for the work.

4.1.3. If the Local Government is the Providing Party, the Project Engineer may request in writing specific engineering and/or technical services from the State, pursuant to Minn. Stat. Section 161.39. The work order Contract will require the Local Government to deposit payment in advance. The costs and expenses will include the current State additives and overhead rates, subject to adjustment based on actual direct costs that have been verified by audit.

4.1.4. Only the receipt of a fully executed work order contract authorizes the Providing Party to begin work on a project. Any and all effort, expenses, or actions taken by the Providing Party before the work order contract is fully executed are considered unauthorized and undertaken at the risk of non-payment.

4.1.5. In connection with the performance of this contract and any work orders issued, the Providing Agency will comply with all applicable Federal and State laws and regulations. When the Providing Party is authorized or permitted to award contracts in connection with any work order, the Providing Party will require and cause its contractors and subcontractors to comply with all Federal and State laws and regulations.

4.2. Additional Terms for Roadway Maintenance. The terms of section 4.1 and this section 4.2 will apply to all work orders for Roadway Maintenance.

4.2.1. Unless otherwise provided for by contract or work order, the Providing Party must obtain all permits and sanctions that may be required for the proper and lawful performance of the work.

4.2.2. The Providing Party must perform maintenance in accordance with MnDOT maintenance manuals, policies and operations.

4.2.3. The Providing Party must use State-approved materials, including (by way of example and without limitation), sign posts, sign sheeting, and de-icing and anti-icing chemicals.

4.3. Additional Terms for Construction Administration. The terms of section 4.1 and this section 4.3 will apply to all work order contracts for construction administration.

4.3.1. Contract(s) must be awarded to the lowest responsible bidder or best value proposer in accordance with state law.
4.3.2. Contractor(s) must be required to post payment and performance bonds in an amount equal to the contract amount. The Providing Party will take all necessary action to make claims against such bonds in the event of any default by the contractor.

4.3.3. Contractor(s) must be required to perform work in accordance with the latest edition of the Minnesota Department of Transportation Standard Specifications for Construction.

4.3.4. For work performed on State right-of-way, contractor(s) must be required to indemnify and hold the State harmless against any loss incurred with respect to the performance of the contracted work, and must be required to provide evidence of insurance coverage commensurate with project risk.

4.3.5. Contractor(s) must pay prevailing wages pursuant to applicable state and federal law.

4.3.6. Contractor(s) must comply with all applicable Federal, and State laws, ordinances and regulations, including but not limited to applicable human rights/anti-discrimination laws and laws concerning the participation of Disadvantaged Business Enterprises in federally-assisted contracts.

4.3.7. Unless otherwise agreed in a work order contract, each party will be responsible for providing rights of way, easement, and construction permits for its portion of the improvements. Each party will, upon the other’s request, furnish copies of right of way certificates, easements, and construction permits.

4.3.8. The Providing Party may approve minor changes to the Requesting Party’s portion of the project work if such changes do not increase the Requesting Party’s cost obligation under the applicable work order contract.

4.3.9. The Providing Party will not approve any contractor claims for additional compensation without the Requesting Party’s written approval, and the execution of a proper amendment to the applicable work order contract when necessary. The Local Government will tender the processing and defense of any such claims to the State upon the State’s request.

4.3.10. The Local Government must coordinate all trunk highway work affecting any utilities with the State’s Utilities Office.

4.3.11. The Providing Party must coordinate all necessary detours with the Requesting Party.

4.3.12. If the Local Government is the Providing Party, and there is work performed on the trunk highway right-of-way, the following will apply:

   4.3.12.1 The Local Government will have a permit to perform the work on the trunk highway. The State may revoke this permit if the work is not being performed in a safe, proper and skillful manner, or if the contractor is violating the terms of any law, regulation, or permit applicable to the work. The State will have no liability to the Local Government, or its contractor, if work is suspended or stopped due to any such condition or concern.

   4.3.12.2 The Local Government will require its contractor to conduct all traffic control in accordance with the Minnesota Manual on Uniform Traffic Control Devices.

   4.3.12.3 The Local Government will require its contractor to comply with the terms of all permits issued for the project including, but not limited to, National Pollutant Discharge Elimination System (NPDES) and other environmental permits.

   4.3.12.4 All improvements constructed on the State’s right-of-way will become the property of the State.

5. Responsibilities of the Requesting Party
5.1. After authorizing the Providing Party to begin work, the Requesting Party will furnish any data or material in its possession relating to the project that may be of use to the Providing Party in performing the work.

5.2. All such data furnished to the Providing Party will remain the property of the Requesting Party and will be promptly returned upon the Requesting Party’s request or upon the expiration or termination of this contract (subject to data retention requirements of the Minnesota Government Data Practices Act and other applicable law).

5.3. The Providing Party will analyze all such data furnished by the Requesting Party. If the Providing Party finds any such data to be incorrect or incomplete, the Providing Party will bring the facts to the attention of the Requesting Party before proceeding with the part of the project affected. The Providing Party will investigate the matter, and if it finds that such data is incorrect or incomplete, it will promptly determine a method for furnishing corrected data. Delay in furnishing data will not be considered justification for an adjustment in compensation.

5.4. The State will provide to the Local Government copies of any Trunk Highway fund clauses to be included in the bid solicitation and will provide any required Trunk Highway fund provisions to be included in the Proposal for Highway Construction, that are different from those required for State Aid construction.

5.5. The Requesting Party will perform final reviews and inspections of its portion of the project work. If the work is found to have been completed in accordance with the work order contract, the Requesting Party will promptly release any remaining funds due the Providing Party for the Project(s).

5.6. The work order contracts may include additional responsibilities to be completed by the Requesting Party.

6. **Time**

In the performance of project work under a work order contract, time is of the essence.

7. **Consideration and Payment**

7.1. **Consideration.** The Requesting Party will pay the Providing Party as specified in the work order. The State’s normal and customary additives will apply to work performed by the State, unless otherwise specified in the work order. The State’s normal and customary additives will not apply if the parties agree to a “lump sum” or “unit rate” payment.

7.2. **State’s Maximum Obligation.** The total compensation to be paid by the State to the Local Government under all work order contracts issued pursuant to this MPC will not exceed $500,000.00.

7.3. **Travel Expenses.** It is anticipated that all travel expenses will be included in the base cost of the Providing Party’s services, and unless otherwise specifically set forth in an applicable work order contract, the Providing Party will not be separately reimbursed for travel and subsistence expenses incurred by the Providing Party in performing any work order contract. In those cases where the State agrees to reimburse travel expenses, such expenses will be reimbursed in the same manner and in no greater amount than provided in the current "MnDOT Travel Regulations” a copy of which is on file with and available from the MnDOT District Office. The Local Government will not be reimbursed for travel and subsistence expenses incurred outside of Minnesota unless it has received the State’s prior written approval for such travel.

7.4. **Payment.**

7.4.1. **Generally.** The Requesting Party will pay the Providing Party as specified in the applicable work order, and will make prompt payment in accordance with Minnesota law.

7.4.2. **Payment by the Local Government.**
7.4.2.1. The Local Government will make payment to the order of the Commissioner of Transportation.

7.4.2.2. **IMPORTANT NOTE: PAYMENT MUST REFERENCE THE “MNDOT CONTRACT NUMBER” SHOWN ON THE FACE PAGE OF THIS CONTRACT AND THE “INVOICE NUMBER” ON THE INVOICE RECEIVED FROM MNDOT.**

7.4.2.3. Remit payment to the address below:

MnDOT
Attn: Cash Accounting
RE: MnDOT Contract Number 1028150 and Invoice Number ######
Mail Stop 215
395 John Ireland Blvd
St. Paul, MN 55155

7.4.3. **Payment by the State.**

7.4.3.1. **Generally.** The State will promptly pay the Local Government after the Local Government presents an itemized invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services. Invoices must be submitted as specified in the applicable work order, but no more frequently than monthly.

7.4.3.2. **Retainage for Professional and Technical Services.** For work orders for professional and technical services, as required by Minn. Stat. § 16C.08, subd. 2(10), no more than 90 percent of the amount due under any work order contract may be paid until the final product of the work order contract has been reviewed by the State’s authorized representative. The balance due will be paid when the State’s authorized representative determines that the Local Government has satisfactorily fulfilled all the terms of the work order contract.

8. **Conditions of Payment**

All work performed by the Providing Party under a work order contract must be performed to the Requesting Party’s satisfaction, as determined at the sole and reasonable discretion of the Requesting Party’s Authorized Representative and in accordance with all applicable federal and state laws, rules, and regulations. The Providing Party will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal or state law.

9. **Local Government’s Authorized Representative and Project Manager; Authority to Execute Work Order Contracts**

9.1. The Local Government’s Authorized Representative for administering this master contract is the Local Government’s Engineer, and the Engineer has the responsibility to monitor the Local Government’s performance. The Local Government’s Authorized Representative is also authorized to execute work order contracts on behalf of the Local Government without approval of each proposed work order contract by its governing body.

9.2. The Local Government’s Project Manager will be identified in each work order contract.

10. **State’s Authorized Representative and Project Manager**

10.1. The State's Authorized Representative for this master contract is the District State Aid Engineer, who has the responsibility to monitor the State’s performance.

10.2. The State's Project Manager will be identified in each work order contract.
11. Assignment, Amendments, Waiver, and Contract Complete

11.1. Assignment. Neither party may assign or transfer any rights or obligations under this MPC or any work order contract without the prior consent of the other and a fully executed Assignment Contract, executed and approved by the same parties who executed and approved this MPC, or their successors in office.

11.2. Amendments. Any amendment to this master contract or any work order contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original contract, or their successors in office.

11.3. Waiver. If a party fails to enforce any provision of this master contract or any work order contract, that failure does not waive the provision or the party’s right to subsequently enforce it.

11.4. Contract Complete. This master contract and any work order contract contain all negotiations and contracts between the State and the Local Government. No other understanding regarding this master contract or any work order contract issued hereunder, whether written or oral may be used to bind either party.

12. Liability.

Each party will be responsible for its own acts and omissions to the extent provided by law. The Local Government’s liability is governed by Minn. Stat. chapter 466 and other applicable law. The State’s liability is governed by Minn. Stat. section 3.736 and other applicable law. This clause will not be construed to bar any legal remedies a party may have for the other party’s failure to fulfill its obligations under this master contract or any work order contract. Neither party agrees to assume any environmental liability on behalf of the other party. A Providing Party under any work order is acting only as a “Contractor” to the Requesting Party, as the term “Contractor” is defined in Minn. Stat. §115B.03 (subd. 10), and is entitled to the protections afforded to a “Contractor” by the Minnesota Environmental Response and Liability Act. The parties specifically intend that Minn. Stat. §471.59 subd. 1a will apply to any work undertaken under this MPC and any work order issued hereunder.

13. State Audits

Under Minn. Stat. § 16C.05, subd. 5, the party’s books, records, documents, and accounting procedures and practices relevant to any work order contract are subject to examination by the parties and by the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this MPC.


14.1. Government Data Practices. The Local Government and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State under this MPC and any work order contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Local Government under this MPC and any work order contract. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this clause by either the Local Government or the State.

14.2. Intellectual Property Rights

14.2.1. Intellectual Property Rights. The Requesting Party will own all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents created and paid for under work order contracts. Works means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the Providing Party, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this master contract or any work order contract. Works includes “Documents.” Documents are the originals of any databases, computer programs, reports, notes,
studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Providing Party, its employees, agents, or contractors, in the performance of a work order contract. The Documents will be the exclusive property of the Requesting Party and all such Documents must be immediately returned to the Requesting Party by the Providing Party upon completion or cancellation of the work order contract. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be “works made for hire.” The Providing Party Government assigns all right, title, and interest it may have in the Works and the Documents to the Requesting Party. The Providing Party must, at the request of the Requesting Party, execute all papers and perform all other acts necessary to transfer or record the Requesting Party’s ownership interest in the Works and Documents. Notwithstanding the foregoing, the Requesting Party grants the Providing Party an irrevocable and royalty-free license to use such intellectual property for its own non-commercial purposes, including dissemination to political subdivisions of the state of Minnesota and to transportation-related agencies such as the American Association of State Highway and Transportation Officials.

14.2.2. Obligations with Respect to Intellectual Property.

14.2.2.1. Notification. Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Providing Party, including its employees and subcontractors, in the performance of the work order contract, the Providing Party will immediately give the Requesting Party’s Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure thereon.

14.2.2.2. Representation. The Providing Party must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of the Requesting Party, and that neither Providing Party nor its employees, agents or contractors retain any interest in and to the Works and Documents.

15. Affirmative Action

The State intends to carry out its responsibility for requiring affirmative action by its Contractors, pursuant to Minn. Stat. §363A.36. Pursuant to that Statute, the Local Government is encouraged to prepare and implement an affirmative action plan for the employment of minority persons, women, and the qualified disabled, and submit such plan to the Commissioner of the Minnesota Department of Human Rights. In addition, when the Local Government lets a contract for the performance of work under a work order issued pursuant to this MPC, it must include the following in the bid or proposal solicitation and any contracts awarded as a result thereof:

15.1. Covered Contracts and Contractors. If the Contract exceeds $100,000 and the Contractor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principle place of business, then the Contractor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. Parts 5000.3400-5000.3600. A Contractor covered by Minn. Stat. § 363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, must certify that it is in compliance with federal affirmative action requirements.

15.2. Minn. Stat. § 363A.36. Minn. Stat. § 363A.36 requires the Contractor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights (“Commissioner”) as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.

15.3. Minn. R. Parts 5000.3400-5000.3600.
15.3.1. *General.* Minn. R. Parts 5000.3400-5000.3600 implement Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor’s compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. Parts 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and 5000.3552-5000.3559.

15.3.2. *Disabled Workers.* The Contractor must comply with the following affirmative action requirements for disabled workers:

15.3.2.1. The Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

15.3.2.2. The Contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

15.3.2.3. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. Section 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

15.3.2.4. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

15.3.2.5. The Contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Minn. Stat. Section 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

15.3.3. *Consequences.* The consequences for the Contractor’s failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this contract by the Commissioner or the State.

15.3.4. *Certification.* The Contractor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36 and Minn. R. Parts 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

16. **Workers’ Compensation**

Each party will be responsible for its own employees for any workers compensation claims. This MPC, and any work order contracts issued hereunder, are not intended to constitute an interchange of government employees under Minn. Stat. §15.53. To the extent that this MPC, or any work order issued hereunder, is determined to be
subject to Minn. Stat. §15.53, such statute will control to the extent of any conflict between the contract and the statute.

17. Publicity

17.1. **Publicity.** Any publicity regarding the subject matter of a work order contract where the State is the Requesting Party must identify the State as the sponsoring agency and must not be released without prior written approval from the State’s Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Local Government individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from a work order contract.

17.2. **Data Practices Act.** Section 17.1 is not intended to override the Local Government’s responsibilities under the Minnesota Government Data Practices Act.

18. Governing Law, Jurisdiction, and Venue

Minnesota law, without regard to its choice-of-law provisions, governs this master contract and all work order contracts. Venue for all legal proceedings out of this master contract or any work order contracts, or the breach of any such contracts, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

19. Prompt Payment; Payment to Subcontractors

The parties must make prompt payment of their obligations in accordance with applicable law. As required by Minn. Stat. § 16A.1245, when the Local Government lets a contract for work pursuant to any work order, the Local Government must require its contractor to pay all subcontractors, less any retainage, within 10 calendar days of the prime contractor’s receipt of payment from the Local Government for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one-half percent per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).

20. **Minn. Stat. § 181.59.** The Local Government will comply with the provisions of Minn. Stat. § 181.59 which requires: Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the Contractor agrees: (1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; (2) That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color; (3) That a violation of this section is a misdemeanor; and (4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

21. Termination; Suspension

21.1. **Termination by the State for Convenience.** The State or commissioner of Administration may cancel this MPC and any work order contracts at any time, with or without cause, upon 30 days written notice to the Local Government. Upon termination, the Local Government and the State will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

21.2. **Termination by the Local Government for Convenience.** The Local Government may cancel this MPC and any work order contracts at any time, with or without cause, upon 30 days written notice to the State.
Upon termination, the Local Government and the State will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

21.3. **Termination for Insufficient Funding.** The State may immediately terminate or suspend this MPC and any work order contract if it does not obtain funding from the Minnesota legislature or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination or suspension must be by written or fax notice to the Local Government. The State is not obligated to pay for any services that are provided after notice and effective date of termination or suspension. However, the Local Government will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the master contract or work order is terminated because of the decision of the Minnesota legislature or other funding source, not to appropriate funds. The State must provide the Local Government notice of the lack of funding within a reasonable time of the State’s receiving that notice.

22. **Data Disclosure**

Under Minn. Stat. §270C.65, subd. 3, and other applicable law, the Local Government consents to disclosure of its federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Local Government to file state tax returns and pay delinquent state tax liabilities, if any.

23. **Defense of Claims and Lawsuits**

If any lawsuit or claim is filed by a third party (including but not limited to the Local Government’s contractors and subcontractors), arising out of trunk highway work performed pursuant to a valid work order issued under this MPC, the Local Government will, at the discretion of and upon the request of the State, tender the defense of such claims to the State or allow the State to participate in the defense of such claims. The Local Government will, however, be solely responsible for defending any lawsuit or claim, or any portion thereof, when the claim or cause of action asserted is based on its own acts or omissions in performing or supervising the work. The Local Government will not purport to represent the State in any litigation, settlement, or alternative dispute resolution process. The State will not be responsible for any judgment entered against the Local Government, and will not be bound by the terms of any settlement entered into by the Local Government except with the written approval of the Attorney General and the Commissioner of Transportation and pursuant to applicable law.

24. **Additional Provisions**

[The balance of this page has intentionally been left blank – signature page follows]
LOCAL GOVERNMENT

The Local Government certifies that the appropriate person(s) have executed the contract on behalf of the Local Government as required by applicable ordinance, resolution, or charter provision.

By: ________________________________
Title: ______________________________
Date: ______________________________

COMMISSIONER OF TRANSPORTATION

By: ________________________________ (with delegated authority)
Title: Assistant Commissioner or Assistant Division Director
Date: ______________________________

COMMISSIONER OF ADMINISTRATION

As delegated to Materials Management Division

By: ________________________________
Title: ______________________________
Date: ______________________________
<table>
<thead>
<tr>
<th>Source Code</th>
<th>Title</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0032</td>
<td>Business Unit Management</td>
<td>All expenses of business/office managers for general management and administration of support functions. Includes administering central facilities maintenance and facilities capital budgets.</td>
</tr>
<tr>
<td>0152</td>
<td>Support Services</td>
<td>Work that supports general office management, system management such as entering data into SWIFT, PPMS, PUMA and other MnDOT systems, attending staff meetings and other indirect support activities.</td>
</tr>
<tr>
<td>0400</td>
<td>Equipment Calibration-Mat Insp</td>
<td>Use when performing periodic equipment calibration for equipment used in the materials lab or on construction projects.</td>
</tr>
<tr>
<td>0600</td>
<td>General Training Attended</td>
<td>All costs (time, registration, materials, travel expenses, etc.) for attending or participating informal or informal training, including conferences that primarily provide training.</td>
</tr>
<tr>
<td>1182</td>
<td>Soils/Foundation Field/Laboratory Tests</td>
<td>All laboratory testing necessary to provide geotechnical information to complete roadway soils recommendations and approvals for use in the development of Final Design Plans and Special Provisions. Lab work includes R-value, resilient modulus, soil classification, gradation, proctor testing, unconfined compression, consolidation, direct simple shear, direct shear, permeability and triaxial tests.</td>
</tr>
<tr>
<td>1312</td>
<td>Tech Assist-Outside MnDOT</td>
<td>Use when providing technical assistance to an organization external to MnDOT.</td>
</tr>
<tr>
<td>1421</td>
<td>Bridge Management System Operation/Administration/Data</td>
<td>Use for tasks related to the Bridge Management System, including operations, administration, or data entry.</td>
</tr>
<tr>
<td>1434</td>
<td>Structural Metals Inspection-Non DOT</td>
<td>Reviewing shop drawings furnished by suppliers, fabricators, and contractors (working drawing or calculations), and for tasks related to structural metals inspection (materials surveys, physical and chemical laboratory testing, material inspection and engineering, and technical services in the field and offices) for local agency projects.</td>
</tr>
<tr>
<td>1501</td>
<td>Traffic Management System (TMS)</td>
<td>Used by traffic operations staff for all tasks that support the RTMC's operations center (or TOCC) providing traveler information, managing incidents and monitoring the FMS. Includes dynamic message sign maintenance, ramp meter maintenance, camera maintenance, and loop detection activities. Includes maintenance activities related to any ITS or TMS device such as RTMC cables, monitor wall, switchers, routers, or modems. Use to record all costs for maintenance activities related to traffic management fiber optics. Use for tasks related to maintaining traffic operations software including minor software enhancements and fixes. Use when providing traffic operations technical assistance external to MnDOT.</td>
</tr>
<tr>
<td>1513</td>
<td>Traffic Management System (TMS) Integration</td>
<td>For tasks associated with the incorporation of new and existing TMS devices (cameras, loops, DMS, and other ITS devices) into existing infrastructure to ensure proper operation. Use with the Construction/Program Delivery Appropriation.</td>
</tr>
<tr>
<td>1520</td>
<td>Pavement Management System</td>
<td>For tasks related to the operation of the pavement management system, including development and maintenance/technical support. Includes tasks to meet needs external to MnDOT.</td>
</tr>
<tr>
<td>1716</td>
<td>Record Sampling</td>
<td>Used by Materials and Research Section and district materials staff to verify inspector&quot; sampling and testing procedures and checking inspectors' equipment during project construction as required by FHWA. Use when performing field tests on split sample.</td>
</tr>
<tr>
<td>1721</td>
<td>Traffic Sign Work Orders</td>
<td>Use for work involved in preparing work orders for traffic signs. Use only with Maintenance Operations appropriation (T790081).</td>
</tr>
</tbody>
</table>

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<tbody>
<tr>
<td>1732</td>
<td>Material Testing &amp; Inspection</td>
<td>Performing construction phase and research physical and chemical laboratory testing, and related technical services in the districts and central labs, and for performing research and construction phase non-destructive testing materials surveys, and related technical services in the field and offices. Includes detour surveys. Non-destructive tests include, skid resistance and falling weight deflectometer (FWD) testing.</td>
</tr>
<tr>
<td>1733</td>
<td>Concrete Plant Inspections</td>
<td>Performing QA/QC physical testing at the plant; sampling and transporting of materials from the plant to the lab for lab testing, plant reviews, and operations; investigating plant discrepancies; and other technical services in the plant or office associated with stationary concrete plants or mobile concrete paving plant inspection.</td>
</tr>
<tr>
<td>1734</td>
<td>Construction Materials Inspections</td>
<td>Performing construction phase material inspection and engineering, for structural steel, precast and pre-stressed concrete, reinforcement steel, and electrical products and related technical services in the field and office for materials to be used in multiple projects. Includes travel time, sampling, and sample delivery. Includes tasks related to reviewing shop drawings furnished by suppliers or fabricators and contractor working drawings or calculations, and for tasks related to structural metals inspection (materials surveys, physical and chemical laboratory testing, material inspection and engineering, and technical services in the field and offices).</td>
</tr>
<tr>
<td>1735</td>
<td>Bituminous Plant Inspection</td>
<td>Performing QA/QC physical testing at the plant; sampling and transporting of materials from the plant to the lab for lab testing, plant reviews, and operations; investigating plant discrepancies; and other technical services in the plant or office associated with bituminous plant inspection.</td>
</tr>
<tr>
<td>1738</td>
<td>State Project - Specific Materials Inspection</td>
<td>Performing material inspection for materials designated for a specific construction project (SP). Generally applies to inspection of such things as structural steel, prestressed concrete items, and most precast concrete items and for SP specific tasks related to structural metals inspection (materials surveys, physical and chemical laboratory testing, material inspection and engineering and technical services in the field and offices).</td>
</tr>
<tr>
<td>1800</td>
<td>Field Inspection</td>
<td>Occasional construction project field inspection (not cyclical inspection of assets); Includes field inspection of materials such as gradations, densities/DCP, proctors, compaction, slump tests, and field air tests and collecting and transporting samples for lab tests, but not the actual laboratory verifications.</td>
</tr>
<tr>
<td>1870</td>
<td>Traffic Signal Maintenance</td>
<td>This work will not substitute for or alter existing cooperative construction agreements or traffic signal maintenance agreements. Work related to the occasional repair and replacement of traffic signal system structures and all electrical maintenance for traffic signal systems including electrical power, labor, equipment materials, GSOC locates, traffic control and responses to public inquiries.</td>
</tr>
<tr>
<td>1871</td>
<td>Lighting Maintenance &amp; Utilities</td>
<td>All work related to installing, maintaining, restoring, or removing highway lighting systems and fixtures. Includes repairing, maintaining, or replacing supports necessary for roadway lighting luminaries. Includes patrol highway lighting, inspect lighting structures, electrical service for highway lighting, re-lamping, pump stations, anti-icing systems, truck roll-over warning systems and electrical repairs. Includes traffic control in support of roadway lighting activities. Use for tasks related to public inquiries/complaints, review utility billings, provide data, and conduct field reviews.</td>
</tr>
<tr>
<td>1875</td>
<td>Locate One Call</td>
<td>Finding and marking locations of buried conduit, cables, hand holes, loops, etc. in order to maintain or repair the traffic management system, signal systems, or roadway lighting systems.</td>
</tr>
</tbody>
</table>
MPC Program FY 2017-2022
Exhibit A - Table of Tech Serv
Used with TA98 Project IDs

If a source code is not on this list, a work order is needed.

<table>
<thead>
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</tr>
</thead>
<tbody>
<tr>
<td>1876</td>
<td>Traffic Counting</td>
<td>Use to record labor, equipment usage, and material costs for activities related to traffic counts made for statewide traffic monitoring or traffic operations. Includes all activities related to traffic counting, such as taking requests, assigning priorities, collecting field data, processing data, and developing new techniques for collection.</td>
</tr>
<tr>
<td>2102</td>
<td>Patching</td>
<td>Related source type codes: 2103-Heavy patching, 2104-Bituminous paving, 2105-Blow patching</td>
</tr>
<tr>
<td>2142</td>
<td>Overhead Sign Panel Maintenance</td>
<td>Work related to the repair and replacement of overhead sign panels, extruded sign panels mounted on I-beams, and overhead sign structures. Includes related cable locates and traffic control. Does not include structural work.</td>
</tr>
<tr>
<td>2210</td>
<td>Guardrail-Install/Repair/Maintenance</td>
<td>Install, repair, or maintain low tension cable, plate beams, and end treatments; cable tension adjustments; and reflector replacement. Includes related traffic control.</td>
</tr>
<tr>
<td>2222</td>
<td>Sign/Delineation/Marker Repair</td>
<td>Replacing, repairing, and washing signs (including temporary stop signs). Includes re-seabling intersection signing and repair/replace overhead and extrude signs mounted on I-beams. Includes related cable locates and traffic control.</td>
</tr>
<tr>
<td>2316</td>
<td>Brush &amp; Tree Removal</td>
<td>Maintaining, watering, trimming, and removing highway right of way tree and brush. Includes chipping of tree limbs and stump removal/grinding. Includes related traffic control.</td>
</tr>
<tr>
<td>2624</td>
<td>Indirect Expense</td>
<td>Indirect shop expenses and shop equipment. Allocate to mobile equipment.</td>
</tr>
<tr>
<td>2629</td>
<td>Supplies &amp; Small Tools</td>
<td>Shop tools, small equipment, and supplies that cannot be directly charged to a mobile equipment unit.</td>
</tr>
<tr>
<td>2819</td>
<td>Bridge Curb, Walk And Railing</td>
<td>Repairing and maintaining bridge curb, walk, rail, coping, and fencing connected to the rail. Includes glare screen and median barriers on bridges. Includes related traffic control.</td>
</tr>
<tr>
<td>2820</td>
<td>Bridge Deck</td>
<td>Work associated with bridge deck and slab repair regardless of removal depth or type of material used for patching. Includes deck or slab overlays and replacements and underside deck delamination. Includes related traffic control.</td>
</tr>
<tr>
<td>2822</td>
<td>Miscellaneous Bridge Maintenance</td>
<td>This source code does not include replacement or major repair. Miscellaneous maintenance tasks performed on a specific bridge or structure not covered by other source codes. Includes minor repairs and simple fixes on items such as stairways, drains, fencing, light bases, transient guards, and access doors. Includes transient removal, ordering materials, and picking up equipment. Includes related traffic control.</td>
</tr>
<tr>
<td>2824</td>
<td>Bridge Inspection-Non-Federal</td>
<td>All tasks related to inventory, inspection, and load capacity rating work done on trunk highway bridges to meet the requirements of the National Bridge Inspection System and/or Minnesota Bridge Safety Inspection Program or for billing to local governments. Includes related inspection reports and deck condition surveys.</td>
</tr>
<tr>
<td>2827</td>
<td>Bridge Expansion, Relief Joints</td>
<td>All maintenance tasks associated with bridge expansion joints, except joint reestablishment. Includes tightening expansion device bolts and replacing seal glands. Includes related traffic control.</td>
</tr>
<tr>
<td>2828</td>
<td>Bridge Inspection-Federal Fund</td>
<td>All bridge inspection tasks for non-MnDOT bridges funded by the federal Fracture-Critical Bridge Program (Project Code will begin with TSL and with the local bridge number). Includes related inspection reports. For MnDOT Trunk Highway bridges (Project Code begins with TSO followed by the bridge number) and local and Department of Natural Resources (DNR) (bridge number begins with 9A follow by bridge number) bridge inspections to be billed to the local government or Department of Natural Resources (DNR) use Source Code 2824.</td>
</tr>
</tbody>
</table>

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<tr>
<td>2829</td>
<td>Bridge Superstructure</td>
<td>All tasks to repair any bridge component above the bridge seat that is not included in other source codes. Includes repairs to all types of bridge superstructure elements such as girders, beams, floor beams, trusses, stringers, t-beams, precast channels, and box girders. Includes related traffic control.</td>
</tr>
<tr>
<td>2830</td>
<td>Bridge Bearing Assemblies</td>
<td>All tasks related to the repair and maintenance of fixed or expansion-bearing assemblies on bridges. Includes related traffic control.</td>
</tr>
<tr>
<td>2834</td>
<td>Waterway Maintenance</td>
<td>All tasks related to waterway maintenance for deck bridges. Includes debris removal, waterway cleanup, channel repair, and channel protection repair that is not part of slope protection. Includes related traffic control.</td>
</tr>
<tr>
<td>2838</td>
<td>Bridge Deck Crack Sealing</td>
<td>All tasks related to deck crack sealing. Includes related traffic control.</td>
</tr>
<tr>
<td>2863</td>
<td>Traffic Signal Inspection</td>
<td>Work related to cyclical structural and electrical inspection and preventive maintenance checks of traffic signal systems/structures. Includes labor, equipment, materials, and traffic control.</td>
</tr>
<tr>
<td>3000</td>
<td>Class Of Frequency Coordination</td>
<td>Use for frequency coordination done with APCO, AASHTO or FCCA.</td>
</tr>
<tr>
<td>3002</td>
<td>Radio/Electronic Infrastructure</td>
<td>Use for the repair and preventative maintenance of all equipment associated with wireless two-way radio communications systems (includes mobile radios, portable radios, base stations, console workstations, recorders, etc.). Non-MnDOT equipment - Must use Project number assigned to requesting agency; Department of Public Safety (DPS) includes State Patrol (SP) Bureau of Criminal Apprehension (BCA), Fire Marshall; does not include Department of Natural Resources (DNR). See OSRC Project</td>
</tr>
<tr>
<td>3005</td>
<td>Radio - Mobile Equipment</td>
<td>Use for the repair and preventative maintenance of all equipment associated with wireless two-way radio communications systems (includes mobile radios, portable radios, base stations, console workstations, recorders, etc.). Non-MnDOT equipment - Must use Project number assigned to requesting agency (State Patrol, DNR, BCA, Fire Marshall). See OSRC Project Code list.</td>
</tr>
<tr>
<td>3009</td>
<td>Radio/Electronic System Upgrade &amp; Installation</td>
<td>Use for the installation and other services needed to provide major system upgrades or improvements to wireless or electronic systems. Use for all work performed to correct or repair deficiencies found in a new installation.</td>
</tr>
<tr>
<td>3025</td>
<td>Tower/Building Maintenance</td>
<td>Use for all tasks related to the maintenance of a tower building or site. Includes towers, buildings, generators, LP system, fencing, landscaping, grounding, ice bridge, cable management, climbing ladders, card key systems, and HVAC.</td>
</tr>
<tr>
<td>3027</td>
<td>Radio Programming</td>
<td>Creating or modifying radio frequency programs and programming mobile and portable radios. Does not include mobile radios used as fixed base radios as part of the Inter-OP System (Use 3009).</td>
</tr>
<tr>
<td>3049</td>
<td>On Call Electronic Communications Infrastructure Maintenance</td>
<td>To be used by Statewide Radio Communications personnel to record on-call time.</td>
</tr>
</tbody>
</table>
Brief Description  
Resolution approving a conditional use permit for an eight-resident licensed residential care facility at 5531 Eden Prairie Road

Recommendation  
Adopt the resolution approving the conditional use permit

Background

By state law, licensed care facilities that serve six or fewer residents are permitted uses in all residential zoning districts. The city cannot place restrictions on such facilities above or beyond the restrictions placed on any other single-family home in the community. Further, as permitted uses, no special city zoning review or approval is required.

The state law is silent on licensed care facilities serving more than six residents. As such, individual communities have the authority to allow and regulate these larger facilities. Historically, the city of Minnetonka has held the view that licensed care facilities provide a valuable service to community residents and their family members. The city has chosen to allow, as conditional uses, facilities that serve between seven and twelve residents.

Proposal

Michelle Nash, on behalf of Legacy Care Home, is requesting a conditional use permit to operate an eight-resident residential care facility at 5311 Eden Prairie Road. As proposed, a new eight-bedroom, five-bathroom home would be constructed. Ms. Nash currently operates two other care facilities in Minnetonka.

Planning Commission Hearing and Recommendation

The planning commission considered the request on May 4, 2017. The commission report and associated plans are attached. Staff recommended approval of the proposal noting that the proposal would meet the minimum conditional use permit standards as outlined in city code.

At the meeting, a public hearing was opened to take comment. Two area property owners expressed concern regarding: (1) security/fencing of the care facility site; and (2) impact on surrounding property values. Following the public hearing, the commission discussed the proposal. On a 5-0 vote, the commission recommend the city council approve the conditional use permit. Meeting minutes are attached.

Since the Planning Commission Hearing

Staff has added three conditions of approval to the staff-drafted resolution:

1. Security/fencing of the care facility site shall be installed.
2. The facility shall comply with the city’s noise ordinances.
3. The facility shall maintain a buffer from other properties.

Meeting of May 22, 2017
1) A landscape/screening plan must be submitted for staff review and approval.

2) A permit must be obtained from Nine-Mile Creek Watershed District.

3) A plan amendment must be submitted to provide overflow parking along an expanded driveway width.

**Staff Recommendation**

Staff recommends the city council adopt the resolution approving a conditional use permit for an eight-resident licensed residential care facility at 5531 Eden Prairie Road

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

Originator: Susan Thomas, Assistant City Planner
MINNETONKA PLANNING COMMISSION
May 4, 2017

Brief Description
Conditional use permit for an eight-resident licensed residential care facility at 5531 Eden Prairie Road

Recommendation
Recommend the city council adopt the resolution approving the conditional use permit

Background
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Proposal
Michelle Nash, on behalf of Legacy Care Home, is requesting a conditional use permit to operate an eight-resident residential care facility at 5311 Eden Prairie Road. As proposed a new eight-bedroom, five-bathroom home would be constructed. Ms. Nash currently operates two other care facilities in Minnetonka.

Staff 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 applicant’s request and staff’s findings.

- **Are minimum conditional use permit standards met?**

  Yes. The applicant’s proposal would meet the eleven conditional use permit standards outlined in the city code. These standards are detailed in the “Supporting Information” section of this report.
Are the anticipated site impacts reasonable?

Yes. Grading would occur to accommodate construction of the new home and driveway, and installation of required utilities and stormwater management facilities. This grading would likely result in removal or significant impact to two high-priority trees and up to eight significant trees. The amount of proposed grading and level of resulting tree impact would be allowed under city ordinances. It is important to note that the planning commission and city council must review the applicant’s proposal, not because of the proposed construction, but because of the proposed occupancy of that construction. In other words, no special review would be required if the proposed home were to be occupied as a single-family home or even if it were a licensed care facility serving six or fewer residents.

Recommendation

Recommend the city council approve a conditional use permit for an eight-resident licensed residential care facility at 5531 Eden Prairie Road

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

Surrounding
Land Uses

The subject property is surrounded by single-family homes;

Planning

Guide Plan designation: low-density residential
Zoning: R-1

CUP Standards

By City Code §300.16 Subd.3(g) licensed residential care facilities or community based residential care facilities serving six or fewer residents must meet the following standards:

1) 3,000 square feet of lot area for each overnight resident, based on proposed capacity;

Finding: Excluding the narrow portion of the property that extends into Glen Lake, the proposal would result in 6,765 square feet of lot area for each of the eight residents.

2) 300 square feet of residential building area for each overnight resident, based on proposed capacity;

Finding: Excluding the proposed garage and basement area, the proposal would result in 418 square feet of building area for each of the eight residents.

3) in R-1 and R-2 districts, for new construction including additions, a floor area ratio (FAR) that is no more than 100% of the highest FAR of the homes within 400 feet of the lot lines and within 1,000 feet of the lot along the street where it is located, including both sides of the street. The FAR applies to an existing structure only if it seeks to expand. The city may exclude a property that the city determines is not visually part of the applicant's neighborhood and may add a property that the city determines is visually part of the applicant's neighborhood. The city may waive or modify the floor area requirement where:

a. the proposed use would be relatively isolated from the rest of the neighborhood by slopes, trees, wetlands, undevelopable land, or other physical features; or

b. the applicant submits a specific building design and site plan, and the city determines that the proposed
design would not adversely impact the neighborhood character because of such things as setbacks, building orientation, building height, or building mass. In this case, the approval is contingent upon implementation of the specific site and building plan.

**Finding:** The maximum existing FAR in the area is 0.12. The proposed home would have a FAR of 0.11. This calculation excludes the narrow portion of the property that extends into Glen Lake.

1) no external building improvements undertaken in R-1 and R-2 districts which alter the original character of the home unless approved by the city council. In R-1 and R-2 districts, there must be no exterior evidence of any use or activity that is not customary for typical residential use, including no exterior storage, signs, and garbage and recycling containers;

**Finding:** The proposed home would have a front elevation typical of a single-family home. Display of signage and storage of garbage and recycling containers have been addressed in the conditions of approval section of the provided resolution.

5) traffic generation: a detailed documentation of anticipated traffic generation must be provided. In order to avoid unreasonable traffic impacts to a residential neighborhood, traffic limitations are established as follows:

a. in R-1 and R-2 districts, the use is not be permitted on properties that gain access by private roads or driveways that are used by more than one lot;

**Finding:** The property is accessed via by an individual driveway onto a public road.

b. the use must be located on, and have access only to, a collector or arterial roadway as identified in the comprehensive plan;

**Finding:** The property is accessed by Eden Prairie Road, a collector roadway.

c. the use must prepare, and abide by, a plan for handling traffic and parking on high traffic days, such as
holidays, that has been reviewed and approved by city staff.

Finding: Staff notes:

- The most recent traffic counts on Eden Prairie Road suggest that the roadway carries roughly 6,600 vehicles per day. The proposed eight-resident facility would have very little if any impact on traffic volumes.

- As proposed, the home would be set back 150 feet from the front property line, allowing ample space for onsite parking.

6) no on-street parking to be allowed. Adequate off-street parking will be required by the city based on the staff and resident needs of each specific facility. In R-1 and R-2 districts, the parking area must be screened from the view from other R-1 and R-2 residential properties. Private driveways must be of adequate width to accommodate effective vehicle circulation and be equipped with a turnaround area to prevent backing maneuvers onto public streets. Driveways must be maintained in an open manner at all times and be wide enough for emergency vehicle access. Driveway slope must not exceed 8 percent unless the city determines that site characteristics or mitigative measures to ensure safe vehicular circulation are present. Adequate sight distance at the access point must be available;

Finding: As proposed, the home would be set back 150 feet from the front property line, allowing ample space for onsite parking. A driveway turnaround has been included as a condition of approval.

7) all facilities to conform to the requirements of the Minnesota state building code, fire code, health code, and all other applicable codes and city ordinances;

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

8) landscape buffering from surrounding residential uses to be provided consistent with the requirements contained in section 300.27 of this ordinance. A privacy fence of appropriate residential design may be required to limit off-
site impacts. Landscape screening from surrounding residential uses may be required by the city depending on the type, location and proximity of residential areas to a specific facility;

**Finding:** Given the design of the home, the visual diversity of the surrounding area, and existing vegetation, it would not be necessary to install landscaping beyond that typically installed on a single-family lot.

9) submission of detailed program information including goals, policies, activity schedule, staffing patterns and targeted capacity which may result in the imposition of reasonable conditions to limit the off-site impacts;

**Finding:** Programming information has been provided. Staff finds nothing in this information that would require additional or “out of the ordinary” conditions.

10) submission of a formal site and building plan review if a new building is being constructed, an existing building is being modified, or the city otherwise determines that there is a need for such review; and

**Finding:** A survey, grading plan, and building plans have been submitted and reviewed by pertinent city staff.

11) additional conditions may be required by the city in order to address the specific impacts of a proposed facility.

### Shoreland District

The subject property is located within the shoreland overlay zoning district and is subject to the regulations of the shoreland ordinance. Four of these regulations are of particular interest.

1. **Structural Setback.** By ordinance, homes must be set back a minimum of 75 feet from the ordinary high water level (OHWL) of Glen Lake. The proposed home would be set back over 400 feet from the OHWL.

2. **Impervious Surface.** By ordinance, no more than 30 percent of the area within 150 of the OHWL may be covered by impervious surface. As proposed, the entirety of this area would remain in its natural state.

3. **Bluff/Steep Slope.** By ordinance, and as required by the Minnesota Department of Natural Resources, steep slopes
within the shoreland district are called “bluffs.” The property does contain a bluff. However, all construction and grading activity would be upland from this bluff. Further, as required by the shoreland ordinance, all construction and grading would be outside of the bluff impact zone, which incorporates the defined bluff and a 20-foot setback or buffer from the top of the bluff.

4. Tree Removal. Clearing of natural vegetation within bluff impact zone and the shore impact zone – 37.5 feet upland from the OHWL – is prohibited. Limited removal of trees and shrubs may be allowed, but only following approval of natural resources staff. No such removal is proposed.

**Stormwater Management**

Stormwater management is required under both city of Minnetonka and Nine Mile Creek Watershed District rules. A permit is also required from the watershed district. This management and permitting would be required for any construction on the lot; the occupancy of the building would not matter.

**Minnetonka Facilities**

There are currently 33 licensed residential care facilities operating in the city of Minnetonka. The vast majority of these residential facilities serve six or fewer residents. Just two facilities serve over six residents, operating with conditional use permits.

Legacy Care Home currently operates two licensed care facilities in Minnetonka.

**Pyramid of Discretion**

![Pyramid Diagram]

**Motion Options**

The planning commission has several options:
1. Concur with the staff recommendation. In this case, a motion should be made recommending the city council adopt the resolution approving the conditional use permit.

2. Disagree with the staff recommendation. In this case, a motion should be made to recommend the city council deny the permit. This motion should include a statement as to why the recommendation is for denial.

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

Voting Requirement
The planning commission will make a recommendation to the city council. A recommendation to approve the applicant’s request requires an affirmative vote a simple majority. At the city council, approval of the applicant’s request similarly requires an affirmative vote a simple majority.

Neighborhood Comments
The city sent notice to 111 area property owners and has received no written comments to date.

Deadline for Action
July 24, 2017
Project: Legacy Care Home 3
Applicant: Michelle Nash
Address: 5531 Eden Prairie Rd
Project No. 17007.17a

Subject Property

City of Minnetonka

This map is for illustrative purposes only.
LEGAL DESCRIPTION:
That part of Lot 11, "Glen Lake Park," described as follows: Commencing at a point where the Southwesterly line of said lot terminates at the line of ordinary high water at Glen Lake; thence Northerly along the shore of said Glen Lake to the Northerly line of said lot; thence in a Northwesterly direction along said Northerly line to a point in said line 424.5 feet from the Northwesterly corner of said lot; thence Southwesterly to a point in the Westwesterly line of said lot, 64.75 feet from the Southwesterly corner of said lot; thence Southerly to the Southwesterly corner of said lot; thence Easterly 1190 feet to said lake and the point of beginning Hennepin County, Minnesota.

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

STANDARD SYMBOLS & CONVENTIONS:
- Distances from survey mark, set, unless otherwise noted.

GRADE & ELEVATION CONTROL
- Survey GCS1983 and GRS1980 as the passion for the purposes of the construction area.
- Isolated control marks must remain unaltered in place until final stabilization has been established and all shall be recorded. Isolated control marks may be removed to accommodate short term construction only but must be replaced below the next surficial layer.
- A temporary control points shall be established at each access point to the site and in each 100 foot section of the site and shall be indicated on the permanent property lines. The extant shall be maintained during the construction time by the owner or contractor's interest in prompt resurveying or other of the owner's interest.
- Sediment control measures must remain in place until final stabilization has been established. These shall be cleared by lining or prompt unprompted out from the site.

SITE WORK COMPLETION:
The survey shall be accomplished in accordance with Minnesota Department of Transportation Standards. Where the survey has been accomplished by another party, the surveyor shall be responsible for meeting Minnesota Department of Transportation Standards.

NOTICE:
- Please note that all building dimensions and building tie dimensions to the property lines, are taken from the siding and or stucco of the building.

SITE WATER SOURCE:
- All proposed yard grades to be shown as necessary for the survey.

SITE WATER TREATMENT:
- All proposed yard grades to be shown as necessary for the survey.

SITE WATER DISPOSAL:
- All proposed yard grades to be shown as necessary for the survey.

SITE AVAILABILITY:
- All proposed yard grades to be shown as necessary for the survey.

MATCH EXTENSION LIMITATION OF PROPERTY:
- All proposed yard grades to be shown as necessary for the survey.
Plan Review for Legacy Care Home 3

Conditional use regulations

1. Lot size meets criteria for 8 residents, 24,000 sq per, lot is 2.3 archers which equals **43,560 sq**.

2. House size meets criteria, 2,400 sq for 8. House. Main level of the home is 3358, the lower level would be 1679 (1/2) and the garage is 660 for a total of 5697.

3. The house meets the FAR for the area, the "buildable" square footage of the lot and I think it might be approx 54,700 if they let us use the land down to where the width goes down to 35ft, so just the front part. That FAR ratio is .104

4. No activity will occur that is not customary for the area.

5. The home’s traffic pattern will fit with the current arterial road that it sits on. There are no shared private driveways. The site plan lays out driveway and parking for houses purpose. There would be traffic movement at 7:00am 3:00pm and 11:00pm. With potential daily visitors that we would have no pattern to base on.

6. Parking: drive way will be enhanced to accommodate about five parking spaces off to the side. As well as garage space. With landscaping to buffer parking spaces. See site plan.

7. House conforms to all state and city codes and ordinances.

8. Landscaping and buffering will meet city criteria.

9. Program information submitted with site plans.
Attention staff, this is a guideline for how the activities look for the day, still have to follow care plan for cares.

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Activities are not set in stone; it is more of a guideline and can be altered by staff depending on what is going on that day with residents.

Activity Ideas:
- Board Games, Card Games, reading, music, coloring/painting, sing alongs, large motor games
- Sit outside, puzzles, read a book to them, check the activity closet for stuff to do!

Massage 2nd Thursday of the month 9-11:30

Music with Rita 2nd Monday of month 1:30 house 2, 2:00 at house 1
Legacy Care Home Disclosure For Memory Care Services

Sums up: goals policies staffing pattern.

651.636.6330 · 651.636.4226 fax · www.kindredathome.com
Welcome to your new home at Legacy Care Home. We are very proud to have you join our community.

The Legacy Care Home is comprised of 6 residential rooms registered as Housing with Services; all 6 rooms can accommodate residents needing specialized memory care. We offer a variety of amenities and services including a full service kitchen, serving three meals a day, housekeeping, laundry, activities, and licensed home care services.

**MISSION**

To give back to those that have given so much in life, by providing housing, personalized assistance, and a secured environment to help seniors maintain a dignified quality of life.

**Vision**

Our goal is to provide individualized services that enable seniors to age in place

As an organization that has adopted the Minnesota Health and Housing Alliance's Code of Ethics, we are committed to providing high quality care, to giving utmost respect to the dignity of the individual, and to encouraging the highest level of independence.

Our residence has been specifically designed with a number of unique physical features in keeping with our goals. Specifically, they are:

1. All private rooms. Residents bring their own furniture and personal belongings to enhance the familiarity of their room and create a “home” feeling.
2. A customized floor plan that gives consideration to accessibility and orientation.
3. Walk-in, accessible shower.
4. Spacious “home” areas including living room, dining room, kitchen and porches
5. 24-hour supervision of residents.

**LEGACY CARE HOME RESIDENCY REQUIREMENTS**

All residents of Legacy Care Home must meet our residency requirements at all times during their residency. Legacy Care Home has established these residency requirements in order to maintain a community living setting in which all residents may quietly enjoy their day to day lives. A resident will not be permitted to continue to live at Legacy Care Home if they do not meet the residency requirements.

Residents may meet the residency requirements in two ways:

1. Without any assistance from other persons or from assistive devices; or
2 With the assistance of others and/or assistive devices.

Legacy Care Home makes various types and amounts of supportive and home care services available to its residents to assist them to live successfully at Legacy Care Home. The supportive and health services Legacy Care Home makes available will not meet all needs for assistance and support residents may come to have as their needs change. If a resident needs more assistance than Legacy Care Home makes available, we will work with the resident to identify and engage other assistance available in the community, such as companion services, Medicare home care agencies, private duty nursing services, other additional home care services, hospice services, therapy services, etc. All other providers will be required to maintain any licensure which may be required under Minnesota law, to comply with all Legacy Care Home policies that may apply to their services, and to coordinate care with Legacy’s home care nurses.

Legacy Care Home is committed to working to make residency at Legacy Care Home successful for all involved, including families, other residents, staff, and volunteers. If issues are identified, discussion with the resident and/or family is arranged. Legacy Care Home will provide a disabled resident with a reasonable accommodation as required by law. However, Legacy Care Home will not fundamentally alter the essential nature of its programs or services in order to meet a resident’s needs.

If a resident does not obtain whatever services may be required to assist the resident to meet the following residency requirements, the resident will be asked to move out of Legacy Care Home.

In order to reside in Legacy Care Home, residents must, by themselves or with the help of others:

- Be 55 years or older
- Fulfill all financial obligations and complete all necessary paper work for residency
- Maintain the integrity of the building
- Not harm others, and not threaten violence towards themselves or others
- Maintain personal health and safety
- Not create a disturbance or safety problem due to the use of alcohol or drugs.
- Practice fire safety, such as in regard to smoking
- Not have behaviors related to dementia that impair the peace and safety of other residents and/or themselves
- Not require assistance beyond that which can realistically be arranged.
- Be cooperative with incontinence management
- Comply with all provisions of the Residency Agreement and this Resident Handbook

**Health Service Program**

Legacy Care Home’s health service program offers a wide range of health related and supportive services. See the fee schedules attached to the Residency Agreement. The following are examples of services available through Legacy Care Home staff:
• Daily help with several activities of daily living, with multiple home care visits per day and/or frequent monitoring.
• Assistance with management of incontinence.
• On going supervision in a more accessible environment to minimize falls.
• Continual monitoring of serious chronic health problems, such as CHF or COPD.
• Frequent redirection and reassurance in a highly structured environment for those experiencing symptoms of memory loss or dementia
• Management of mild behavior deficits that do not create safety risks but that do not conform to generally accept social norms.
• Daily meals to support adequate nutrition for those unable to prepare or arrange for those meals themselves.
• Coordination with Medicare home care and/or hospice services.
• Ongoing assistance with orientation to time, place and person.
• Ongoing staff support and reassurance due to anxiety, depression or mild agitation as a result of memory loss
• Supervision to minimize risk for wandering away or becoming lost when navigating freely outside of their home.

Legacy Care Home does not make the following services available, but will work with others in the community if a resident needs such services:

- 24-hour skilled care by a registered nurse
- Medicare covered home care services
- Hospice services

HEALTH SERVICES ASSESSMENT AND CARE PLAN

Prior to moving to Legacy Care Home, each prospective resident is offered a comprehensive assessment by the Registered Nurse Case Manager. While voluntary, you are strongly encouraged to take advantage of that assessment, which addresses medical history, cognitive status and current medical and social issues. The RN uses the information gleaned in the assessment process to propose a care plan, so that a prospective resident and their family will know, when making their decision on whether to move to Legacy Care Home, what needs could be met by Legacy Care Home’s health service program, the costs associated with those services, and what services, if any, the prospective resident may need to obtain from others in the community.

When a resident decides to move to Legacy Care Home and obtain health services from our home care agency, the resident is re-assessed as part of the formal process of admitting them to Home Health Care Services and developing a health services care plan. Components of this assessment include:

- Activities of Daily Living
- Cognitive Status
- Body Systems Review
- A Medical-Psycho-Social Review
The **Health Services Care Plan** correlates to each resident’s needs and functional abilities. The Care Plan emphasizes *abilities* as opposed to *disabilities* and focuses on promoting the maximal level of independence and quality of life for the resident.

Each resident is formally re-evaluated by the RN per home care regulations, or when there is a significant change in the resident’s condition. Informal evaluation is ongoing through daily charting by care attendants. Caregivers are trained to report any and all status changes to the RN for further assessment.

**FAMILIES**

We believe that the family and/or personal representative play a very vital role in helping our staff to know the resident and to identify his or her most important needs. Families are involved at all stages of care planning, care provision and re-assessment. We offer opportunities for care conferences with families as often as necessary to share information about the resident.

We welcome frequent visits to the home, participation in activities, and interaction with staff. Families may visit at any time, 24 hours a day, 7 days a week.

**STAFF**

**TRAINING**

As memory care providers, Legacy Care Home has an on-going commitment to quality staff training. Training is provided by the RN Case manager with support from the Executive Director.

*All* staff providing direct care to residents at Legacy Care Home will be trained in General Dementia Care at general orientation and will receive additional General Dementia Care training at their annual anniversary in-service. Topics to be covered in that training include:

2. Communication changes and strategies for dementia care.
3. Understanding behaviors and communication.
4. Activities of daily living: effective approaches and skills for bathing, dressing, grooming, and mealtimes.
5. Dementia care activities and life enrichment.

All employees employed will receive an additional two hour class in Dementia Care within 3 months of employment covering the disease of dementia, understanding behavior as communication, recreation programs, family and staff working together, and self care for staff.

**STAFF AVAILABILITY**

Legacy Care Home is staffed as follows:
A full time Executive Director
A fulltime RN Case Manager
Nurse available by pager 24 hours a day
Home health aide staffing 24 hours a day*

- 7AM to 3PM 1 Home Health Aide in attendance
- 3PM to 11PM 1 Home Health Aide in attendance
- 11PM to 7AM 1 Home Health Aide in attendance
- 8 AM to 8 PM 1 Home Health Aide in attendance

Please note that staffing levels for home health aides can be adjusted as needed.

Staff Credentials and Duties

Executive Director – Oversees all aspects of operations for the community.

Registered Nurse Case Manager - Oversees home care operations at Legacy, including compliance with regulations, quality assurance and daily services. Performs all admission assessments and formulates individual care plans for residents. Provides direct skilled care as needed. Delivers services in compliance with The Minnesota Nurse Practice Act.

Unlicensed staff – Provide daily direct care to our residents as delegated by the registered nurse, assisting with personal cares, activities of daily living, medication management, leisure activities and meals. Must be deemed competent by the Registered Nurse Case Manager to deliver care and services to residents.

RESIDENT PROGRAMS AND ACTIVITIES

Resident programs at Legacy are designed and developed by the executive director, RN case Manager and CnA staff. Activity programs emphasize movement, sensory stimulation, orientation, structure, routine, familiarity and enjoyment. Activities are frequent but short in duration to accommodate short attention spans and restlessness. The staff spends time becoming familiar with the likes and dislikes of the residents on each unit and makes every attempt to accommodate individual needs and desires.

Resident activities are provided to residents of the home 7 days per week. A sample activity calendar, as well as current calendars are available to residents and families at all times.

FEE SCHEDULES

All fee schedules for rent and services are attached as addendums to the Residency Agreement.

Current fee schedules may also be obtained from the executive director at any time. When changes occur to any fee, a 30 day notice will be provided to the resident, designated family member and/or authorized representative.
SIGNIFICANT CHANGE IN HEALTH STATUS

In the event that there is an emergency or significant change in health status requiring a transfer to the hospital or emergency room, we will make every effort to help you make informed decisions about when you wish to return to your room at Legacy Care Home. It may not always be in your best interest to return immediately to Legacy Care Home. You may benefit from a short-term rehab stay first, because our staff may not be able to meet all your needs after a hospital stay. Frequently, residents use short-term rehab units at other sites, and then return to their room at Legacy Care Home with the level of services we provide.

Our ultimate goal would always be to have you return to Legacy Care Home, but that might not always be the safest option for you on a temporary basis.

Important reminders:

1. The executive director is available to help you and your family make the right decisions in these situations. She will maintain contact with you, any other facility, and your family.
2. In the event you cannot safely return to Legacy Care Home, the notice periods continue to apply.
B.  **Conditional use permit for an eight-resident, licensed, residential-care facility at 5531 Eden Prairie Road.**

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. A future change in the conditions of approval would be reviewed by the planning commission and require approval from the city council.

Sewall asked if parking requirements would be met. Thomas answered affirmatively. The house would be setback 150 feet from the front property line, so the driveway would provide ample parking space.

Michelle Nash, one of two owners of Legacy Care Home, applicant, stated that Thomas did a marvelous job. She was available for questions. She operates another facility on Crown Drive.

The public hearing was opened.

Kristen Mende, 14319 Stewart Lane, asked if there would be a fence and if residents would wonder off.

Sandy Carlson, a real estate agent representing the owner of 5537 Eden Prairie Road, stated that the property is for sale and she planned on constructing a house valued at $600,000. She has a concern for the surrounding property values if the type of residents would change. She understood that six residents are allowed. There is a bluff-line issue. She asked if the bluff line would allow the house to be set far enough back. There is a significant amount of land at the site, but a regular driveway would look better than a parking lot.

No additional testimony was submitted and the hearing was closed.

Thomas pointed out the location of the steep slope. The house would meet all ordinance requirements. The city does not require fencing between residential properties.

Ms. Nash stated that the exits would be coded to prohibit residents from leaving by themselves. Building code and state fire requirements would be met. Most of the residents need memory care. Residents may sit on the patio with supervision. A parking plan would be submitted. She does not want the parking area to look like a parking lot. The purpose is to keep the house looking like a residence.
There would have to be a turn-around. The conditional use permit would require a natural buffer made up of trees and shrubs. Thomas said that staff would work with the applicant on a landscape plan. The city does not restrict the width or size of paved parking areas for residential properties. Chair Kirk noted that storm water management would be required if there would be a certain percentage of hard surface coverage and the conditional use permit would require screening. Thomas agreed.

Powers thought the site would be a very good location. The neighbors would benefit from its creation. He likes everything about the idea.

Schack agreed. The applicant did a nice job selecting the lot. The front setback would be nice and deep. That would benefit the facility and neighborhood. Her house has an enormous driveway that can park 30 vehicles. Her residence does not look abnormal. It looks like a normal house with a big driveway. The plan looks similar to hers. A lot of vehicles can fit in a surprisingly small area.

Calvert knew that the rendering does not convey everything, but it looks attractive. She acknowledged the neighbors’ concerns. Seniors would make wonderful neighbors. It would keep the serenity of the neighborhood. It sounds like a wonderful facility that would provide a needed service that many in our community need. She is glad that this space would be utilized for this use.

Sewall has a similar facility in his neighborhood. Other than a ramp, there is no way to tell that it is not a typical single-family residence. His property values and taxes have continued to go up.

*Powers moved, second by Calvert, to recommend that the city council approve a conditional use permit for an eight-resident, licensed, residential-care facility at 5531 Eden Prairie Road.*

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

The city council is tentatively scheduled to review this item May 22, 2017.

**C. Conditional use permit for a telecommunications tower on the property located at 4525 Williston Road.**

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

Resolution approving a conditional use permit for an eight-resident licensed residential care facility at 5531 Eden Prairie Road

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

Section 1. Background.

1.01 Michelle Nash, on behalf of Legacy Care Home, is requesting a conditional use permit to operate an eight-resident residential care facility at 5531 Eden Prairie Road.

1.02 The property is legally described on EXHIBIT A of this resolution.

1.03 On May 4, 2017, the planning commission held a hearing on the request. The applicant was provided the opportunity to present information to the planning commission. The planning commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. Standards.

2.01 City Code §300.16 Subd. 2 outlines the general standards that must be met for granting a conditional use permit. These standards are incorporated into this resolution by reference.

2.02 City Code §300.16 Subd. 3(g) outlines the following specific standards that must be met for granting a conditional use permit for such facilities:

1. 3,000 square feet of lot area for each overnight resident, based on proposed capacity;

2. 300 square feet of residential building area for each overnight resident, based on proposed capacity;
3. in R-1 and R-2 districts, for new construction including additions, a floor area ratio (FAR) that is no more than 100% of the highest FAR of the homes within 400 feet of the lot lines and within 1,000 feet of the lot along the street where it is located, including both sides of the street. The FAR applies to an existing structure only if it seeks to expand. The city may exclude a property that the city determines is not visually part of the applicant's neighborhood and may add a property that the city determines is visually part of the applicant's neighborhood. The city may waive or modify the floor area requirement where:

   a) the proposed use would be relatively isolated from the rest of the neighborhood by slopes, trees, wetlands, undevelopable land, or other physical features; or

   b) the applicant submits a specific building design and site plan, and the city determines that the proposed design would not adversely impact the neighborhood character because of such things as setbacks, building orientation, building height, or building mass. In this case, the approval is contingent upon implementation of the specific site and building plan.

4. no external building improvements undertaken in R-1 and R-2 districts which alter the original character of the home unless approved by the city council. In R-1 and R-2 districts, there must be no exterior evidence of any use or activity that is not customary for typical residential use, including no exterior storage, signs, and garbage and recycling containers;

5. traffic generation: a detailed documentation of anticipated traffic generation must be provided. In order to avoid unreasonable traffic impacts to a residential neighborhood, traffic limitations are established as follows:

   a) in R-1 and R-2 districts, the use is not permitted on properties that gain access by private roads or driveways that are used by more than one lot;

   b) the use must be located on, and have access only to, a collector or arterial roadway as identified in the comprehensive plan;
c) the use must prepare, and abide by, a plan for handling traffic and parking on high traffic days, such as holidays, that has been reviewed and approved by city staff.

6. no on-street parking to be allowed. Adequate off-street parking will be required by the city based on the staff and resident needs of each specific facility. In R-1 and R-2 districts, the parking area must be screened from the view from other R-1 and R-2 residential properties. Private driveways must be of adequate width to accommodate effective vehicle circulation and be equipped with a turnaround area to prevent backing maneuvers onto public streets. Driveways must be maintained in an open manner at all times and be wide enough for emergency vehicle access. Driveway slope must not exceed 8 percent unless the city determines that site characteristics or mitigative measures to ensure safe vehicular circulation are present. Adequate sight distance at the access point must be available;

7. all facilities to conform to the requirements of the Minnesota state building code, fire code, health code, and all other applicable codes and city ordinances;

8. landscape buffering from surrounding residential uses to be provided consistent with the requirements contained in section 300.27 of this ordinance. A privacy fence of appropriate residential design may be required to limit off-site impacts. Landscape screening from surrounding residential uses may be required by the city depending on the type, location and proximity of residential areas to a specific facility;

9. submission of detailed program information including goals, policies, activity schedule, staffing patterns and targeted capacity which may result in the imposition of reasonable conditions to limit the off-site impacts;

10. submission of a formal site and building plan review if a new building is being constructed, an existing building is being modified, or the city otherwise determines that there is a need for such review; and

11. additional conditions may be required by the city in order to address the specific impacts of a proposed facility.
Section 3. Findings.

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

3.02 The proposal would meet the specific conditional use permit standards outlined in City Code 300.16 Subd.3(g):

1. Excluding the narrow portion of the property that extends into Glen Lake, the proposal would result in 6,765 square feet of lot area for each of the eight residents.

2. Excluding the proposed garage and basement area, the proposal would result in 418 square feet of building area for each of the eight residents.

3. The maximum existing FAR in the area is 0.12. The proposed home would have a FAR of 0.11. This calculation excludes the narrow portion of the property that extends into Glen Lake.

4. The proposed home would have a front elevation typical of a single-family home. Display of signage and storage of garbage and recycling containers have been addressed as the conditions of this resolution.

5. The property is accessed by an individual driveway onto Eden Prairie Road, a collector roadway. The most recent traffic counts on Eden Prairie Road suggest that the roadway carries roughly 6,600 vehicles per day. The proposed eight-resident facility would have very little if any impact on traffic volumes.

6. As proposed, the home would be set back 150 feet from the front property line, allowing ample space for parking. A driveway turnaround has been included as a condition of this resolution.

7. Given the design of the home, the visual diversity of the surrounding area, and existing vegetation, it would not be necessary to install landscaping beyond that typically installed on a single-family lot.

8. A survey, grading plan, and building plans have been submitted and reviewed by pertinent city staff.
Section 4. City Council Action.

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

1. Prior to issuance of a building permit:

   a) This resolution must be recorded with Hennepin County.

   b) Submit the following:

      1) A stormwater management plan for staff review and approval. The plan must include calculations showing on-site retention of 1 inch of rainfall over the site’s impervious surface

      2) A stormwater maintenance agreement in a city-approved format

      3) A tree preservation plan for staff review and approval. The plan must clearly indicate the trees proposed to be protected, the trees proposed for removal, and any tree mitigation as required by city code.

      4) A landscape/screening plan for staff review and approval.

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

         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 and/or grading problems.

   c) Install a temporary rock driveway, erosion control, and tree
protection fencing for staff inspection. These items must be maintained throughout the course of construction.

d) Pay any outstanding utility bills.

2. Changes to existing driveway locations must be reviewed and approved by Hennepin County.

3. The driveway must include a vehicle turnaround. Vehicles may not be parked in the turnaround area. Additionally, a revised plan to address additional parking along the driveway must be submitted.

4. A permit from Nine-Mile Creek must be obtained.

5. The facility must conform to the requirements of the Minnesota state building code, fire code, health code, and all other applicable codes and city ordinances, including:
   • City Code 300.10, R-1 Low Density Residential District
   • City Code 300.25, Shoreland District
   • City Code 325, Sign Regulations
   • City Code 845, Public Nuisances

6. The property owner must contact the state fire marshal regarding fire code requirements and any necessary inspections.

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

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 22, 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 22, 2017.

__________________________________
David E. Maeda, City Clerk
EXHIBIT A

That part of Lot 7, "Glen Lake Park", described as follows: Commencing at a point where the Southerly line of said lot terminates at the line of ordinary high water at Glen Lake, thence Northerly along the shore of said Glen Lake to the Northerly line of said lot, where the same terminates at the line of ordinary high water at Glen Lake, thence Westerly 692 feet, more or less, to the Northeasterly boundary line of said lot, thence in a Northwesterly direction along said Northeasterly line to a point in said line 424.3 feet from the Northerly corner of said lot; thence Southwesterly to a point in the Westerly line of said lot, 64.75 feet from the Southwesterly corner of said lot; thence Southerly to the Southwesterly corner of said lot; thence Easterly 1196 feet to said lake and the point of beginning Hennepin County, Minnesota.
City Council Agenda Item #10C  
Meeting of May 22, 2017

**Brief Description**  
Request for temporary banners at Destiny Hill Church at 13207 Lake Street Extension

**Recommendation**  
Approve the temporary signage

**Background**

Destiny Hill Church recently purchased the subject property from St. Paul Lutheran Church. Destiny Hill Church will be having a grand opening weekend on May 19th-21st.

To advertise the new church, the organization proposes to display two temporary signs on their property throughout the entire summer. The signs would be 10 feet tall with a 7-foot by 2.5-foot signage area. (See attached).

**Temporary Banners**

Under the sign ordinance, the city council may approve temporary signs on public, institutional, religious property for special events. The council has previously approved temporary signs at other sites for advertisement of various activities.

**Staff Comments**

Staff generally supports display of the temporary banners, as such display would be consistent with previous approvals. However, staff finds the proposed display period to be too long. Rather, staff suggests it would reasonable to approve the temporary signs for 45 days, as this is the maximum temporary signage timeframe permitted for a new business.

**Staff Recommendation**

Approve a temporary sign permit for display of temporary signage at 13207 Lake Street Extension for the “Grand Opening.” Approval is subject to the following conditions:

1) Temporary signage must not exceed 35 square feet in total area.

2) Temporary signage must be setback at least 10 feet from all property lines and cannot be located within any right-of-way.

3) Temporary signage may be displayed for up to 45 days for the event.
Through: Geralyn Barone, City Manager
        Julie Wischnack, AICP, Community Development Director
        Loren Gordon, AICP, City Planner

Originator: Drew Ingvalson, Planner
The City of Minnetonka
14600 Minnetonka Blvd
Minnetonka, MN 55345

May 8, 2017

To whom it may concern,

**Request to put-up temporary flag banners**

I am writing to request approval to put up two temporary flag banners to advertise the grand opening and dedication of our new church on the weekend of May 19, 2017.

We intend to advertise within the grounds of the church in line with the city code. We plan to put the banners the week of May 15, 2017. Attached is a picture of the sample flag banner.

Thanking you in advance,

Mercy Gitau
Church Administrator
Destiny Hill Church
Welcome to Destiny Hill Church
Hi Drew,

In follow-up to our conversation and your questions.

1. The proposed sign (2 flag banner signs) dimensions are:
   Flag banner = 2.5 ft x 7ft
   Flag + pole = 10ft

2. Our request is to have the signs out week of May 15 before our new church grand opening weekend of May 19 - 21 and keep them up after the grand opening throughout summer for more publicity.

3. Please see attached aerial map with red markings indicating the sign locations.

Please let me know if you need anything else.

Thanks,

Eileen

On Tue, May 9, 2017 at 10:13 AM, Drew Ingvalson <dingvalson@eminnetonka.com> wrote:

From: Drew Ingvalson
Sent: Tuesday, May 09, 2017 10:36 AM
To: Kathy Leervig <kleervig@eminnetonka.com>
Subject: RE: Request to put up Banners

Ms. Gitau,

Good morning. I had your email forwarded to me with your request for the temporary signage at 13207 Lake Street Ex. I had a few additional questions regarding your request.
What is the area of the proposed sign (height x width)?

Where will the proposed sign be located? Please use the attached aerial image to show the locations. Please note, the signs must be setback at least 10 feet off the property line (see bright green outline).

Is your request to only have the signs out May 15-19? Previously I remember a conversation about having the signs out for the entire summer.

Feel free to contact me at the information listed below if you have any additional questions.

Best regards,

Drew

Drew Ingvalson | Planner | City of Minnetonka
14600 Minnetonka Blvd | Minnetonka, MN 55345 | 952-939-8293

From: Destiny Hill Church [REDACTED]
Sent: Monday, May 08, 2017 11:02 PM
To: Kathy Leervig <kleervig@eminnetonka.com>
Subject: Request to put up Banners

Hello Kathy,

Please attached request to set up flag banners in our recently acquired church facility for advertisement purposes.

I'm not sure if you are the right person to ask, but we also wanted to know if we are allowed to do street parking if we have an overflow of guests. If yes, which specific streets can we have people park?
Regards,

Mercy Gitau
Church Administrator

Destiny Hill Church
13207 Lake Street Extension
Minnetonka, MN 55305

www.mzizichurch.org
(website still active)

Like us on Facebook, Instagram and Twitter - @MziziChurch (still in transition)

Deeply Rooted; Bearing Fruit

Jer 17:8
City Council Agenda Item #12A  
Meeting of May 22, 2017

**Brief Description**
Items concerning implementation of a SAC/REC deferral program:

1) Resolution amending Council Policy No. 12.4 regarding Sanitary Sewer and Water Connection Fees and adopting Council Policy No. 12.10 regarding Met Council Sewer Availability Charge and City Residential Equivalency Charge Payment Deferral Program

2) Master SAC Deferral Agreement with Metropolitan Council

3) Introduce the ordinance amending city code

**Recommendation**
Adopt the resolution to implement a SAC/REC Deferral Program, approve the Master SAC Deferral Agreement and introduce the ordinance amending city code

**Background**

The Metropolitan Council charges a one-time Sewer Access Charge (SAC) fee when a business connects to the regional wastewater (sewer) system for the first time. The Met Council may also charge SAC when a business grows or changes the use of its space, which may create more potential demand on the system. If SAC is due, the city will also require a city Residential Equivalency Charge (REC) fee to be paid before the issuance of a permit. The fees assist the Met Council and city with funding for wastewater pipes and treatment plants to serve current and future members.

New businesses or a business that is planning to occupy an existing tenant space must contact the Met Council to determine if the current SAC credits (SAC fees paid in the past for the property) match the intended use of the space. If not, the Met Council will analyze business’ space and use, apply any SAC credits, and provide the business with a letter with the additional SAC fees that are required. The current SAC fee for 2017 is $2,485, and the city’s REC fee is $2,852. Both fees are due to the city prior to obtaining a permit or license. The Met Council charges SAC to local governments, who pass the fee on to the property owner or business.

SAC is determined based on the maximum potential wastewater flow created by the activities at the location (food preparation, dishwashing, floor cleaning, manufacturing, restroom use, etc.). Some business types have higher water usage and therefore pay more in SAC fees. For example, a restaurant may choose to locate in a tenant space that was formerly occupied by a cell phone retailer. In this example, the change in use from a retail store to a restaurant would require an additional five SAC fees. The SAC fee, in
combination with the city REC fee is $5,337, multiplied by 5, totals $26,685. Although the city and Met Council work to educate businesses and property owners, the fee can be a surprise to new business owners and can lead to a delay in opening the business. In some instances, business owners are unable to pay the fee and must terminate its lease. The business owner should always contact the Met Council prior to signing a lease to discuss any available SAC credits and to receive an estimated SAC determination.

In order to minimize the impact of the payment of the Sewer and Water Residential Equivalency Charges (REC’s) to new or expanding businesses within the city of Minnetonka, staff is proposing a deferral option to pay the REC fees over time versus at the time the building permit is issued. This program will be in conjunction with the Metropolitan Council’s Sewer Availability Charge (SAC) Deferral Program adopted in 2013. The Met Council’s program allows for the deferment of SAC fees for small businesses that receive a SAC determination of 25 SAC units or less prior to SAC credits being applied. The city’s program will follow the same guidelines as the program established by the Met Council.

There are several benefits to the program. Deferring the SAC and REC fees makes it easier for small businesses (who often have limited capital) to locate in Minnetonka. In particular, high water uses such as restaurants, daycares and hairdressers tend to be affected by the SAC and REC fees. The goal of this business development program is to incentivize business expansion and markets for new businesses to locate in the city by minimizing the impact of upfront fees.

**Proposed Program Guidelines**

Under the new program, the city of Minnetonka would enter into an agreement with eligible business and/or property owners to defer a portion of the SAC and REC payments over a five- or ten-year term depending on the deferral amount. Under the new program, businesses will be required to pay 20% down at the time of application to be eligible to participate. The remaining 80% will be deferred over a period of five or ten years and property owners will be billed on a monthly basis. The interest rate will be fixed at 2.45% for 5-year deferrals and 3.30% for 10-year deferrals for the 2017 fiscal year, which are rates indexed to the current year Aaa municipal bond rate. Annually by resolution, the council will determine the interest rate to be applied to deferred payments; this action will take place at the same time the other city rates and fees are adopted. The business owner and/or property owner must both agree to participate in the program and will be required to complete an application, and sign a Deferred Payment Agreement.

**Deferral Structure**

The structure of the deferral includes, but is not limited to the following requirements:

1. The SAC determination for the business is 25 units or less prior to SAC credits.
2. Deferral must be for 2 or more SAC/REC units.
3. A maximum of 25 of each SAC and REC units may be deferred.
4. The deferral term is 5 years if deferring between 2 and 15 units, or 10 years if deferring 15 to 25 units.
5. Interest rate will be fixed at 2.45% for 5-year deferrals and 3.30% for 10-year deferrals. This rate is current for the 2017 fiscal year and will be determined annually by the city council.
6. A down payment, equal to 20% of the total fee for SAC and REC after credits are applied, is due at the time of application.
7. Property owners and/or businesses will be billed on a monthly basis.
8. The property owner and/or business owner must complete an application and execute the Deferred Payment Agreement to be eligible to participate in the program.
9. In the case of a business closure, the business or property owner must notify the city’s Community Development Specialist. The city will verify the closure and future SAC and REC payment obligations will be waived as long as the city is notified immediately. The waiving of any future SAC and REC fees follows the Met Council program guidelines and is intended to assist small businesses, although it will not be available to all businesses in the city. Any outstanding SAC and REC fees accrued before notifying the city would be due immediately or assessed to the property.
10. In the event of a default, any outstanding SAC and REC payments will be assessed to the property and the property owner waives the right to contest the assessment.
11. SAC/REC credits are non-transferable and are tied to the property to which they were applied.

**Eligible Businesses**

In order to be eligible, a business cannot include any residential component (i.e. housing, hotels, motels, camps) and must have a SAC determination of 25 or fewer units before any credits are applied. Commercial buildings, schools, hospitals, non-profits and churches are considered eligible, as are some industrial uses provided they do not discharge Industrial Wastewater as defined by the Metropolitan Council’s SAC Procedural Manual.
Ineligible Conditions

A business is not eligible for this program if:
- The fee owner’s property taxes are delinquent.
- The business is not in good standing with the State of Minnesota, or is in violation of Minnetonka City Code.
- The property is not located within the city of Minnetonka.
- The business does not meet the definition of eligible commercial properties in the Metropolitan Council’s SAC Deferral Program and the city of Minnetonka REC Deferral Program.

Sample Payment Schedule

Below is a sample payment schedule for an eligible small business with a determination of 5 SAC and 5 Sewer and Water REC units, before credits. Under the terms of the program, the property owner will pay to the city an initial payment of 20% of the total units, or $5,337.11, at the time of the building permit. The remaining deferral payment will be repaid at a fixed rate of 2.45% over a 5 year term (deferrals for 16 or more units will be repaid over a 10 year term).

<table>
<thead>
<tr>
<th>Fee Calculation</th>
<th>Total Amount Due</th>
<th>Payable at time of application (20)%</th>
<th>Payable over 5 –year term (plus 2.45% interest)</th>
<th>Estimated monthly payment with interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>SAC Fee* 5 SAC units x $2,485 (in 2017)</td>
<td>$12,425</td>
<td>$2,485</td>
<td>$9,940</td>
<td>$176</td>
</tr>
<tr>
<td>City REC Fees* 5 Sewer/Water REC units x $2,852 (in 2017)</td>
<td>$14,261</td>
<td>$2,852</td>
<td>$11,408</td>
<td>$202</td>
</tr>
<tr>
<td>Total 5 SAC/REC units</td>
<td>$26,686</td>
<td>$5,337</td>
<td>$21,348</td>
<td>$378</td>
</tr>
</tbody>
</table>

*SAC and REC Fees are determined annually and are subject to change.

Budgetary/Fiscal Issues:

There is minimal risk to the city. In the event of a business closure, the business and/or property owner is not required to make future payments as long as the city is notified of the closure. The SAC/REC units that are paid in full will remain tied to the property for a future tenant. If a business and/or property owner becomes delinquent on payments while in operation the city will have the option of assessing the outstanding payments to the property. In the case of a change of ownership, the full amount of the deferral will be
due upon sale. In the short term, it could mean slightly lower REC fee revenue since participants in the program would only pay 20% initially with the remainder paid over a period of 5 or 10 years.

Process Overview for the Proposed Program

1. The city will enter into an agreement with the Met Council to participate in their deferral program.
2. If a business is interested in participating in the program, they will submit an application to the city.
3. If the application is approved by city staff, a deferral agreement will be executed between the city and the business/property owner.
4. The business will be billed on a monthly basis for both their SAC and REC fees. The fees will be included with their water bill and processed through the Utility Fund.
5. The city will pay the Met Council the SAC fees collected on an annual basis.
6. In the event of a business closure, all future SAC and REC fees will be waived from the time that the city is notified of the closure. The credits that have been paid for will be applied to the property, including partial credits.
7. In the event of a default, any unpaid fees will be assessed to the property.

Steps needed to Implement Program

- City Council adopts the resolution amending Council Policy No. 12.4 regarding Sanitary Sewer and Water Connection Fees and adopts Council Policy No. 12.10 regarding Met Council Sewer Availability Charge and City Residential Equivalency Charge Payment Deferral Program
- City Council approves the Master SAC Deferral Agreement
- City Council approves the ordinance amending Section 1200.025, subdivision 1 of the Minnetonka City Code to reference the program.

Approval Timeline

The proposed timeline for the Metropolitan Council Sewer Availability and City Residential Equivalency Charge Payment Deferral Program implementation:

- May 22, 2017 – Adoption of the resolution by the city council regarding council policies to implement a SAC/REC Deferral Program and approval of the Master SAC Deferral Agreement with Metropolitan Council
- May 22, 2017 – Introduction of the ordinance amending city code to the city council
- June 12, 2017 – Adoption of the ordinance by the city council
EDAC Review

On April 27, 2017, the EDAC recommended the city council approve the Master SAC Deferral Agreement with the Metropolitan Council and related documents to offer the deferral program to Minnetonka businesses.

Recommendation

Staff recommends the city council approve the following agreement and resolution related to the SAC/REC Deferral Program and introduce the ordinance amending city code:

1) Resolution amending Council Policy No. 12.4 regarding Sanitary Sewer and Water Connection Fees and adopting Council Policy No. 12.10 regarding Met Council Sewer Availability Charge and City Residential Equivalency Charge Payment Deferral Program
2) Master SAC Deferral Agreement with Metropolitan Council
3) Introduce the ordinance amending Section 1200.025, subdivision 1 of the Minnetonka city code

Future Required Actions:

• June 12, 2017 – Adoption of ordinance by the city council

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

Originated by:
   Alisha Gray, Economic Development and Housing Manager
   Celeste McDermott, Community Development Specialist
Supplemental Information

- Program Guidelines
- Metropolitan Council Deferral Agreement
- Minnetonka Deferral Agreement
- Proposed Amendment to Council Policy Number 12.4
- Proposed Council Policy Number 12.10
- Proposed Ordinance Amending Section 1200.025, subdivision 1 of the Minnetonka City Code
Resolution No. 2017-

Resolution amending council policy 12.4 regarding sanitary sewer and water connection fees and adopting council policy no. 12.10 regarding a deferred payment program for such fees

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

Section 1. Background.

1.01. The city collects sewer availability charges imposed by the Metropolitan Council, in accordance with state law and city ordinance.

1.02. The city also collects water availability charges (termed “residential equivalency charges) as provided by Minnetonka City Code section 1200.025 and Council Policy No. 12.4.

1.03. As currently administered, the Metropolitan Council and Minnetonka charges are collected at the time of issuance of a building permit.

1.04. The Metropolitan Council has adopted a program to allow deferred payment of its sewer availability charges for eligible small businesses.

1.05. The city council desires to encourage small business development in the city by adoption of a program that allows eligible small businesses to pay sewer availability charges and water residential equivalency charges over a period of five to ten years, with interest.

Section 2. Council Action.

2.01. The city council amends Council Policy 12.4, regarding sanitary sewer and water connection fees, as shown on the attached Exhibit A.

2.02. The city council approves and adopts Council Policy 12.10, regarding “Metropolitan Council sewer availability charge and city residential equivalency charge payment deferral program,” as shown on the attached Exhibit B.

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

______________________________
Terry Schneider, Mayor
Attest:

______________________________
David E. Maeda, City Clerk

**Action on this resolution:**

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

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

______________________________
David E. Maeda, City Clerk
Met Council Sewer Availability Charge and City Residential Equivalency Charge Deferral Program Guidelines

In order to minimize the impact of the payment of the Met Council’s Sewer Availability Charges (SAC’s) and Minnetonka’s Sewer and Water Residential Equivalency Charges (REC’s) to new or expanding businesses within the city of Minnetonka, the city will provide a deferral option to pay the SAC and REC fees over time versus at the time the building permit is issued. This program will be in conjunction with the Metropolitan Council's Sewer Availability Charge (SAC) Deferral Program adopted in 2013. The Metropolitan Council’s program allows for the deferment of SAC fees for small businesses that receive a SAC determination of 25 SAC units or less prior to SAC credits being applied. Under the deferral program, the city of Minnetonka will enter into an agreement with eligible business and property owners to spread the SAC and REC payments over a five or ten year term depending on how many units are being deferred. This program is established by city ordinance and is intended to parallel the Metropolitan program guidelines.

Deferral Structure
The structure of the deferral includes, but is not limited to the following requirements:

1. The SAC determination for the business is 25 units or less prior to SAC credits.
2. Deferral must be for 2 or more SAC/REC units.
3. A maximum of 25 of each SAC and REC units may be deferred.
4. The deferral term is 5 years if deferring between 2 and 15 units, or 10 years if deferring 16 to 25 units.
5. Interest rate will be fixed at 2.45% for 5 year deferrals and 3.30% for 10 year deferrals. This rate is current for the 2017 fiscal year.
6. A down payment, equal to 20% of the total fee for SAC and REC after credits are applied, is due at the time of application.
7. Property owners and/or businesses will be billed on a monthly basis.
8. Property owner and/or business owner must complete an application and execute the Deferred Payment Agreement to be eligible for the program.
9. In the case of a business closure, the business or property owner must notify the city’s Community Development Specialist. The city will verify the closure and future SAC and REC payment obligations will be waived as long as the city is notified immediately. Any SAC and REC fees accrued before notifying the city would be assessed to the property.
10. In the event of a default, any outstanding SAC or REC payments will be assessed to the property and the property owner waives the right to contest the assessment.
11. SAC/REC credits are non-transferable and are tied to the property to which they were applied.

Eligible Businesses
In order to be eligible, a business cannot include any residential component (i.e. housing, hotels, motels, camps, etc) and must have a SAC determination of 25 or fewer units before any credits are applied. Commercial buildings, schools, hospitals, non-profits and churches are considered eligible, as are some industrial uses provided they do not discharge Industrial Wastewater as defined by the Metropolitan Council's SAC Procedural Manual.
Ineligible Conditions

- The fee owner’s property taxes are delinquent.
- The business is not in good standing with the State of Minnesota, or is in violation of Minnetonka City Code.
- The business does not meet the definition of eligible commercial properties in the Metropolitan Council’s SAC Deferral Program and the city of Minnetonka REC Deferral Program.

Sample Payment Schedule

Below is a sample payment schedule for an eligible small business with a determination of 5 SAC and 5 Sewer and Water REC units, before credits. Under the terms of the program, the property owner will pay to the city an initial payment of 20% of the total units, or $5,337.11, at the time of the building permit. The remaining deferral payment will be repaid at a fixed rate of 2.45% over a 5 year term (deferrals for 16 or more units will be repaid over a 10 year term).

<table>
<thead>
<tr>
<th>Fee</th>
<th>Calculation</th>
<th>Total Amount Due</th>
<th>Payable at time of application (20)%</th>
<th>Payable over 5 –year term (plus 2.45% interest)</th>
<th>Estimated monthly payment without interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>SAC Fee*</td>
<td>5 SAC units x $2,485 (in 2017)</td>
<td>$12,425</td>
<td>$2,485</td>
<td>$9,940</td>
<td>$165.67</td>
</tr>
<tr>
<td>City REC Fees*</td>
<td>5 Sewer/Water REC units x $2,852.11 (in 2017)</td>
<td>$14,260.55</td>
<td>$2,852.11</td>
<td>$11,408.44</td>
<td>$190.14</td>
</tr>
<tr>
<td>Total</td>
<td>5 SAC/REC units</td>
<td>$26,685.55</td>
<td>$5,337.11</td>
<td>$21,348.44</td>
<td>$355.80</td>
</tr>
</tbody>
</table>

*SAC and REC Fees as well as interest rates are determined annually and are subject to change.

If you have any questions or would like to receive an application for the Metropolitan Council SAC Deferral Program or city of Minnetonka REC Deferral Program, please contact Celeste McDermott, Community Development Specialist, at cmcdermott@eminnetonka.com or 952-939-8234.

If you have questions regarding the building permits please contact the inspections division at 952-939-8394.
COMMUNITY: City of Minnetonka

COMMUNITY ADDRESS: 14600 Minnetonka Blvd, Minnetonka, MN 55345

CONTACT PERSON: Celeste McDermott

COMMUNITY-WIDE SAC DEFERRED AMOUNT: 80%

COMMUNITY-WIDE SAC DEFERMENT PERIOD: 5 or 10 years

PAYMENT MONTH(S): September

MASTER SAC DEFERRAL AGREEMENT

THIS MASTER SAC DEFERRAL AGREEMENT (“Agreement”) is entered into by and between the Metropolitan Council, a public corporation and political subdivision of the State of Minnesota, with business offices at 390 Robert Street North, Saint Paul, Minnesota 55101 (“Council”), and the local government unit identified above as the “Community.”

Recitals

1. The Council owns and operates the metropolitan disposal system. Under Minnesota Statutes section 473.517, subdivision 3, the costs of acquisition, betterment and debt service associated with the “reserve capacity” of the system must be allocated among and paid by the respective local government units in the metropolitan area through a sewer availability charge (“SAC”) for each new connection or increase in capacity demand to the metropolitan disposal system within each local government unit.

2. Individual property or business owners whose properties are either newly connected or increase capacity demand to the metropolitan disposal system do not pay SAC to the Council. However, local government units that pay SAC to the Council for new connections or increased capacity demands typically pass on those costs to property and business owners by assessing property and business owners a “Local SAC” which sometimes includes local add-on charges.

3. Minnesota Statutes section 473.517, subdivision 6 authorizes the Council to provide for the deferment of payment of all or part of the allocated costs which are allocated by the Council to a local government unit in any year pursuant to section 473.517, subdivision 3. The deferments are repayable at such time or times as the Council shall specify, with interest.

4. At its November 28, 2012 meeting, the Council adopted changes to its SAC program including a small business SAC deferral program. The changes became effective January 1, 2013. At its January 22, 2014 meeting, the Council adopted changes to the SAC deferral program that became effective immediately upon adoption.

5. The Council wants to encourage and help communities promote business development by deferring community SAC payment obligations pursuant to Minnesota Statutes section 473.517, subdivision 6, so participating communities may pass through to businesses the benefits of deferred SAC payments by the communities. The Council’s Sewer Availability Charge Procedure Manual
(January 2014) states that communities that want to participate in a SAC deferral program must execute a standard master SAC deferral agreement with the Council.

6. To obtain a deferment of a SAC payment obligation and provide assistance to businesses, communities will submit to the Council a signed master SAC deferral agreement. For the term of the master agreement, communities will have the option to note on their monthly SAC reporting, on forms as provided by the Council, the eligible SAC liabilities for which the communities are requesting a SAC payment deferral from the Council. For each such subject SAC liability the deferral will be effective as of the first day of the subsequent month (e.g., for an April building permit that is reported for SAC in May, the deferral will be effective as of June 1).

7. In order to define the rights and obligations of the Community and the Council and the relevant SAC deferral arrangements, the Community and the Council agree as follows:

**Article 1 - Definitions**

1.1 **Definition of Terms.** Unless otherwise provided or indicated by the context, the terms defined in this article have the meanings given them in this article. Capitalized terms or phrases used in this Agreement have the meanings given them in the most recent version of the Council’s *Sewer Availability Charge Procedure Manual* (the “SAC Procedure Manual”).

(a) **Community.** “Community” means a “Community” or “Customer Community” as those terms are defined in the SAC Procedure Manual.

(b) **Determination.** “Determination” has the meaning ascribed to that term in the SAC Procedure Manual.

(c) **Regional Portion of Local SAC.** The “Regional Portion of Local SAC” means that portion of the Community’s SAC payment obligations to the Council that the Community passed on to properties within the Community’s jurisdiction and does not include any local add-on charges.

(d) **SAC Deferred Amount.** “SAC Deferred Amount” means the amount of the Community’s SAC obligation under Minnesota Statutes section 473.517, subdivision 3 that has been deferred pursuant to Minnesota Statutes section 473.517, subdivision 6 and the terms and conditions of this Agreement.

(e) **Business.** “Business” means a property or business for which the aggregate SAC Determination results in a liability of twenty-five (25) SAC units or less, before application of any Credits available on the Site. Business does not include any type of “Residential Property” or “Publicly Assisted Housing” as those terms are defined in the SAC Procedure Manual; nor does it include motels, hotels, camps, nursing homes, senior housing or prisons. Business includes “Commercial Properties,” as that term is defined in the SAC Procedure Manual, but only when the aggregate SAC Determination for a Commercial Property is twenty-five (25) SAC units or less, before any applicable Credits.

**Article 2 – SAC Deferred Amount; Interest; Payments**
2.1 SAC Deferred Amount. Subject to the terms and conditions of this Agreement and applicable law, the Council will allow the Community to defer payment on the Community’s SAC obligations for Business properties within the Community’s jurisdiction in an amount not to exceed eighty percent (80%) of the SAC due for the properties that are either newly connected or increase capacity demand to the metropolitan disposal system. The percentage by which the Community elects to defer payment on the Community’s SAC obligations must be applied on a community-wide basis to all participating Businesses within the Community’s jurisdiction. The “Community-Wide SAC Deferred Amount” is stated as a percentage on Page 1 of this Agreement. The deferment is available only to properties for which the aggregate Determination is twenty-five (25) SAC units or less. In each instance in which the Community exercises this deferment option, the SAC amount that is not deferred is due and payable at the time the SAC liability is incurred by the Community. Payments on the non-deferred amounts are due with the regular SAC reporting to the Council, pursuant to the SAC Procedure Manual. The deferred SAC liability begins accruing interest on the first day following the regular SAC reporting.

2.2 Interest. Annually at each calendar year-end, the Council will determine the average rate on its wastewater bonds, pursuant to Minnesota Statutes section 473.517, subdivision 6. All new SAC deferments during the following calendar year will be subject to that interest rate, but that interest rate will be fixed for the duration of the deferment period for each deferral originated in that calendar year. Interest on unpaid SAC Deferred Amount balances will be computed in whole months, however, payments to the Council can be annual.

2.3 Payments. When the Council invoices the Community for payments on its SAC Deferred Amount, the Council will provide the Community with a payment schedule that amortizes the SAC Deferred Amount and interest on that deferred amount over the term of the deferment period. The Community’s payment schedule will list the Business properties for which the Community elected to defer payments on the Community’s SAC obligations to the Council. The Community will make payments to the Council at least annually. The Community may elect to make payments semi-annually or more frequently to correspond with the Community’s Local SAC collections, assessments or other payments from Businesses, but the same payment schedule must apply to all Community SAC Deferred Amounts. The month(s) the Community elected to make its SAC payments to the Council under the payment schedule are identified on Page 1 of this Agreement as the “Payment Month(s).” The Community may repay or prepay the Council the unpaid balance of a SAC Deferred Amount at any time prior to the end of the deferment period. Any repayment or prepayment made by the Community shall be without penalty to the Community. The Community’s payment schedule will be recalculated during the term of the deferment period to reflect: (a) repayments or prepayments by the Community; (b) the Community’s election (if any) to discontinue making payments on its SAC Deferral Amount for a Site pursuant to Section 4.2(b); (c) any Community payments to the Council pursuant to Section 4.1(b); or (d) the addition of new Business properties for which the Community elects to defer payment on the Community’s SAC obligations to the Council.

2.4 Local SAC Payments from Businesses. Subject to the limitation stated in Sections 3.2 and 4.1, the Community may enter into a payment or other agreement with each Business for payment of Local SAC to the Community on terms and conditions agreed to by the Community and the Business. Except as described in Section 4.2, failure of a Business to make its Local SAC payments to the Community or the Community’s failure (or choice) not to assess or collect Local SAC from a Business shall not relieve the Community of its obligation to pay the Council any unpaid SAC
Deferred Amount, plus interest, or otherwise meet its SAC payment obligations under Minnesota Statutes section 473.517, subdivision 6 or other law.

**Article 3 - Term of Deferments**

3.1 Term of Agreement. Unless otherwise terminated pursuant to this Agreement, this Agreement shall remain in force and effect until the term of the last deferment period expires for Business properties listed on the Community’s payment schedule. The Council reserves the right to cancel, suspend or modify its SAC deferral program at any time and for any reason upon thirty (30) calendar days written notice to the Community. If the Council cancels, suspends or modifies its SAC deferral program it will honor all existing SAC deferrals which the Community elected to make under this Agreement prior to the cancellation, suspension or modification. The Community is responsible for giving timely notice to the Community’s participating Businesses or prospective participant Businesses of any cancellation, suspension or modification of the Council’s SAC deferral program that may affect the Community’s local SAC deferral program.

3.2 Term of Deferment. The Community elects the term of the SAC deferments between the Council and the Community, but the maximum term of a Community’s SAC deferment shall not exceed ten (10) years. The Community may have only one SAC deferment period and must have the same SAC deferment period for all Business properties covered by this Agreement. The Community’s “Community-Wide SAC Deferment Period” is identified on Page 1 of this Agreement.

**Article 4 – Local SAC Deferrals**

4.1 Local Terms and Conditions. The Community will be responsible for identifying property and business owners that qualify for the Community’s SAC deferral program pursuant to any Community terms or conditions. The Council will disapprove a Community deferment request only if a property or business owner does not qualify as a Business as defined in this Agreement. Because the Council’s SAC deferral program is intended to benefit Businesses, the Community must administer its local SAC deferral program in a revenue-neutral manner. The Community agrees its SAC payments to the Council will not be less than the Regional Portion of Local SAC payments the Community receives from participating Businesses.

(a) Local Deferment Period. The Community agrees it will not allow a Business a less generous deferment period (i.e., a shorter deferment period) for payment of the Regional Portion of Local SAC than the term of the Community’s Community-Wide Deferment Period. This Agreement is not intended to govern the payment or deferment of any local add-on charges by the Community (if any) for Business properties.

(b) Local Deferred Amount. The Regional Portion of Local SAC deferred by the Community for a Business’s benefit shall not be less than the Community’s SAC Deferred Amount. If a Business elects to prepay the Community some or all of the Regional Portion of Local SAC deferred by the Community, the Community must make a like payment to the Council to cover the Community’s SAC obligations to the Council for the Business property. If a Business elects to prepay some of the Regional Portion of Local SAC deferred by the Community the Council will recalculate the Community’s payment schedule.
4.2 **Unpaid Local SAC.** If a Business ceases operations or moves from the Site and does not require the incremental wastewater capacity represented by the SAC deferral, the Community may exercise one of the following two options:

(a) **Continue SAC Payments.** The Community may continue to make its payments to the Council under the payment schedule. If the Community elects this option it will accrue SAC Credits for the Site in accordance with the SAC Credit provisions of the *SAC Procedure Manual*.

(b) **Discontinue SAC Payments.** The Community may discontinue making its payments to the Council on the Community’s SAC Deferral Amount for the Site. The Community must notify the Council if the Community elects this option and it must certify to the Council that the incremental capacity no longer is needed at the Site. The Community is responsible for making all SAC payments on the SAC Deferral Amount that were due prior to the notice. The Site will not be credited with the portion of the wastewater capacity not paid (for future SAC Determinations), but will receive Credit for actual SAC paid (including partial units). No Community SAC deferral payments to the Council will be refunded. Net Credits will be available to the Community for Community-Wide Credits only if a new SAC Determination establishes a permanent reduction of capacity demand.

4.3 **Late Community Payments.** If the Community makes a late SAC deferral payment to the Council, an additional administrative charge of two percent (2%) of the unpaid balance of the SAC Deferred Amount per month (or such higher interest rate allowable under law) will be applied.

**Article 5 - Notices**

5.1 **Written Notices.** Any notice, request, demand and other correspondence required by or made in accordance with this Agreement shall be in writing and delivered:

To the Council: Metropolitan Council  
Attn: MCES Finance Director 
390 Robert Street North  
Saint Paul, Minnesota 55101-1806

To the Community: The Community’s “Contract Person” identified on Page 1  
At the “Community Address” identified on Page 1

5.2 **Notice Delivery.** Any notices or other correspondence shall be deemed to have been received: (a) three (3) calendar days after the date on the notice if the notice is sent by U.S. Mail; or (b) the next business day from the date on the notice if the notice is sent by facsimile or by e-mail.

**Article 6 - Defaulting Liabilities**

6.1 **Liability.** To the extent permitted or authorized by law, the Community will hold the Council harmless and indemnify the Council against any actions, charges, claims, costs, damages, demands, expenses, liabilities, losses and proceedings which the Council may suffer or be subject to as a result of any default by a Business or the Community of the Community’s SAC payment obligations under this Agreement or under applicable law. A Business’s failure to pay Local SAC shall not relieve the
Community of its obligation to pay the Community’s SAC obligations to the Council. Nothing in this Agreement shall be interpreted as a waiver of any liability limitations or immunities granted to the Council and the Community by Minnesota Statutes chapter 466 or by other applicable state or federal law.

6.2 Survival of Terms. Notwithstanding any other provision of this Agreement, the validity of this Article and the Community’s obligation to pay its SAC obligations shall survive the expiration or termination of this Agreement.

Article 7 - Miscellaneous

7.1 Dispute Resolution. Any dispute arising under this Agreement shall be settled through consultations between the Council’s and the Community’s representatives. If an agreement regarding a dispute cannot be reached within thirty (30) days upon notice of a dispute from the Council or the Community, either party is then entitled to bring such dispute before the courts of this state or take such action as otherwise allowed by law.

7.2 Exercise of Rights. Any rights, powers and remedies granted to the Council and the Community by this Agreement shall not preclude or limit any other rights, powers and remedies available to the Council or the Community in accordance with law and other provisions of this Agreement. The exercise of any rights, powers and remedies by the Council or the Community shall not preclude the Council or the Community from exercising any other rights, powers and remedies available to the Council or the Community. No failure or delay by the Council or the Community to exercise any of their respective rights, powers and remedies under this Agreement or in accordance with applicable laws shall be construed as a waiver of such rights, powers, and remedies. The waiver of any right, power or remedy, in whole or in part, shall not preclude the Council or the Community from exercising any of their other respective rights, powers or remedies.

7.3 Severability of Provisions. Each provision in this Agreement shall be severable from and independent of the other provisions. If one or more provisions are held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Agreement shall not be affected and shall remain in force and effect.

7.4 Amendments and Modifications. Any amendments or modifications to this Agreement shall be in writing and shall become effective only upon execution of the amendment by the Council’s and the Community’s authorized representatives.

7.5 Assignment. The Community shall not assign any of its rights or obligations under this Agreement to any third party, even if the Site which was the subject of the SAC liability is removed from the jurisdiction of the Community. The Community may not barter, trade, sell or otherwise treat any SAC payment obligation deferments or SAC Credits as a commodity and the Council will not honor any agreements between the Community and any third parties that purport to barter, trade, sell or otherwise treat any SAC payment obligation deferments or SAC Credits as a commodity.

7.6 Successors. This Agreement shall be binding on the legal successors of the Council and the Community, whether by operation of law or otherwise.
7.7 Warranty of Legal Capacity. The individuals signing this Agreement on behalf of the Community and the Council represent and warrant on the Community’s and the Council’s behalf respectively that the individuals are duly authorized to execute this Agreement on the Community’s and the Council’s behalf respectively and that this Agreement constitutes the Community’s and the Council’s valid, binding and enforceable agreement.

IN WITNESS WHEREOF, the Community and the Council have caused this Agreement to be executed by their duly authorized representatives. This Agreement is effective on the date of final execution by the Council.

COMMUNITY

By: __________________________
Print Name: ____________________
Title: __________________________
Date: __________________________

By: __________________________
Print Name: ____________________
Title: __________________________
Date: __________________________

METROPOLITAN COUNCIL

By: __________________________
Print Name: ____________________
Title: __________________________
Date: __________________________
DEFERRED PAYMENT AGREEMENT

This Deferred Payment Agreement ("Agreement") is entered into this ___ day of __________, 2017 by and between the city of Minnetonka, a Minnesota municipal corporation with an address of 14600 Minnetonka Boulevard, Minnetonka, MN 55345 ("City"), __________, a Minnesota corporation with an address of ________________ ("Operator"), and __________, a Minnesota Limited Liability company with an address of ________________ ("Owner").

WHEREAS, the Operator proposes to create and operate a __________________ ("Business") on property located at _________________________ ("Property"). Owner is the fee owner of the Property;

WHEREAS, the Business will be a change in use of the Property and the Owner is therefore subject to charges for sewer from the Metropolitan Council Environmental Services Division ("MCES") and charges for water from the City. The charges are based on Sewer Availability Charge ("SAC") units;

WHEREAS, MCES has determined that the Property should be charged three ____ SAC units for the change in use;

WHEREAS, City Code Section 1200.025 allows qualified business owners to defer the payment of sewer availability and water access charges;

WHEREAS, Owner and Operator seek to have the payment of sewer availability and water access charges owed for the Business deferred.

NOW THEREFORE, the parties agree as follows:

1. **Recitals.** The recitals set forth above are incorporated herein as if fully set forth.
2. **Fees.** The Owner is responsible for the following fees in relation to the establishment of the Business on the Property:

<table>
<thead>
<tr>
<th>Fee</th>
<th>Calculation</th>
<th>Amount Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>MCES Sewer Accessibility Charge</td>
<td>SAC units x $2,485 per unit</td>
<td>$________</td>
</tr>
<tr>
<td>Minnetonka Sewer Residential Equivalency Charge</td>
<td>REC units x $1,026.75 per</td>
<td>$________</td>
</tr>
<tr>
<td></td>
<td>SAC unit</td>
<td></td>
</tr>
<tr>
<td>Minnetonka Water Residential Equivalency Charge</td>
<td>REC units x $1,825.36 per</td>
<td>$________</td>
</tr>
<tr>
<td></td>
<td>SAC unit</td>
<td></td>
</tr>
<tr>
<td><strong>Total Fees</strong></td>
<td></td>
<td>$________</td>
</tr>
</tbody>
</table>

3. **Payment of Fees.** Owner, or Operator on behalf of Owner, shall pay to the City all fees set forth in Paragraph 2 according to the following schedule:

   a. **Initial Payment.** $________ due at time of issuance of a building permit.
   b. **Deferral Payments.** $________ with interest at an annual rate of ___% due in equal monthly payments of $________ over ___ months. Interest shall begin accruing upon the execution of this Agreement. The first monthly payment shall be due on _____________, 2017. All future payments shall due on the 1st of each month until the fees and interest are paid in full. The final monthly payment shall be due on ___________. The final monthly payment shall consist of any and all amounts remaining due under this Agreement.
   c. **Prepayment.** The amounts due under this Agreement may be prepaid without penalty. Interest shall accrue on the balance due at the rate set forth above up and to the date all amounts due under this Agreement are paid in full.

4. **Recalculation of Credits.** In the event the SAC units for the Property change for any reason after execution of this Agreement, any new fees assessed shall be due and payable pursuant to the City Code and shall not be subject to this Agreement.

5. **Ceasing business operations.** If the business ceases operations or moves from the Property, the owner and operator are responsible for making the deferral payments required by paragraph 3 of this Agreement up until the time that the owner or operator informs the City in writing that the business has ceased operations or has moved from the Property. No further payments will be required under this Agreement if MCES does not require the City to pay its MCES sewer availability charge relating to the business. If MCES requires the City to pay its MCES sewer availability charge, any balance remaining due under this Agreement, including interest, shall become immediately due and payable without demand or notice by the City.

6. **Default.** “Default” shall mean the failure to make payments pursuant to the terms herein or any other breach of this Agreement and failure to cure the default within ten days of the mailing of written notice by the City to Owner and Operator by United States Mail.

7. **Remedy.** Upon Default, any balance remaining due under this Agreement, including interest, shall become immediately due and payable without demand or notice by the
City. In addition, Owner and Operator agree that the full balance due, including interest and any applicable collection or administrative costs incurred by the City, may be assessed against the Property pursuant to Minn. Stat. Chapter 429 or certified to the taxes on the Property pursuant to Minn. Stat. 444.075 or any other applicable law. Owner and Operator waive any and all procedures related to any such assessment or certification, including but not limited to notice, hearing and appeal of the assessment and waive any and all rights to appeal or otherwise contest or challenge the levying of special assessments up to a maximum of $_______ against the Property. The owner and operator agree that any requirements of Minnesota Statutes, Chapter 429 with respect to the adoption or levying of the special assessments are waived to the extent that those requirements are not met.

8. **Costs of Collection.** To the extent permitted by law, Owner and Operator agree to pay all costs of collection, including reasonable attorneys’ fees and legal expenses, incurred by the City in collection of any amounts due herein.

9. **Notices.** Notices to be given under this Agreement shall be given by enclosing the same in a sealed envelope, postage prepaid and deposited in the U.S. Postal Service, addressed to the parties as listed above.

10. **Assignment.** None of the parties shall assign this Agreement, nor any interest arising herein, without the written consent of the other parties.

11. **Run with the Land.** The covenants, waivers and agreements contained in this Agreement shall run with the Property and shall bind future owners of the Property and their heirs, successors and assigns. Owner agrees to provide a copy of this Agreement to any buyer of the Property before Owner signs a purchase agreement to sell the Property.

12. **Governing Law.** The laws of the State of Minnesota govern this Agreement.

13. **Severability.** The provisions of this Agreement are severable. If any portion of this Agreement is, for any reason, held by a court of competent jurisdiction to be contrary to law, such decision shall not affect the remaining provisions of this Agreement.

14. **Entire Agreement.** The entire Agreement of the parties is contained herein. This Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the parties, unless otherwise provided herein.

15. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be considered an original.

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above written.
City of Minnetonka

BY: ________________________________  
    Terry Schneider  
    Mayor

BY: ________________________________  
    Geralyn Barone  
    City Manager

STATE OF MINNESOTA  )  ss.  
COUNTY OF HENNEPIN  )

The foregoing instrument was acknowledged before me on _____________ by Terry Schneider, mayor of the City of Minnetonka, a Minnesota municipal corporation, on behalf of the corporation.

________________________________________
Notary Public

Notary Stamp

STATE OF MINNESOTA  )  ss.  
COUNTY OF HENNEPIN  )

The foregoing instrument was acknowledged before me on _____________ by Geralyn Barone, city manager of the City of Minnetonka, a Minnesota municipal corporation, on behalf of the corporation.

________________________________________
Notary Public

Notary Stamp
OPERATOR

By:
Its:

STATE OF MINNESOTA  )
    ) ss.
COUNTY OF HENNEPIN  )

   The foregoing instrument was acknowledged before me on __________ by
   ____________________, on behalf of the corporation.

________________________________________
Notary Public

Notary Stamp
OWNER

By: 
Its: 

STATE OF MINNESOTA    )
 ) ss.
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me on ___________ by ______________________, on behalf of the corporation.

________________________________________
Notary Public

Notary Stamp

THIS INSTRUMENT WAS DRAFTED BY:

City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN  55345
Policy Number 12.10
Met Council Sewer Availability Charge and City Residential Equivalency Charge Payment Deferral Program

Purpose of Policy: This policy establishes procedures to regulate, coordinate, and facilitate the approval of certain sewer and water fee deferrals for eligible businesses or properties.

Introduction
This policy governs the use of two programs, including the Metropolitan Council’s "SAC Deferral Program" for certain sewer fees ("Regional Program") and the city of Minnetonka’s Sanitary Sewer and Water Connection Fees, calculated in accordance with City Council Policy 12.4 ("Local Program"). Hereinafter, the city of Minnetonka is referred to as the "city".

Eligible businesses or properties can apply for the deferral of a portion of one or more sewer/water fees, including:

1. Metropolitan Council Sewer Availability Charge (SAC) – Regional Program sewer fee; and
2. Minnetonka Sewer and Water Residential Equivalency Charges (REC’s) – Local Program fees.

Authorization and Funding Sources
On November 28, 2012 (based on Minnesota Statutes 473.517, Subd. 6), the Metropolitan Council adopted changes to its SAC program to include a small business deferral program. The Regional Program which became effective on January 1, 2013, and was later amended, allows a deferment of SAC fees up to ten (10) years at a low annual interest rate based on Metropolitan Council Environmental Services’ (MCES) average cost of debt per statute and is applied to all new deferrals originating in that particular year. The Minnetonka Regional Program and Local Program will allow deferment of SAC and REC fees over a five or ten year term with a fixed interest rate determined by the city each fiscal year.

The deferral program established by this Council Policy 12.10 includes the following categories:

1. "Regional Program" allows eligible small businesses or property owners to apply for a sewer availability charge deferment for a maximum of 25 SAC charges.
2. "Local Program" allows eligible small businesses or property owners to apply for a city water access charge deferment for a maximum of 25 REC charges to match the terms and conditions of the Regional Program.

The City Council reserves the right to suspend or terminate the program based on availability of funding.
**Program Objective**
The Metropolitan Council's stated objective is to encourage and help communities promote small business development by deferring SAC payment obligations. The city of Minnetonka's goal is to minimize the financial impact to new or expanding businesses.

**Eligibility**
For the Regional Program and Local Program, an eligible applicant is a “small business” as defined in a Master SAC Deferral Agreement between Minnetonka and the Metropolitan Council. “Business” means a property or business for which the aggregate SAC Determination results in a liability of twenty-five SAC units or less, before application of any Credits available on the Site. “Business” does not include any type of “Residential Property” or “Publicly Assisted Housing” as those terms are defined in the Metropolitan Council's SAC Procedure Manual; nor does it include motels, hotels, camps, nursing homes, senior housing or prisons. “Business” includes “Commercial Properties,” as that term is defined in the SAC Procedure Manual, but only when the aggregate SAC Determination for a Commercial Property is twenty-five SAC units or less, before any applicable credits.

**Deferral Structure**
The structure of the deferral includes, but is not limited to the following requirements:

1. The property owner and/or business owner must complete an application and execute the Deferred Payment Agreement to be eligible for the program.
2. The SAC determination for the business must be 25 units or less prior to SAC credits.
3. The deferral must be for 2 or more SAC/REC units.
4. A maximum of 25 of each SAC, Sewer REC and Water REC units may be deferred.
5. The deferral term is 5 years if deferring between 2 and 15 units, or 10 years if deferring 15 to 25 units.
6. A down payment, equal to 20 percent of the total fee for SAC and REC after credits are applied, is due at the time of application.
7. Annually by resolution, the council will determine the interest rate to be applied to deferred payments. The interest rate will differ depending on whether the deferral term is 5 or 10 years.
8. The deferred amount will be payable in monthly installments over the term of the deferral, together with accrued interest at the rate determined by the city council. The city will bill the property owner and/or businesses on a monthly basis.
9. In the case of a business closure, the business or property owner must notify the city’s Community Development Specialist. The city will verify the closure, and future SAC and REC payment obligations will be waived as long as the city is notified immediately. Any SAC and REC fees accrued before notifying the city will be assessed against the property.
10. In the event of a default, any outstanding REC payments will be assessed to the property. The property owner must waive the right to contest the assessment in the Deferred Payment Agreement.
11. SAC/REC credits are non-transferable and are tied to the property to which they were applied.

**Ineligible Conditions**
- The fee owner’s property taxes are delinquent.
- The business is not in good standing with the State of Minnesota, or is in violation of Minnetonka City Code.
- The business does not meet the definition of an eligible commercial property in the Metropolitan Council’s SAC Deferral Program and the city of Minnetonka REC Deferral Program.

**Administration**
The city manager is responsible for administering the Regional Program on behalf of the Metropolitan Council in accordance with the Master SAC Deferral Agreement between the city and the Metropolitan Council. The city manager is responsible for administering the Local Program on behalf of the city.
Policy Number 12.4
Sanitary Sewer and Water Connection Fees

Purpose of Policy: This policy establishes the procedure used to calculate sanitary sewer and water connection fees.

Introduction
This policy is adopted to implement the city's authority under Minn. Stat. Chap. 444 and City Code Section 1200.025. The fees established by this policy are intended to ensure that all properties pay a just and equitable share of the sanitary sewer and water infrastructure serving them.

Connection fees will be based on the amount of system capacity that is used. The standard method for calculating system capacity is through a SAC unit (sewer access charge). The Metropolitan Council calculates the number of SAC units for each proposed development within the city. A single family home is charged one SAC unit, and other property uses are charged SAC units based on building size and number of plumbing units.

Guidelines

• Rates and Charges
  Fees for the use and availability of the city’s water and sanitary sewer systems will be determined by the use of a “Residential Equivalent Charge” (“REC”). Water and sanitary sewer connection fees will be calculated by multiplying the established water REC, and the established sanitary sewer REC times the number of SAC units that are calculated by the Metropolitan Council.

• Establishing REC’s
  The city council will establish the REC by resolution based on an analysis of the financing needs for the water and sanitary sewer systems. Thereafter, the council will annually, by resolution, increase the REC for water and for sanitary sewer based upon the construction index found in the “Engineering News Record”. REC’s will be evaluated and adjusted every fifth year to make certain the connection fees are sufficient to pay for an equitable portion of the costs of installing and upgrading trunk facilities, and all or a portion of pumping, treatment, and storage facilities.

• Fee Payment
  Connection fees must be paid prior to issuance of a building or connection permit, whichever occurs first, except when deferred in accordance with Council Policy No. 12.10. Beginning January 1, 2013, no connection fee is due when a single family home that is connected to sewer and water is demolished and replaced by another single family home. To pay fees through a special assessment, the owner must furnish proof of ownership and waive any rights to a public hearing and any appeal of the special assessment adopted by the city council.
Deferred Hookup Fees
Deferred hookup fees were assigned to certain properties before 2009 using the city’s previous sewer and water hookup fee rate formula. These properties benefited from a trunk sewer or water project, but were not required to connect to the city’s utility system at the time of the project installation. The connection fees established under this policy replace the previous hookup fee policy, but some outstanding deferred hookup fees remain. The following provisions apply to these outstanding hookup fees.

- **Interest**
  Simple interest will be charged from the date of, and at the rate of, the special assessments for the project. Interest may not accrue beyond the term of those special assessments, which is 20 years.

- **Notice**
  City staff will annually send a notice to the owner of each property that has deferred hookup fees. The notice will indicate the amount that is pending, including accrued interest.

- **Fee Payment**
  Deferred hookup fees must be paid before issuance of a building permit or connection permit or at the time of subdivision, whichever occurs first.

Adopted by Resolution No. 91-9264
Council Meeting of August 19, 1991

Amended by Resolution No. 99-121
Council Meeting of July 12, 1999

Amended by Resolution No. 2003-077
Council Meeting of August 25, 2003

Amended by Resolution No. 2009-035
Council Meeting of May 4, 2009

Amended by Resolution No. 2013-036
Council Meeting of May 13, 2013

Amended by Resolution No. 2013-103
Council Meeting of September 16, 2013

**Amended by Resolution No. 2017-___**
Council Meeting of ____________, 2017
Ordinance No. 2017-

An Ordinance amending section 1200.025, subdivision 1 of the Minnetonka City Code, relating to water and sanitary sewer connection fees

The City of Minnetonka Ordains:

Section 1. Section 1200.025, subdivision 1 of the Minnetonka City Code, relating to water and sanitary sewer fees and permits, is amended to read as follows:

1. No person may connect to the city water or sanitary sewer systems without first obtaining a permit from the city. The permit will not be granted unless the person and paying the required fees specified in section 710, required by adopted council policy have been paid or deferred in accordance with that policy. The person must also obtain any other permits required by other provisions of this code for plumbing work, electrical work, excavations in city streets, or other work. On designated low lots where the lift pump unit is provided by the city, the cost of the electrical permit is waived. The person must comply with all terms of the permits that are issued.

Section 2. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 3. This ordinance is effective 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

The stricken language is deleted; the underlined language is inserted.
Action on this Ordinance:

Date of introduction:  May 22, 2017
Date of adoption:
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordnance adopted.

Date of publication:

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

David E. Maeda, City Clerk

The stricken language is deleted; the underlined language is inserted.
Brief Description  Temporary on-sale liquor license for The Rotary Club of Minnetonka Foundation, 14600 Minnetonka Blvd.

Recommendation  Hold the public hearing and grant the license

Background

The city has received an application for a temporary on-sale liquor license from the Rotary Club of Minnetonka Foundation (The Rotary Club) for a fundraising event at the Minnetonka Summer Fest. Summer Fest is a city sponsored event and is scheduled for Saturday, June 24, 2017. The Minnetonka Rotary raises money for the Hopkins/Minnetonka communities. All proceeds are used to support the ICA food shelf, high school scholarships, and other local programs for youth and International/Youth Exchange.

The Event

Summer Fest is an all-day event, but The Rotary Club is proposing to sell beer and wine from 4 pm to 11 pm. A site map is attached showing the location of the beer and wine sales area. Patrons will be allowed to walk around the festival but will not be allowed to leave the premise with alcohol. Police officers will be on-site and are also located at the entrance and exit to make sure that any alcohol is not consumed off-site. Rotary Club volunteers will be serving the beer and wine. The volunteers will be supervised by Rotary Club staff members that have completed the MN Licensed Beverage Association bartending and service online training.

Guests purchasing wine and beer will be required to show identification that they are 21-years-of-age or older, and will be required to wear a wristband verifying their age. Anyone with a wristband will be able to purchase drink tickets, but will only be served one drink at a time.

The city has purchased a driver’s license ID reader and will provide it to the Rotary Club to use at the event. The ID reader was purchased to help with age verification and valid licenses as an additional safety measure for the event. The city will start offering this device for anyone approved for a temporary liquor license in the city.

Additionally, as with all temporary liquor license holders, the licensee is required to provide a certificate of liability insurance that covers the event. The applicant has provided this information.
Recommendation

Staff recommends the council hold the public hearing and grant the temporary liquor license in connection with a fundraising event for The Rotary Club of Minnetonka Foundation.

Submitted through:

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

Originated by:

- Kathy Leervig, Community Development Coordinator
City Council Agenda Item #13B  
Meeting of May 22, 2017

**Brief Description**  
On-sale Wine and On-sale 3.2% Malt Beverage liquor licenses for Greenfield Farm + Vine, Inc., DBA Farm + Vine at 1700 Plymouth Road

**Recommendation**  
Open the public hearing and continue to June 26, 2017

**Background**  
The city approved a license for Greenfield Natural Kitchen, LLC on March 6, 2017. The owner, Doug Sams, also owns several other restaurants. Mr. Sam’s attorney recommended that he form a new entity for the new business located at 1700 Plymouth Road. The business operation and ownership remain the same, but a new liquor license is required because of the new legal entity. The applicant is requesting On-Sale Wine and On-Sale 3.2% Malt Beverage liquor licenses for a new restaurant in the new building at 1700 Plymouth Road.

**Business Ownership**  
Greenfield Natural Kitchen, LLC is owned by Doug Sams. Mr. Sams founded D Brian’s Deli Corp in 1987 and currently operates seven D Brian’s locations throughout the Twin Cities. In addition to D Brian’s Deli, he owns and operates two Greenfield Natural Kitchen locations in Minneapolis. A background check on Mr. Sams was recently completed as part of the initial application, so no further investigation is required. There were no issues with the previous background check.

**Applicant Information**  
The applicant has submitted new paperwork indicating the new entity name.

**Recommendation**  
Staff recommends that the city council open the public hearing and continue the hearing to June 26, 2017.

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

Originated by:  
Kathy Leervig, Community Development Coordinator
LOCATION MAP

Applicant: Greenfield Farm + Vine, Inc.
Address: 1700 Plymouth Rd.
City Council Agenda Item #13C
Meeting of May 22, 2017

**Brief Description**
Off-sale liquor licenses for Target Corporation, 4848 Co Rd 101

**Recommendation**
Continue the public hearing and grant the license

**Background**

The city has received an application from Target Corporation for an off-sale intoxicating liquor license, for use at 4848 Co Rd 101. SuperTarget opened in 2001 and currently holds a 3.2% malt beverage liquor license.

Target requested a full off-sale liquor license in 2015. The council considered the application and determined that it was important to review the liquor license policy prior to considering a final decision on Target’s license. The policy was then slightly modified and in the end, the council did not believe additional licenses should be issued within the city (adequately served).

Target again applied for a new license in March of 2017. The store was remodeled in 2015, except for the café area in the front of the store. The proposed 2,800 square foot liquor store would be located in this space which would include a separate entrance with no direct access to the retail store. The addition of a full off-sale liquor license would be considered a complementary part of a business for their customers.

**Business Ownership**

Target Corporation is a publicly held company. No police background check will be performed as the corporation has already been approved for a liquor license. (Currently they hold a 3.2% Malt Beverage license.)

**Business Operations**

The proposed hours of operation for the liquor store will be Monday to Friday, 9am-10pm, and Saturday, 8am-10pm. Liquor sales on Sunday will be allowed effective July 2 of this year between the hours of 11am-6pm. Target has not had a violation of selling to minors at the Minnetonka location. The original license was issued in 2002. Statewide, Target has not had any violations since 2008. Target does not participate in the Minnetonka Best Practices Program, but they have their own in-house program focusing on preventing underage sales. In addition, the point of sale (POS) system has three verification processes in place to determine if the transaction is appropriate.
City Council Policy 6.1

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

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

a. offers a distinctive specialty service, or
b. is a complementary part of a business that would add positively to the experience of living and working in the city; or

c. is part of a village center that is not currently served.

On May 1, the city council approved a liquor license for Total Wine. The approval included conditions that liquor licenses would be surrendered for Big Top Liquors and US Wine and Liquor prior to the opening of Total Wine. Target currently holds an off-sale 3.2% Malt Beverage license. If the council approves Target’s request for a full off-sale liquor license, the total number of full stand-alone liquor licenses in the city would be 11 (assuming the notations below occur as anticipated). The current list all off-sale license holders include the following establishments:

<table>
<thead>
<tr>
<th>#</th>
<th>Establishment</th>
<th>Address</th>
<th>Type of License</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Byerlys Wines &amp; Spirits</td>
<td>13081 Ridgedale Dr</td>
<td>Full off-sale liquor license</td>
</tr>
<tr>
<td>2</td>
<td>Glen Lake Wine &amp; Spirits</td>
<td>14704 Excelior Blvd</td>
<td>Full off-sale liquor license</td>
</tr>
<tr>
<td>3</td>
<td>Haskell’s</td>
<td>12900 Wayzata Blvd</td>
<td>Full off-sale liquor license</td>
</tr>
<tr>
<td>4</td>
<td>MGM Wine &amp; Spirits</td>
<td>4795 Co Rd 101</td>
<td>Full off-sale liquor license</td>
</tr>
<tr>
<td>5</td>
<td>Strong Liquor</td>
<td>11048 Cedar Lake Rd</td>
<td>Full off-sale liquor license</td>
</tr>
<tr>
<td>6</td>
<td>Sundial Wine &amp; Spirits</td>
<td>5757 Sanibel Dr</td>
<td>Full off-sale liquor license</td>
</tr>
<tr>
<td>7</td>
<td>Target (new stand alone)</td>
<td>4848 Co Rd 101</td>
<td>Full off-sale liquor license</td>
</tr>
<tr>
<td>8</td>
<td>The Wine Shop</td>
<td>17521 Minnetonka Blvd</td>
<td>Full off-sale liquor license</td>
</tr>
<tr>
<td>9</td>
<td>Tonka Bottle Shop</td>
<td>17616 Minnetonka Blvd</td>
<td>Full off-sale liquor license</td>
</tr>
<tr>
<td>10</td>
<td>Total Wine</td>
<td>14200 Wayzata Blvd</td>
<td>Full off-sale liquor license</td>
</tr>
<tr>
<td>11</td>
<td>Trader Joe’s</td>
<td>11220 Wayzata Blvd</td>
<td>Full off-sale liquor license</td>
</tr>
<tr>
<td>12</td>
<td>Big Top Liquors</td>
<td>12937 Ridgedale Dr</td>
<td>License to be surrendered</td>
</tr>
<tr>
<td>13</td>
<td>US Liquor &amp; Wine</td>
<td>11333 State Highway 7</td>
<td>License to be surrendered</td>
</tr>
<tr>
<td>14</td>
<td>Glenn’s 1-stop</td>
<td>12908 Minnetonka Blvd</td>
<td>Off-sale 3.2% Malt Beverage</td>
</tr>
<tr>
<td>15</td>
<td>Target</td>
<td>4848 Co Rd 101</td>
<td>Off-sale 3.2% Malt Beverage</td>
</tr>
</tbody>
</table>
Neighborhood Feedback

The city received one written comment from a resident. (See attached)

Recommendation

Application information and license fees have been submitted. Staff recommends that the city council continue the public hearing from April 24 and grant the license.

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

Originated by:
Kathy Leervig, Community Development Coordinator
April 12th, 2017

Members of the Minnetonka City Council
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345

Dear Members of the City Council:

Target Corp. has applied for an off-sale liquor license at our Target store located at 4848 County Road 101 in Minnetonka. Our potential alcohol offering at this location is part of Target’s ongoing efforts to deliver a convenient, one-stop shopping experience for our guests. We appreciate your consideration of our application and welcome your input.

While still relatively new to Minnesota, Target’s alcohol business is established and growing. As a company, we have sold alcohol across the country in our stores since 1996, and we currently have nearly 1,400 stores that sell alcohol in 38 states. Target has sold beer in Minnesota for 15 years and now has seven stores in Minnesota with separate-entrance liquor stores. We have had zero violations at our County Road 101 store since we began selling beer in 2002. Statewide, Target has not had any liquor violations since 2008.

The 2015 remodel of our Minnetonka SuperTarget was the first of what is now a national effort to revamp our grocery offering for our guests. The learnings from this store were used to help inform the overall chain-wide grocery strategy. The feedback from our guests at our subsequent test stores showed that alcohol is an important part of our grocery and broader entertaining and seasonal offerings. We’ve found that that 66% of our guests purchase adult beverages on a regular basis. Investments like our proposed 2,000 square foot liquor store provide a safe, enjoyable, and convenient location where our guests can discover unique products at a great value.

Target takes the responsibility that comes with selling alcohol very seriously. Team members and store executives are required to complete a comprehensive internal alcohol training program, with a focus on preventing underage sales, verifying valid identification, handling intoxicated guests, and cashier liability for illegal sales. Target’s Point of Sale system has programmed controls to assist cashiers when processing alcohol transactions. The system verifies cashier age, local legal selling times, and requires the cashier to either scan appropriate identification or enter in a birthdate. Target policy is to request an ID from the purchaser regardless of age.

Target is a proud member of this community since and is committed to continuing to be a good corporate citizen and community partner. Please feel free to contact me with concerns or suggestions regarding this application.

Sincerely,

Jonathan Redberg
Senior Analyst
Target Corporation
(612) 761-5959
jonathan.redberg@target.com
T1356 Minnetonka, MN\ Proposed Plan

Capacity Summary:
- 2835 Total SF
- 240 Total LF
- 300 SF Beer Cave
- 9 beer doors
Minnetonka exterior is not finalized, but will be similar to other locations.
13. Public Hearings:

C. Off-sale liquor license for Target Corporation, 4848 County Road 101

Community Development Director Julie Wischnack gave the staff report.

Wiersum asked if there was anything about the liquor store, other than it being in a Target that would make it unique. Brittany Kasson, executive team leader at the Target Superstore, said given the store’s size, staff would have to be particularly careful about what was being put on the shelves. This would mean being really localized and catering to Minnetonka. Wiersum noted the store would be different compared to other Target locations but asked if there would be a difference compared with other liquor stores in Minnetonka. Kasson said the size would be the biggest distinction. She said it was likely there would be more shelf space per square foot for craft beers than other stores in the city.

Schneider closed the public hearing at 7:08 p.m.

Wiersum said he supported the liquor policy. He likely was the most outspoken council member and he thought the city had plenty of liquor stores. Given his view of the policy he was not going to support Target’s application for a liquor license. The Highway 7/County Road 101 area was adequately served from a liquor store perspective. MGM was less than 200 feet away from Target. Tonka Bottle Shop and the Wine Shop were within two miles of the proposed location as was Team Liquors in
Shorewood. The area was not void of liquor stores. He didn’t see anything unique about the proposed liquor store and it was not part of a village center that was underserved. He said it was generally understood that increased access to any commodity likely increased use of that commodity. He quoted a provision in the liquor license policy that states, “An increase in the number of those outlets increases the access to liquor, contributes to public safety concerns, and detracts from the desired image of the city.” He said any benefit of supporting the application was outweighed by the negatives associated with increasing access to liquor in the community.

Allendorf said a lot of time was spent looking at the liquor policy and wordsmithing the 2010 policy to allow the council to look at any application against the policy to determine if it met the policy. He noted one of the words pointed out during the discussion was “or.” The provisions state “offers a distinctive specialty service” or “is a complementary part of a business that would add positively to the experience of living and working in the city,” or “was part of a village center that is not currently served.” He noted it wasn’t “and” but it was “or.” He saw the application for a 2,800 square foot liquor store to be a convenience in an 180,000 square foot store. Therefore it was a complementary part of the business. Aside from the policy, he noted Target already had a 3.2 liquor license and to go to a full liquor license was not a huge jump. He said he would be hard pressed to see any other application come in that more closely fit the policy.

Acomb said she wasn’t on the council for the 2010 policy discussion. She said what she thought the council wanted to come out with during the recent discussion to modify the policy was flexibility in the policy. The council wanted flexibility to approve licenses that they felt were appropriate and also deny an application even if the city did not have 12 approved licenses. She thought the city was adequately served with the current number of liquor stores. She believed an increase in the number of liquor outlets influenced underage substance use and other public safety issues. She said because she didn’t feel the village center was underserved, and because she didn’t feel the application was for something unique enough, she couldn’t vote to approve it.

Bergstedt said he agreed with Allendorf’s comments. The policy had been worked on quite a bit and it allowed for flexibility in evaluating liquor license applications. He said Target’s proposal would provide a complementary use within an existing establishment. Target held a malt beverage liquor license since 2002 and there were no violations. If it were a new free standing store, he might look at it differently. He thought the store could enhance the experience for customers with busy lives. To have a small store within a larger store was an enhancement. He noted
that people might think that if this Target store got a liquor license that the other location in the city might then also get a license. State law only allows one license per license holder in a city. He said because the policy states that 12 was the number of licenses that was generally adequate to serve the city and currently there were only 11 approved licenses, and because Target had no violations with their current malt beverage liquor license, he would be supportive of granting this license.

Wagner said even with the great amount of time discussing the policy, he felt the dialogue had been worthwhile and had been a good public policy discussion. The policy likely would have to be looked at every three to four years as the council changes. He tended to be more aligned with Allendorf and Bergstedt's position. He felt there was an element of convenience that was not distinct but tied to the policy. He also thought it was relevant there was an existing 3.2 license even though that license did not allow the sale of hard liquor. He said he balanced that with liking a consistency in the message. The item required five votes for approval, and given the discussion, with Ellingson’s absence, the vote appeared to be 2-2, so he was going to vote against granting the license.

Schneider said he was pretty liberal in his belief that liquor establishments should be market driven. There was a point the character of the community would be changed by approving another one or two liquor stores but he felt the city was a long way away from that. The struggle he had with the Target concept was not about the number of stores in the city, but about the idea of fairness. He looked at the proposed store as being strictly about convenience. He would have generally been supportive if the council had decided to allocate in the policy a certain number of licenses for accessory type establishments that were small in size and were for convenience for customers, and made this available to stores like Cub or Whole Foods. It was decided not to go that route. While the wording included “or” there was different weights to different parts of the policy. For him the convenience or accessory part didn’t carry a lot of weight because the council did not formally adopt that as a position. He didn’t see this application as matching that provision. He said the main reason to control the number of licenses was to ensure there were not underage drinking violations. Target had a great record with not having any violations. The overall concept of how many small stores the city should have or could support and where the line should be drawn about giving it to one business but not giving it to an almost identical operation because of the number of licenses, made him lean toward deciding this was not the right time for this type of a license. He said he could go either way but since it looked like there were not enough votes for approval he, like Wagner, was likely to vote against granting the license.
Allendorf moved, Bergstedt seconded a motion to grant the license. Allendorf and Bergstedt voted “yes.” Acomb, Wiersum, Wagner, and Schneider voted “no.” Motion failed.
From: Patty Acomb <pacomb@eminnetonka.com>
Date: May 5, 2017 at 4:37:06 PM CDT
To: Perry Vetter <pvetter@eminnetonka.com>, Geralyn Barone <gbarone@eminnetonka.com>
Subject: Fwd: Liquor Sales at Minnetonka Target Store

Perry,

Can you please add this to the public record for the Target proposal.

Thanks,

Patty Acomb
Minnetonka City Council
pacomb@eminnetonka.com
952-807-8635

Begin forwarded message:

From: <pacomb@eminnetonka.com>
Date: May 5, 2017 at 3:06:55 PM CDT
To: <pacomb@eminnetonka.com>
Subject: Liquor Sales at Minnetonka Target Store

Patty, I acquired your address at the Minnetonka Community Center today. I am a resident of Minnetonka and want to pass on the opinion of many friends who are also reside here. We are greatly in favor of this matter being passed at the May council meeting.

Many people shop at that Target, who are also career people, and would like the convenience of one-stop shopping.

Target is a Minnesota company, which:
Employs thousands of people
Pays generous taxes
And is a company that surpasses most in their generous charity giving.
I hope you will include our opinions.

Sincerely,
Joann Wildman
3633 Elmwood PL.
Minnetonka, MN 55345
Brief Description
Resolution vacating public drainage and utility easements at 15815 Minnetonka Boulevard and 15820 Wood Knoll Lane

Recommendation
Hold the public hearing and adopt the resolution

Background
The applicant, Paul Fisher, has petitioned to vacate drainage and utility easements located along the common lot line between his properties at 15815 Minnetonka Boulevard and 15820 Wood Knoll Lane. The applicant's residence is at the Minnetonka Boulevard property and the Wood Knoll Lane property has been purchased by the applicant with the intent to combine the two parcels. An application has been submitted to Hennepin County for the combination. The applicant is proposing to build a pool that will encroach into these easements and the vacation would allow the pool to be built without any encroachments.

The easements were created when the original larger parcel was divided into 3 lots in 2004, and when one of those three lots was further platted into two in 2006. Since the two parcels are proposed to be combined as one, and there is no current public use of these easements, there is no need or requirement for these easements to remain.

Staff Comment
All private utilities have reviewed the plan with no objections. City staff have also reviewed with no objections and find this application reasonable.

Recommendation
Hold the public hearing and adopt the resolution approving the vacation of the drainage and utility easements.

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

Originated by:
Sarah Krake, Right of Way Agent
Resolution No. 2017-

Resolution vacating public drainage and utility easements at 15815 Minnetonka Boulevard and 15820 Wood Knoll Lane

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

Section 1. Background.

1.01 Paul Fisher has petitioned the Minnetonka City Council to vacate a portion of drainage and utility easements located along the common lot line between 15815 Minnetonka Boulevard and 15820 Wood Knoll Lane.

1.02 The portion of easements to be vacated are legally described as follows:
That part of those drainage and utility easements located on Lot 1, Block 1 and dedicated on the recorded plat of FRETHAM 5th ADDITION, Hennepin County, Minnesota and described as follows:
That part of the south 7 feet of said Lot 1, Block 1, except the west 7 feet thereof and lying west of the east 7 feet of Tract B, REGISTERED LAND SURVEY No. 1746, extended northerly.

Also, vacate those parts of drainage and utility easements originally dedicated in document 4073996 and described as follows:
The northerly 7 feet of Tract B, REGISTERED LAND SURVEY No. 1746, except the west 7 feet thereof and lying west of the east 7 feet.

And that part of the southerly 7 feet contained within Lot 1, Block 1 FRETHAM 5th ADDITION, originally dedicated on and described as the southerly 7 feet of Tract A, REGISTERED LAND SURVEY No. 1746.

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

1.04 On May 22, 2017, the city council held a hearing on the request, at which time all persons for and against the granting of said request were heard.
2. Standards.

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

Section 3. Findings.

3.01 The Minnetonka City Council makes the following findings:

1. The petitioner is the owner of the land containing the subject drainage and utility easements and is, therefore, a proper petitioner. The two lots are in common ownership and will be combined into one parcel.

2. There is no anticipated public need for the drainage and utility easements proposed to be vacated and the vacation is not counter to public interest.

3. According to the private utility companies, there are no utilities located in the areas proposed to be vacated.


4.01 The city council hereby vacates the drainage and utility easements as described in section 1.02.

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 22, 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 22, 2017.

________________________________
David E. Maeda, City Clerk
LEGAL DESCRIPTION EXISTING NORTH PARCEL:
Lot 1, Block 1, FRETHAM FIFTH ADDITION, Hennepin County, Minnesota.

LEGAL DESCRIPTION EXISTING SOUTH PARCEL:
TRACT B, REGISTERED LAND SURVEY NO. 1746, Hennepin County, Minnesota.

SCOPE OF WORK & LIMITATIONS:
1. Showing the length and direction of boundary lines of the legal description listed above. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
2. Showing the location of observed existing improvements we deem necessary for the survey.
3. Setting survey markers or verifying existing survey markers to establish the corners of the property.

STANDARD SYMBOLS & CONVENTIONS:
- "Denotes iron survey marker, set, unless otherwise noted.
City Council Agenda Item #14A
Meeting of May 22, 2017

Brief Description  Conditional use permit for a telecommunications tower with a height variance on the property located at 4525 Williston Road

Recommendation  Recommend the city council adopt the resolution approving the request

Proposal

Verizon Wireless is requesting a conditional use permit for construction and operation of a 180-foot telecommunications tower and associated ground equipment. The tower and equipment would be located directly south of the existing water tower.

Background

Verizon previously sought a location on the top of the Williston water tower to achieve coverage needs to the south. The city declined a departure from its public water tower policy to allow Verizon to meet its coverage needs. In doing so, the city suggested that a monopole may be an alternative means to gaining coverage needs.

During the concept plan review, Verizon had proposed a 150-foot tower to achieve its coverage needs. Since those review meetings, staff, the city’s telecommunications consultant and representatives from Verizon have continued to discuss details of the proposal. After much discussion, the city’s telecommunications consultant made the recommendation to consider increasing the tower height. In this circumstance, increasing the tower height has the following advantages:

1) The increased height would provide additional collocation opportunities,

2) The increased height and additional collocation opportunities will greatly reduce the need for other monopoles in the area for the foreseeable future; and,

3) The increased height and additional collocation opportunities reduces pressure for additional telecommunications equipment space on the city’s water tower which is at capacity.

Given the lack of viable alternatives to collocate telecommunications equipment on existing structures in the area to provide Verizon reasonable coverage, staff views the proposal as reasonable. For clarity, there would be a possibility of locating the facility elsewhere in the area, at a similar height (150-180’). Again, if there are no suitable collocation opportunities (which there are not), a separate structure must be considered.
Neighborhood Meeting

A neighborhood meeting was held on May 2, 2017. City officials, the city’s telecommunications consultant and Verizon Wireless representatives were present. No one else attended the meeting.

Planning Commission Hearing

The planning commission considered the request on May 4, 2017. The staff report and various plans and documents describing the proposed project from that meeting are attached. At that meeting, a public hearing was opened to take comment but no one was present or provided public input on the item.

Planning Commission Recommendation

On a 5-0 vote, the commission recommended that the city council approve the proposal. Meeting minutes are attached.

Staff Recommendation

Staff recommends that the planning commission recommend approval to the city council to adopt a resolution approving a conditional use permit for a telecommunication facility with a height variance at 4525 Williston Road.

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

Originator: Loren Gordon, AICP, City Planner
LOCATION MAP

Williston water tower site monopole
4525 Williston Road

This map is for illustrative purposes only.
Conditional use permit for a telecommunications tower with a height variance on the property located at 4525 Williston Road

Recommend the city council adopt the resolution approving the request

Project No. 05011.17a

Property Williston Water Tower site, 4525 Williston Road

Applicant Verizon Wireless

Proposal

Verizon Wireless is requesting a conditional use permit for construction and operation of a telecommunications tower and associated ground equipment. The tower and equipment would be located directly south of the existing water tower.

Site Features

The site is located on the south side of the Highway 7, south frontage road and east of Williston Road. The property is 1.15 acres in size (excluding the larger city owned property to the east) and is improved with the Williston Water Tower which is approximately 130 feet in height. The site rises approximately 35 feet from the frontage road to the south property line. In addition to providing space for the water tower, the city has managed the landscape as an oak woodland brushland restoration area. This area is part of the broader Tower Hill Park Habitat Restoration.

Proposed Location

The proposed tower location was determined after a long collaboration with city staff to evaluate various options on the subject property as well as the adjacent Tower Hill Park. Although the nearly 9-acre city owned area between Williston and Woodhill Road appear to provide many potential tower locations, a number of factors limit options including:

- Water and utility lines crossing through the area,
- Underground city water storage tanks,
• Proximity to surrounding residential neighborhoods,

• Visual impact to the Highway 7 corridor,

• Viable options that work with the carrier’s requirements including equipment access,

• Topography,

• Wooded and wetland areas; and,

• Accessibility from and proximity to adjacent streets or existing driveways.

While it is not customary for the city to engage so directly in project details, in this situation as the property owner, the city has numerous interests in identifying a location that is acceptable. As noted, the proposed tower would be located directly south of the water tower. This location is in an area that is reasonably accessible from the south frontage road, has minimal disruption to habitat and landscape, and does not interfere with the numerous public utilities around the site. From a visual perspective, the location between the water tower and the woods provides sheltering when viewed from many angles.

The tower would be located 90 feet directly south of the water tower. The tower base would be approximately 16 feet higher in elevation than the base of the water tower. The tower would be 67 feet higher than the water tower.

The ground equipment would be located between the monopole and the water tower. Grading is proposed to “tuck” the equipment better into the hillside to help reduce visual impacts. A 6-foot retaining wall is shown on the south side of equipment pad. Metal fencing 7-feet in height would enclose the ground equipment. A proposed sidewalk would connect the ground equipment and tower to the water tower access road.

Proposed Tower

The proposed tower total height would be 180 feet. The tower would be of stealth design to blend the tower into the surrounding environment. The tower would incorporate the antennas into the monopole structure so that they do not project out from the side of the structure. The pole would also be painted an ivory/off white color, similar to the nearby water tower, to minimize the visual impact of the structure. The tower design would incorporate features for multiple antennas between 150 and 180 feet on the tower. (See photo simulations).

Minnetonka Telecommunication Ordinance

The city recognizes the value of wireless communications, while also recognizing that freestanding telecommunications towers may have a visual impact on the areas in which
they are located. In an attempt to balance the technological positive with the aesthetic negative, the city’s current telecommunications ordinance favors the installation of technology on existing support structures – such as water towers, buildings, and high voltage transmission poles – over the construction of freestanding towers. This is evidenced in the ordinance in several ways:

- **Administrative Permit vs. Conditional Use Permit.** The installation of wireless facilities on existing support structures can often be reviewed and approved administratively. A freestanding telecommunications tower can be approved only by conditional use permit.

- **Conditional Use Permit Standards.** By conditional use permit standard, an applicant for a freestanding telecommunications tower must prove that there is no existing antenna support structure that could adequately serve the area if antennas were placed on it.

**Staff Analysis**

In speaking with telecommunication providers, city staff regularly outlines the goals of the telecommunication ordinance and strongly suggests providers look for support structures on which they can install antennas. In the case of the current application, Verizon previously sought a location on the top of the water tower to achieve coverage needs to the south. The city declined a departure from its public water tower policy to allow Verizon to meet its coverage needs. In doing so, the city suggested that a monopole may be an alternative means to gaining coverage needs.

During the concept plan review, Verizon had proposed a 150-foot tower to achieve its coverage needs. Since those review meetings, staff, the city’s telecommunications consultant and representatives from Verizon have continued to discuss details of the proposal. After much discussion, the city’s telecommunications consultant made the recommendation to consider increasing the tower height. In this circumstance, increasing the tower height has the following advantages:

1) The increased height would provide additional collocation opportunities,

2) The increased height and additional collocation opportunities will greatly reduce the need for other monopoles in the area for the foreseeable future; and,

3) The increased height and additional collocation opportunities reduces pressure for additional telecommunications equipment space on the city’s water tower which is at capacity.

Given the lack of viable alternatives to collocate telecommunications equipment on existing structures in the area to provide Verizon reasonable coverage, staff views the proposal as reasonable.
Although the proposed telecommunications facility is reasonable for the following reasons:

1) The proposed telecommunications facility would provide the applicant with reasonable coverage,

2) The proposed telecommunications facility would be constructed of stealth design and sited in a manner to minimize visual impacts,

3) The proposed telecommunications facility would allow collocation opportunities for other providers,

4) The proposed telecommunications facility would not create impacts that would negatively jeopardize the delivery of essential public services; and,

5) The proposed telecommunications facility would not negatively impact the health, safety and welfare of the community.

Staff Recommendation

Staff recommends that the planning commission recommend approval to the city council to adopt a resolution approving a conditional use permit for a telecommunication facility at 4525 Williston Road.

Originator: Loren Gordon, AICP, City Planner

Through: Julie Wischnack, AICP, Community Development Director
          Corrine Heine, City Attorney
# Supporting Information

## Surrounding Land Uses

<table>
<thead>
<tr>
<th>Direction</th>
<th>Description</th>
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<tbody>
<tr>
<td>Northerly</td>
<td>Commercial, zoned B-1</td>
</tr>
<tr>
<td>Easterly</td>
<td>Tower Hill Park; zoned R-1</td>
</tr>
<tr>
<td>Southerly</td>
<td>Single-family homes; zoned R-1</td>
</tr>
<tr>
<td>Westerly</td>
<td>Single-family homes; zoned R-1</td>
</tr>
</tbody>
</table>

## Planning

- **Guide Plan designation:** Low Density Residential
- **Zoning:** R-1

## Previous Reviews

Verizon previously sought a location on the top of the water tower to achieve coverage needs to the south.

The city has a policy regarding the use of public water towers for antennas. As stated in city council policy 12.5, priority is granted to public safety and governmental agencies before private entities. Currently, the top of the water tower is exclusively used by public safety and governmental agencies. Private cellular providers have only been allowed on the “flute” of the tower under the bulb of the tank.

In the 2015 discussion, the city determined that:

1) The Verizon proposal to locate private equipment on top of the water tower would not be advantageous to telecommunications equipment already in place, and

2) Exploration of other alternatives such as a monopole antenna on the water tower property was a possibility.

## Federal Law

Under federal law, communities may not: (1) discriminate between telecommunications providers; (2) ban the construction, modification, or placement of facilities in a particular area; or (3) regulate the placement, construction, or modification of facilities based on the environmental effects of radio frequency emissions.

Federal law does not prohibit the denial of specific telecommunications facilities requests. However, the denial must be based on a “reasoned approach” and must be made in writing.

## Administrative Review

By ordinance, telecommunication facilities can be reviewed and approved administratively when the facility would be located on: (1) a high-voltage transmission tower; or (2) on an antenna support structure for which a CUP has already been approved. In
addition, the ordinance allows administrative review and approval of a one-time 15-foot extension of an existing facility.

Variance Standards

The proposal meets the variance standard outlined in City Code §300.07 Subd. 1(a):

PURPOSE AND INTENT OF THE ZONING ORDINANCE: The R-1 District allows telecommunications facilities as a conditional use on public or institutional property guided for low-density residential.

CONSISTENT WITH COMPREHENSIVE PLAN: The comprehensive plan guides the property for low-density residential use.

PRACTICAL DIFFICULTIES: There are practical difficulties in complying with the ordinance:

REASONABLENESS:

The request is reasonable for the applicant to achieve reasonable telecommunications coverage. The city’s telecommunications consulting engineer determined the minimum height required to obtain reasonable coverage exceeds the 90 feet telecommunications tower standards established in city code section 300.34 subd. 4(b)(1)(d). Therefore a variance is warranted to comply with the Federal Telecommunications Act.

UNIQUE CIRCUMSTANCE:

Although the water tower would provide the necessary height for reasonable coverage, space is not available for collocation. There are no other facilities or buildings available for collocation in the required coverage area. The construction of a telecommunications tower at this location and height is unique. The city does allow a tower of similar height up to 199 feet high if the applicant can demonstrate that off-site views of the tower will be minimized by the topography of the site and surrounding area, the location of the tower, the tower design, the surrounding tree cover and structures, or the use of screening.

CHARACTER OF LOCALITY:

City code would allow a telecommunications tower as a conditional use permit on many properties in the immediate area. The presence of the water tower, commercial development, tree canopy and topographic change help reduce the visual impact of
the additional tower height requested. The location of the proposed tower was determined in order to minimize potential visual impacts.

CUP Standards

The proposal would not meet the specific conditional use permit standards as outlined in City Code §300.34 Subd.4(b):

1) Telecommunication facilities may be located only on public or institutional property: in R-1 and R-2 residential districts and on property guided for low-density residential in the Planned I-394 District subject the standards listed in subparagraphs b through e which follow.

Finding: The proposed facility would be located on institutional property.

2) An applicant must provide an analysis prepared by a radio or electrical engineer demonstrating that the proposed location of the antennas is necessary to meet the coverage and capacity needs of its system and that there is no existing antenna support structure that could adequately serve the area if antennas were placed on it. The applicant must also pay the reasonable expenses of a radio or electrical engineer retained by the city, at its option, to review this analysis;

Finding: The information supplied by the applicant was reviewed by the city’s telecommunications consultant. The consultant confirmed that the location and height reasonably meet the applicant’s coverage needs.

3) A telecommunications facility must use as many stealth design techniques as reasonably possible. Economic considerations alone are not justification for failing to provide stealth design techniques. The city council may require that a different location be used if it would result in less public visibility, is available, and would meet the applicant’s reasonable capacity and coverage needs; and

Finding: The applicant is proposing a stealth design monopole structure.

4) A telecommunications tower and antennas, including attachments other than lighting rods, must not exceed 75 feet in height, measured from grade. The city council may increase this height to 90 feet if the increase in height would not have a significant impact on surrounding properties because of
proximity, topography or screening by trees or buildings or would accommodate two or more users. The city council may waive this height standard for a tower used wholly or partially for essential public services, such as public safety.

Finding: The city’s telecommunications consultant has confirmed that the minimum height needed to provide reasonable coverage is 150 feet. The council will need to grant a variance to the height requirement in order to provide the applicant with reasonable coverage.

**Pyramid of Discretion**

![Pyramid Diagram]

**This proposal:**

**Motion Options**

The planning commission has two options:

1) Concur with the staff recommendation. In this case a motion should be made recommending the city council approve the request based on the findings outlined in the staff-drafted resolution.

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

**Neighborhood Comments**

The city sent notices to 180 area property owners and received no comments to date.

**Deadline for Decision**

July 18, 2017
PROPOSED FENCE WITH GATE (SEE A-4)

PROPOSED EQUIPMENT H-FRAME (SEE A-4)

PROPOSED UNDERGROUND CONDUIT (SEE A-4)

PROPOSED CHAIN LINK FENCE

PROPOSED CLEAN ROCK OVER GEODETIC FABRIC

PROPOSED CLEAN ROCK WITH BREAK IN (TPR)

PROPOSED CHAIN LINK FENCE

PROPOSED LAND SPACE

PROPOSED CHAIN LINK FENCE

CONTRACTOR TO COORDINATE PUBLIC AND PRIVATE UTILITY LOCATIONS PRIOR TO CONSTRUCTION START. NOTIFY THE ARCHITECT AND THE VZW CONSTRUCTION ENGINEER IMMEDIATELY OF ANY UTILITY ISSUES.

1. EQUIPMENT PLATFORM PROVIDED ASSEMBLED WITH GUARD RAILS, DEEP EMBASEMENT AND CENTER, CANOPY, AND LIGHT FIXTURE. CONTRACTOR TO PROVIDE APPROPRIATE LIFTING EQUIPMENT FOR PLACING AND SETTING ON FOUNDATION.

2. PROPOSED CONTROLS NOT SHOWN FOR CLARITY.

3. CONTRACTOR SHALL BE RESPONSIBLE FOR FINISHING PLATFORM USING APPLICABLE CODES & STANDARDS.

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<table>
<thead>
<tr>
<th>ANTENNA KEY</th>
<th>EQUIPMENT/CABLE KEY</th>
<th>CABLE BRIDGE SECTION</th>
</tr>
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<tbody>
<tr>
<td>[Diagram of antenna key]</td>
<td>[Diagram of equipment/cable key]</td>
<td>[Diagram of cable bridge section]</td>
</tr>
</tbody>
</table>

**Antenna Key: Scale None**

- [Proposed antenna w/ flush mount system - BY TOWER WIR]
- [Proposed antenna w/ flush mount system - BY TOWER WIR]
- [Proposed antenna w/ flush mount system - BY TOWER WIR]
- [Proposed antenna w/ flush mount system - BY TOWER WIR]

**Equipment/Cable Key: Scale None**

- [Proposed J-box (SEE DETAIL BOOKLET)]
- [Proposed J-box (SEE DETAIL BOOKLET)]
- [Proposed J-box (SEE DETAIL BOOKLET)]
- [Proposed J-box (SEE DETAIL BOOKLET)]

**Cable Bridge Section: Scale 1/4" = 1'-0"**

- [Diagram of cable bridge section]

**Design Notes:**

- [Additional notes about cable placement and diagram details]

**References:**

- [Project drawings and specifications]

**Authors:**

- [Design: MINC ALADDIN]
- [Drawing: WILLISTON RD., MINNETONKA, MN 55343]
- [Scale: 1/4" = 1'-0"

**Licensure:**

- [Design: DESIGN 03-31-17]
- [Drawing: MJS 02-27-17]
- [MJS 02-27-17]

**Contact Information:**

- [Design: WWW.DESIGN1EP.COM]
- [Design: (952) 743-6200]

**Notes:**

- [Hand-drawn notes and annotations]

**Additional Information:**

- [Legend and key to symbols used in diagram]

**Sheets:**

- [Sheet 1 of 4]
- [Sheet 2 of 4]
- [Sheet 3 of 4]
- [Sheet 4 of 4]

**Project Details:**

- [PROJECT 2014112993]
- [LOC. CODE: 308568]
- [SCALE: 1/4" = 1'-0"

**Additional Details:**

- [Key to cable manufacturer and model numbers]
- [Key to equipment and component details]

**Revision History:**

- [REV. A 02-27-17]
- [REV. B 01-15-17]
- [REV. C 12-27-17]
NOTES:
1. RISER HEIGHT & RUN LENGTH AS INDICATED ON PLAN.
2. CONCRETE OR GRAVEL WALK AS INDICATED ON PLAN. CONCRETE SHALL BE 5" WITH 6" S.W.B. & 3" SAND. GRAVEL SHALL BE 4" COMPACTED.
3. HANDRAIL VERTICAL POST REQUIRED 8'-0" O.C. MAX SPACING.

TYP. HANDRAIL & STAIR SECTION

SCALE: 1/4"=1'-0"
GENERAL CONDITIONS

00 0001 DRAWINGS
Contractor Permit shall be secured by or in the name of Verizon, Wisconsin, to be hereinafter referred to as the "Owner." Owner shall be entitled to receive for the Contractor's
00 0002 SURVEY FEES
Contractor's Permit shall be furnished and processed by the Architect. Layout Staking shall be coordinated with the Surveyor for "Request For Payment," (RFP).

01 2010 INSURANCE & BONDS
Contractor shall provide insurance certificates for themselves and subcontractors. Contractor will provide any required Bonding. Architect agrees to witness the project for (1) one year completion.

01 2400 SUPERVISION & COORDINATION
Contractor shall provide supervision throughout the Project, coordinating the work of the Subcontractors, owners and installation of Owner-furnished items. Architect shall coordinate and mediate any disputes, including providing OS&amp;H.

02 0600 TESTING
Contractor is responsible for providing Agents with sufficient notice to arrange for Test Samples (i.e. Concrete Cubes), and Special Inspections.

02 2000 MEETINGS
Contractor shall make themselves aware of, and attend, meetings with the Owner and/or Architect. Contractor is to attend a Pre-Construction Meeting of all parties involved, prior to the start of construction.

02 3010 TEMPORARY UTILITIES
Contractor shall establish the site office in a clean and orderly fashion, providing temporary sanitary facilities, waste disposal, and security (fence area or "prompt area") for the use of all parties on site.

02 5000 PAVING & SURFACING
Contractor is to furnish Insurance certificates for themselves and subcontractors.

02 8000 SITE IMPROVEMENTS
Contractor shall establish a site office in a clean and orderly fashion, providing temporary sanitary facilities, waste disposal, and security (fence area or "prompt area") for the use of all parties on site.

WOOD & PLASTICS
02 1000 SHEATHING
Contractor shall provide 3" #2 x 4" 16" O.C. sheathing, (S4S) 2x4 and 2x6 top and bottom, with 3/4" plywood sheathing and 3/4" plywood sheathing, or equivalent, as noted by Owner, City of Milwaukee.

02 2000 FINISH FLOORING
Contractor shall provide materials for the Finish Floor consisting of 3/4" #2 x 4" 16" O.C. sheathing, (S4S) 2x4 and 2x6 top and bottom, with 3/4" plywood sheathing and 3/4" plywood sheathing, or equivalent, as noted by Owner, City of Milwaukee.

02 2500 CEMENT & CONCRETE
Contractor shall provide Portland cement, gray, Type II, 3500 psi concrete, or equivalent, as noted by Owner, City of Milwaukee.

02 3000 LANDSCAPING
Contractor shall provide landscape materials for the Finish Area consisting of 3/4" #2 x 4" 16" O.C. sheathing, (S4S) 2x4 and 2x6 top and bottom, with 3/4" plywood sheathing and 3/4" plywood sheathing, or equivalent, as noted by Owner, City of Milwaukee.

02 5000 LIGHTING
Contractor shall provide materials for the Finish Lighting consisting of 3/4" #2 x 4" 16" O.C. sheathing, (S4S) 2x4 and 2x6 top and bottom, with 3/4" plywood sheathing and 3/4" plywood sheathing, or equivalent, as noted by Owner, City of Milwaukee.

02 6000 FLOOR FINISHING
Contractor shall provide materials for the Finish Floor consisting of 3/4" #2 x 4" 16" O.C. sheathing, (S4S) 2x4 and 2x6 top and bottom, with 3/4" plywood sheathing and 3/4" plywood sheathing, or equivalent, as noted by Owner, City of Milwaukee.

02 7000 WALLS FINISH
Contractor shall provide materials for the Finish Wall consisting of 3/4" #2 x 4" 16" O.C. sheathing, (S4S) 2x4 and 2x6 top and bottom, with 3/4" plywood sheathing and 3/4" plywood sheathing, or equivalent, as noted by Owner, City of Milwaukee.

02 8000 SITE IMPROVEMENTS
Contractor shall provide materials for the Finish Site consisting of 3/4" #2 x 4" 16" O.C. sheathing, (S4S) 2x4 and 2x6 top and bottom, with 3/4" plywood sheathing and 3/4" plywood sheathing, or equivalent, as noted by Owner, City of Milwaukee.

02 9000 LANDSCAPING
Contractor shall provide landscape materials for the Finish Area consisting of 3/4" #2 x 4" 16" O.C. sheathing, (S4S) 2x4 and 2x6 top and bottom, with 3/4" plywood sheathing and 3/4" plywood sheathing, or equivalent, as noted by Owner, City of Milwaukee.

02 9000 LANDSCAPING
Contractor shall provide landscape materials for the Finish Area consisting of 3/4" #2 x 4" 16" O.C. sheathing, (S4S) 2x4 and 2x6 top and bottom, with 3/4" plywood sheathing and 3/4" plywood sheathing, or equivalent, as noted by Owner, City of Milwaukee.

03 0000 ELECTRICITY
Contractor shall provide materials for the Finish Area consisting of 3/4" #2 x 4" 16" O.C. sheathing, (S4S) 2x4 and 2x6 top and bottom, with 3/4" plywood sheathing and 3/4" plywood sheathing, or equivalent, as noted by Owner, City of Milwaukee.

04 0000 MECHANICAL
Contractor shall provide materials for the Finish Area consisting of 3/4" #2 x 4" 16" O.C. sheathing, (S4S) 2x4 and 2x6 top and bottom, with 3/4" plywood sheathing and 3/4" plywood sheathing, or equivalent, as noted by Owner, City of Milwaukee.

05 0000 PAINTING
Contractor shall provide materials for the Finish Area consisting of 3/4" #2 x 4" 16" O.C. sheathing, (S4S) 2x4 and 2x6 top and bottom, with 3/4" plywood sheathing and 3/4" plywood sheathing, or equivalent, as noted by Owner, City of Milwaukee.

06 0000 FRAMEWORK & INSTALLATION
Contractor shall provide materials for the Finish Area consisting of 3/4" #2 x 4" 16" O.C. sheathing, (S4S) 2x4 and 2x6 top and bottom, with 3/4" plywood sheathing and 3/4" plywood sheathing, or equivalent, as noted by Owner, City of Milwaukee.

06 0000 FRAMEWORK & INSTALLATION
Contractor shall provide materials for the Finish Area consisting of 3/4" #2 x 4" 16" O.C. sheathing, (S4S) 2x4 and 2x6 top and bottom, with 3/4" plywood sheathing and 3/4" plywood sheathing, or equivalent, as noted by Owner, City of Milwaukee.

07 0000 INSULATION
Contractor shall provide materials for the Finish Area consisting of 3/4" #2 x 4" 16" O.C. sheathing, (S4S) 2x4 and 2x6 top and bottom, with 3/4" plywood sheathing and 3/4" plywood sheathing, or equivalent, as noted by Owner, City of Milwaukee.

08 0000 COMPONENTS & MACHINERY
Contractor shall provide materials for the Finish Area consisting of 3/4" #2 x 4" 16" O.C. sheathing, (S4S) 2x4 and 2x6 top and bottom, with 3/4" plywood sheathing and 3/4" plywood sheathing, or equivalent, as noted by Owner, City of Milwaukee.

09 0000 MACHINERY & COMMISSIONING
Contractor shall provide materials for the Finish Area consisting of 3/4" #2 x 4" 16" O.C. sheathing, (S4S) 2x4 and 2x6 top and bottom, with 3/4" plywood sheathing and 3/4" plywood sheathing, or equivalent, as noted by Owner, City of Milwaukee.
**SILT FENCE DETAIL**  
**SCALE: 1/2" = 1'-0"**

**NOTES:**
1. **CONSTRUCTION LIMIT**
   - Silt fence
   - Existing contour
   - Water runoff direction
   - Stock pile location
   - Wash area
   - Lessee access
   - Temporary construction

**LEGEND:**
- Construction limit
- Silt fence
- Existing contour
- Water runoff direction
- Stock pile location
- Wash area
- Lessee access
- Temporary construction

**GRAPHIC SCALE:**

- **Fabric anchor trench**
- **Back fill trench with**
- **Hammer natural soil**
- **Support post anchor**
- **With soil or compact mortar**

**SCALE:**
- 1/2" = 1'-0"

---

**SITE PLAN**

- **Scale:** 1" = 20'-0"

---

**PROJECT**

- **20141112993**
- **LOC. CODE:** 308586

---

**MINC**

- **ALADDIN**
- **WILLISTON RD.**
- **MINNETONKA, MN 55345**

---

**SHEET CONTENTS:**

- **EROSION CONTROL PLAN & DETAILS**

---

**VERIZON**

- **10801 BUSH LAKE ROAD**
- **BLOOMINGTON, MN 55438**
- **(612) 720-0052**

---

**DRAWN BY:**

- C.T.

**DATE:**

- 11-11-16

---

**CHECKED BY:**

- MJS

**REV.D:**

- 03-31-17

---

**HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.**

ROBERT J. DAVIS, Reg. No. 12427

03-31-17

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ROBERT J. DAVIS, Reg. No. 12427

03-31-17
PROPOSED UNDISTURBED TREE,

1. Garden hose
2. 3 guys of 10 gauge twisted wire 120 degrees apart around tree
3. Turnbuckle
4. Soil saucer
5. 2" mulch

6. Snake with top soil and 2" wood
7. Rake and level soil, add 3:1 ratio by volume in 9" layers.

8. Water each layer until settled
9. Loosen subsoil

PLANTING DETAIL:

Scale: 1/8" = 1'-0"
**RETEAINING WALL PLAN**

**SCALE 1/8" = 1'-0"**

**RECALLING WALL PLAN NOTES:**

1. Coordinate these drawings with all other contract documents. If discrepancies are noted, contractor shall resolve prior to commencement of construction.

2. See Arch & Civil drawings for precise wall layout drawings & to verify information indicated on these drawings.

3. Wall shall be constructed with Versa-Lock standard units and VersaGrid 3.0 geogrid reinforcing.

4. See manufacturer information for additional construction details. Manufacturer information shall accompany the construction plans.

5. See sheets W2-W5 for typical wall details.

6. See sheets W6 & W7 for wall elevation and geogrid information.

7. See sheets W8-W10 for wall notes.

8. Top of wall elevation indicated on Plan is to top of last segmental wall block. Cap block will add an additional 9 5/8" to top of finish height.

9. Elevation inside compound indicated as 1010.00', verify.
PIN HOLES AND SLOTS FOR 9/4" SETBACK MALL CONSTRUCTION

PIN HOLES FOR VERTICAL WALLS

SPLITTING GROOVE FOR HALF UNIT

SPLITTING GROOVE FOR FREESTANDING WALLS

PINNING SLOTS FOR FREESTANDING WALLS

VERSALOK STANDARD UNIT

VERSATUFF PIN

PINNING DETAIL

BASE STEPPING DETAIL

PIN HOLE

3/4" SETBACK

VERSATUFF PIN 2 PER UNIT

RECEIVING SLOT

UNDISTURBED SOIL

GRANULAR LEVELING PAD 6" THICK

NOTE:
* STEP AS NEEDED TO MAINTAIN MINIMUM REQUIRED EMBEDMENT
**GEOSYNTHETIC GRID MANUFACTURER'S INSTALLATION INSTRUCTIONS AND SPECIFICATIONS**

**GEOGRID LENGTH AND ELEVATION PLACEMENT SHALL BE DETERMINED BY WALL DESIGN ENGINEER**

**FOLLOW GEOSYNTHETIC GRID**

1. **EVEN COURSES**
   - STD. UNITS 90 DEGREE INSIDE CORNER DTL.
   - SCALE: NONE

2. **ODD COURSES**
   - GEOGRID INSTALLATION DTL.
   - SCALE: NONE

3. VERSA-LOK STANDARD CAP UNITS
   - SCALE: NONE

4. CAPPING DETAIL @ STRAIGHT WALLS
   - SCALE: NONE
INSIDE CORNER NOTES:

- At subsequent reinforcement elevations extend reinforcement from opposite wall face.
- Extend reinforcement beyond wall face a distance equal to 1/4 of the height of the wall (H).

90 DEGREE INSIDE CORNER W/ REINFORCEMENT

W4 SCALE: NONE
CAP UNIT ADHERES TO TOP UNIT IN VERSA-LOK CONCRETE ADHESIVE

VERSA-LOK STANDARD MODULAR CONCRETE UNITS

DRAINAGE AGGREGATE 12" THICK MIN.

GEOSYNTHETIC REINFORCEMENT SEE ELEVATION DRAWINGS FOR LENGTH, TYPE, AND SPACING

REINFORCED BACKFILL COMPACTED 95% OF MAXIMUM STANDARD PROCTOR DENSITY

4" DIA. MIN. DRAIN PIPE OUTLET @ END OF WALL OR @ 40 CENTERS MAX. SLOPE TO DRAIN (1/20 FT.)

TYP. UNREINF. WALL SECTION

TYP. REINFORCED WALL SECTION

SCALE: NONE
NOTE:
GEORGID NOT SHOWN FOR CLARITY

6" TALL X 12" WIDE CONG. BEAM W/ W (2) #5 BARS PLACED 2" ABOVE BOT. BEAM & MIN. 18" BRG. EA. END

CONCRETE HEADWALL OR CUT MODULAR UNITS

FILTER FABRIC

NOTE:
1. MIN. 28 DAY CONC. STRENGTH = 4,000 PSI
2. REINFORCING = ASTM A 615 W Y = 60 KSI

WALL DETAIL WITH CONDUIT PENETRATION

SCALE: NONE

6" TALL X 12" WIDE CONG. BEAM W/ W (2) #5 BARS PLACED 2" ABOVE BOT. BEAM & MIN. 18" BRG. EA. END

CONCRETE HEADWALL OR CUT MODULAR UNITS

FILTER FABRIC

PROVIDE BOND BREAK AT MALL OPENING

NOTE:
6" TALL X 12" WIDE CONG. BEAM W/ W (2) #5 BARS PLACED 2" ABOVE BOT. BEAM & MIN. 18" BRG. EA. END

SCALE: NONE
ELEVATION NOTES:
1. ELEVATION CHANGES OF TOP & BOTTOM OF WALL BY STATION ARE APPROXIMATE. ACTUAL STATIONS SHALL BE FIELD ADJUSTED FOR ACTUAL BLOCK DIMENSIONS AND FINISH GRADES.
2. MAXIMUM ELEVATION STEP AT BASE = 12'.
ELEVATION NOTES:
1. ELEVATION CHANGES OF TOP & BOTTOM OF WALL BY STATION ARE APPROXIMATE. ACTUAL STATIONS SHALL BE FIELD ADJUSTED FOR ACTUAL BLOCK DIMENSIONS AND FINISH GRADES.
2. MAXIMUM ELEVATION STEP AT BASE = 12'.
PART 1: GENERAL

1.01 Description

A. Work shall consist of furnishing materials, labor, equipment and supervision to install a segmental retaining wall system in accordance with plans and specifications and in substance and form, grades, design and dimensions shown on plans or established by Owner or Owner's engineer.

1.02 Reference Standards

A. Segmental Retaining Wall Units

1. ASTM C 140 - Sampling and Testing Concrete Masonry Units
2. ASTM C 1571 - Standard Specification for Dry-Cast Segmental Retaining Wall Units

B. Geosynthetic Reinforcement

3. ASTM D 5921 - Standard Test Method For Determining the Coefficient of Soil and Geosynthetic or Geosynthetic and Geosynthetic by Direct Shear Method
4. ASTM D 5816 - Standard Practice for Exposure and Retrieval of Samples to Evaluate Installation Damage of Geosynthetics

C. Soils

1. ASTM D 494 - Standard Test Method for Laboratory Compaction Characteristics of Soil Using Standard Effort
2. ASTM D 2437 - Standard Practice for Classification of Soils for Engineering Purposes
3. ASTM D 422 - Standard Test Method for Particle-Size Analysis of Soils
5. ASTM G 51 - Standard Test Method for Measuring pH of Soil For Use In Corrosion Testing

D. Drainage Pipe

1. ASTM F 1582 - Standard Specification for Smooth-Wall Polyvinyl Chloride (PVC) Plastic Underdrain Systems for Highway, Airport or Similar Drainage
2. ASTM F 405 - Standard Specification for Corrugated Polyethylene (PE) Pipe and Fittings

E. Engineering Design

1. NCHCA Design Manual for Segmental Retaining Walls, Third Edition

F. More specifications and reference documents conflict, the Wall Design Engineer shall make the final determination of applicable document.

1.03 Substitutions

A. Materials Submissions: The Contractor shall submit manufacturers' certifications two weeks prior to start of work stating that the SRW units and geosynthetic reinforcement meet the requirements of Section 2 of this specification.

1.04 Delivery, Storage and Handling

A. Contractor shall check materials upon delivery to ensure that the specified type and grade of materials have been received and proper color and texture of SRW units have been received.

B. Contractor shall store and handle materials in accordance with manufacturer's recommendations and in a manner to prevent deterioration or damage due to moisture, temperature changes, contaminants, corrosion, breaking, chipping or other causes.

C. Contractor shall prevent excessive mud, net concrete, epoxies and similar materials that may affix themselves from coming in contact with materials.

D. Contractor shall protect materials from damage; no damaged material shall be incorporated into the segmental wall.

E. Geosynthetics shall be protected from UV exposure and the protective covering on geosynthetics shall remain until immediately before installation and shall be stored at temperatures above -40 degrees F.

F. Substitution: The Contractor shall submit substitution reports for materials or equipment that do not meet the requirements described in this specification.

PART 2: MATERIALS

2.01 Segmental Retaining Wall Units

A. SRW units shall be machine formed, Portland cement concrete blocks specifically designed for retaining wall applications. SRW units currently approved for this project are: VERSA-LOK Standard

B. SRW unit faces shall be of straight geometry.

C. SRW unit height shall be 6 inches.

D. SRW units shall provide a minimum weight of 120 psi wall face area.

E. SRW units shall be solid through the full depth of the unit.

F. SRW units shall have a depth (front face to rear) to height ratio of 2:1, minimum.

G. SRW units shall be capable of being erected with the horizontal gap between adjacent units not exceeding 1/8 inch.

H. SRW units shall be interlocked with connecting pins that provide 3/4 inch setback from unit below (yielding a T-degree cant from vertical).

I. SRW units shall be sound and free of cracks or other defects that would interfere with the proper placing of the unit or significantly impair the strength or permanence of the structure. Any cracks or chips observed during construction shall fall within the guidelines outlined in ASTM C 1571.

J. Concrete SRW units shall conform to the requirements of ASTM C 1571 and have a minimum net average 28-day compressive strength of 3000 psi. Compressive strength test specimens shall conform to the same cut procedures of ASTM C 1571.

K. SRW unit molded dimensions shall not differ more than ±1/8 inch from that specified, as measured in accordance with ASTM C 140. This tolerance does not apply to architectural surfaces, such as split faces.

2.02 Segmental Retaining Wall Unit Connection Pins

A. SRW units shall be interconnected with VERSA-LOK connection pins. The pins shall consist of glass-reinforced nylon made for the expressed use with the SRW units supplied.
2.09 Geosynthetic Reinforcement
A. Geosynthetic reinforcement shall consist of high-strength PET geogrids, HDPE geogrids, or geotextiles manufactured for soil reinforcement applications. The type, strength and placement of the geosynthetic reinforcement shall be determined by procedures outlined in this specification and the NODA Design Manual for Segmental Retaining Walls (3rd Edition 2004) and shall be specified by Mall Design Engineer in their final wall plans and specifications. The manufacturers/suppliers of the geosynthetic reinforcement shall have demonstrated construction of similar size and types of segmental retaining walls on previous projects. Geosynthetic types currently approved for this project are: VERSA-Grid Geogrids.
B. The type, strength and placement of the reinforcing geosynthetic shall be as determined by the Mall Design Engineer, as shown on the final, P.E.-stamped retaining wall plans.

2.04 Leveling Pad
A. Material for leveling pad shall consist of compacted sand, gravel, or combination thereof (USCS soil types GP, Gr, Sp, SM) and shall be a minimum of 6 inches in depth. Lean concrete with a strength of 300–500 psi and 6 inches thick maximum may also be used as a leveling pad material. The leveling pad should extend laterally at least a distance of 6 inches from the toe and heel of the lowest SRF units.

2.06 Drainage Aggregate
A. Drainage aggregate shall be angular, clean stone or granular fill meeting the following gradation as determined in accordance with ASTM D422:

<table>
<thead>
<tr>
<th>Size (in)</th>
<th>Percent Passing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/2</td>
<td>100</td>
</tr>
<tr>
<td>3/4</td>
<td>15-100</td>
</tr>
<tr>
<td>1</td>
<td>0-60</td>
</tr>
<tr>
<td>2</td>
<td>0-30</td>
</tr>
<tr>
<td>3</td>
<td>0-5</td>
</tr>
</tbody>
</table>

2.06 Drainage Pipe
A. The drainage collection pipe shall be a perforated or slotted PVC, or corrugated HDPE pipe. The drainage pipe may be wrapped with a geotextile to function as a filter. B. Drainage pipe shall be manufactured in accordance with ASTM F 405 or ASTM F 758.

2.07 Reinforced Backfill Soil
A. The reinforced soil material shall be free of debris. Unless otherwise noted on the final, P.E.-stamped, retaining wall plans prepared by the Mall Design Engineer, the reinforced material shall consist of the inorganic USCS soil types GP, GR, SP, SM, meeting the following gradation, as determined in accordance with ASTM D422:

<table>
<thead>
<tr>
<th>Size (in)</th>
<th>Percent Passing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>100</td>
</tr>
<tr>
<td>4</td>
<td>20-100</td>
</tr>
<tr>
<td>8</td>
<td>0-60</td>
</tr>
<tr>
<td>16</td>
<td>0-2</td>
</tr>
</tbody>
</table>

B. The reinforced backfill soil (CONT.)
B. The maximum particle size of poorly-graded gravels (GP) (no fines) should not exceed 3/4 inch unless expressly approved by the Mall Design Engineer and the long-term design strength (LTPS) of the geosynthetic is reduced to account for additional installation damage from particles larger than the maximum. C. The plasticity of the fine fraction shall be less than 20. D. The pH of the backfill material shall be between 6 and 9 when tested in accordance with ASTM G 51.

2.08 Geotextile Filter
A. Drainage geotextile shall consist of geosynthetic specifically manufactured for use as a permeable soil filter that retains soil while still allowing water to pass throughout the life of the structure. The type and placement of the geotextile filter material shall be as required by the Mall Design Engineer in their final wall plans and specifications.

2.01 Soil
A. The following assumed soil parameters have been used for the preparation of the final design, and shall be verified by the Owner’s Geotechnical Engineer:

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Unit Weight</th>
<th>Internal Friction</th>
<th>Cohesion (c)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reinforced Fill</td>
<td>115</td>
<td>25</td>
<td>0</td>
</tr>
<tr>
<td>Retained Soil</td>
<td>115</td>
<td>25</td>
<td>0</td>
</tr>
<tr>
<td>Foundation Soil</td>
<td>115</td>
<td>25</td>
<td>0</td>
</tr>
</tbody>
</table>

B. Should the actual soil conditions observed during construction differ from those assumed for the design, design shall be reviewed by the Mall Design Engineer at the Owner’s Geotechnical Engineer’s direction.

9.02 Design
A. The design analysis for the final, P.E-stamped retaining wall plans prepared by the Mall Design Engineer shall consider the external stability of sliding and overturning, internal stability and facial stability of the reinforced soil mass, and shall be in accordance with acceptable engineering practice and these specifications. The internal and external stability analysis shall be performed in accordance with the "NODA Design Manual for Segmental Retaining Walls, 3rd Edition" using the recommended minimum factors of safety in fifth manual.

B. Estimated analysis for bearing capacity, global stability, and total and differential settlement shall be the responsibility of the Owner and the mall's Geotechnical Engineer. The Geotechnical Engineer shall perform bearing capacity settlement estimates, and global stability analysis based on the final wall design provided by the Mall Design Engineer and coordinate any required changes with the Mall Design Engineer.
4.04 Leveling Pad Construction

A. Leveling pad shall be placed as shown on the trial, P.E.-sealed retaining wall plane with a minimum thickness of 6 inches. The leveling pad should extend (laterally) at least a distance of 6 inches from the toe and heel of the lowermost SRN unit.

B. Granular leveling pad material shall be compacted to provide a firm, level bearing surface on which to place the first course of units. Well-graded sand can be used to smooth the top (1/4 inch to 1/2 inch thick) of the leveling pad. Compaction will be with mechanical plate compactors to achieve 95% of maximum standard Proctor density (ASTM D 698).

4.05 SRN Unit Installation

A. All SRN units shall be installed at the proper elevation and orientation as shown on the trial, P.E.-sealed wall plane and details or as directed by the Wall Design Engineer. The SRN units shall be installed in general accordance with the manufacturer's recommendations. The specifications and drawings shall govern in any conflict between the two requirements.

B. First course of SRN units shall be placed on the leveling pad. The units shall be leveled side-to-side, front-to-rear, and with adjacent units, and aligned to ensure intimate contact with the leveling pad. The first course is the most important to ensure accurate and acceptable results. No gap shall be left between the front of adjacent units. Alignment may be done by means of a string line or offset from base line to the back of the units.

C. All excess debris shall be cleaned from top of units and the next course of units installed on top of the units below.

D. The VERSA-Tuff connection pins shall be inserted through the pin holes of each upper-course unit into the receiving slots in lower-course units. Pins shall be fully seated in the pin slots below. Units shall be pushed forward to remove any looseness in the unit-to-unit connection.

E. Prior to placement of next course, the level and alignment of the units shall be checked and corrected where needed.

F. Layout of courses and corners shall be installed in accordance with the wall plan details or in general accordance with SRN manufacturer's installation guidelines. Walls meeting at corners shall be interlocked by overlapping successive courses.

G. Procedures C through F shall be repeated until reaching top of wall units, just below the height of the cap units. Geosynthetic reinforcement, drainage materials, and reinforced backfill shall be placed in sequence with the following installation as described in Section 4.06, 4.07, and 4.08.
4.06 Geosynthetic Reinforcement Placement
A. All geosynthetic reinforcement shall be installed at the proper elevation and orientation as shown on the final P.E.-sealed retaining wall plans and details, or as directed by the Wall Design Engineer.
B. At the elevations shown on the final plans, (after the units, drainage material and backfill have been placed to this elevation) the geosynthetic reinforcement shall be laid horizontally on compacted fill and on top of the concrete SRN units, to within 1 inch of the front face of the unit below. Embedment of the geosynthetic in the SRN units shall be consistent with SRN manufacturer's recommendations. Correct orientation of the geosynthetic reinforcement shall be verified by the Contractor to be in accordance with the geosynthetic manufacturer's recommendations. The highest-strength direction of the geosynthetic must be perpendicular to the wall face.
C. Geosynthetic reinforcement layers shall be one continuous piece for their entire embedment length. Splicing of the geosynthetic in the design-strength direction (perpendicular to the wall face) shall not be permitted. Along the length of the wall, horizontally adjacent sections of geosynthetic reinforcement shall be butted in a manner to assure 100% coverage parallel to the wall face.
D. Tracked construction equipment shall not be operated directly on the geosynthetic reinforcement. A minimum of 6 inches of backfill is required prior to operation of tracked vehicles over the geosynthetic. Turning should be kept to a minimum. Rubber-tired equipment may pass over the geosynthetic reinforcement at slow speeds (less than 5 mph).
E. The geosynthetic reinforcement shall be free of wrinkles prior to placement of soil fill. The nominal tension shall be applied to the reinforcement and secured in place with staples, nailing or by hand tending until reinforcement is covered by 6 inches of fill.

4.07 Drainage Aggregate and Drainage Material Placement
A. Drainage aggregate shall be installed to the lines, grades and sections shown on the final P.E.-sealed retaining wall plans. Drainage aggregate shall be placed to the minimum thickness shown on the construction plans between and behind units (a minimum of 1 cubic foot for each exposed square foot of wall face unless otherwise noted on the final wall plans).
B. Drainage collection pipes shall be installed to maintain gravity flow of water outside the reinforced-soil zone. The drainage collection pipe shall be installed at the locations shown on the final construction drawings. The drainage collection pipe shall daylight into a storm sewer or along a slope, at an elevation below the lowest point of the pipe within the aggregate drain. Drainage laterals shall be spaced at a maximum 40-foot spacing along the wall face.

4.08 Backfill Placement
A. The reinforced backfill shall be placed as shown in the final wall plans in the maximum compacted lift thickness of 8 inches and shall be compacted to a minimum of 95% of Standard Proctor density (ASTM D 698) at a moisture content within ±1% point to ±3% points of optimum. The backfill shall be placed and spread in such a manner as to eliminate wrinkles or movement of the geosynthetic reinforcement and the SRN units.
B. Only hand-operated compaction equipment shall be allowed within 3 feet of the back of the wall units. Compaction within the 3 feet behind the wall units shall be achieved by at least three passes of a lightweight mechanical tamper, plate, or roller.
C. At the end of each day's operation, the Contractor shall slope the last level of backfill away from the wall facing and reinforced backfill to direct water runoff away from the wall face.

4.08 Backfill Placement (CONT.)
D. At completion of wall construction, backfill shall be placed level with final top of wall elevation. If final grading, paving, or scraping equipment shall be operated directly on the geosynthetic reinforcement, the Contractor shall ensure that the geosynthetic reinforcement is protected with a minimum of 6 inches of backfill. The highest-strength direction of the geosynthetic must be perpendicular to the wall face.

4.09 SRN Caps
A. SRN caps shall be properly aligned and glued to underlying units with VERSA-LOCK adhesive, a flexible, high-strength concrete adhesive. Rigid adhesive or mortar are not acceptable.
B. Caps shall overhang the top course of units by 3/4 inch to 1 inch. Slight variation in overhang is allowed to correct alignment at the top of the wall.

4.10 Construction Adjacent to Completed Wall
A. The Owner or Owner's Representative is responsible for ensuring that construction by others adjacent to the wall does not disturb or place temporary construction loads on the wall that exceed design loads, including loads such as water pressure, temporary grades, or equipment loading. Heavy paving or grading equipment shall be kept a minimum of 3 feet behind the back of the wall face. Equipment with wheel loads in excess of 150 psi live load shall not be operated within 10 feet of the face of the retaining wall during construction adjacent to the wall. Care should be taken by the General Contractor to ensure water runoff is directed away from the wall structure until final grading and surface drainage collection systems are completed.
Ground Bore Legs

Ground bars are installed electrically from tower bottoms and equipment shelters by their standard mounts. Leads each from ground bar to the ground shield shall be a pair of #2 SBTC, each connected to Lead 1 through the #2 SBTC jumper. Pairs of #2 SBTC jumper leads shall be routed between ground bars. Leads shall be routed to tower ground plane.

- The Main Ground Bar (MGB) typically mounted inside on the west side of the tower shelter "base" wall.
- The Entry Cable Port Ground Bar (ECPGB), mounted inside on the east side of the tower shelter, is welded to the ground plate as required. Leads shall be routed to tower ground plane.

NOTE: Contractor shall confirm that MGBs exist at #2 SBTC Whitney connections on any guyed or self-support tower, and that transmission lines are grounded to each MGB. Only the minimum #2 SBTC must be installed to the tower steel frame; upper legs may use the tower steel frame as common ground, requiring no copper leads between MGBs.

**SYMBOL AND NOTE LEGEND**

- **#2 SBTC Lead** 
  - "whip" leads shall be connected to the external ground ring to the following items:
    - Monopole Towers:
      - Three whip leads to the monopole base of the tower. Leads shall be attached to the guyed or self-support tower manufacturer.
    - Guyed Towers:
      - Two whip leads to the tower leg base. If none are provided, attach to the baseplate or support tower manufacturer.

- **#2 SBTC Whip Leads** 
  - "whip" leads shall be connected to the external ground ring to the following items:

**GROUND IDENTIFICATION & DESCRIPTION**

- 1 MLG, EXTERNAL BURIED w/ #2 SBTC 
  - 1A, MLG, CONCRETE ENCLOSURE 
  - 1B, MLG, FIBERGLASS ENCLOSURE 
  - 2 D CirC, CABLE GUIDE SUPPORT POST 
  - 3B, GUY ANCHOR PLATE 
  - 4, GUY WIRE, MEDIUM CLAMP ONLy - NO WELDS 
  - 5B, FENCE POST 
  - 6, SURFACE SET, 1/2" BRASS STRAP TO LEAF 
  - 7B, GUY WIRE, MED. WASH. & TONGUE 
  - 8, TOWEL INSTALLATION REORDERING 
  - 9B, ROOF WELD 
  - 10, SB STEEL BEAM 
  - 11B, SP, POCKET 
  - 12B, TOWER BASE 
  - 13, WS, TEST, 1-STR 
  - 14, MGB TO ROOF/PANEL, WEL. #2 SBTC 
  - 15, MGB TO FISH-EYE SAME #2 SBTC 
  - 16, MGB TO FISH-EYE SAME #2 SBTC 
  - 17A, COOP TO CABLE SHELVING 
  - 17B, MGB TO T-F Esp. SHELEV 
  - 18, LONEN W/PLATE TO HDD SHELF 
  - 19, LONEN TO OTHER TOWER #2 SBTC 
  - 20, MGB TO ACCESS CONN. #2 SBTC 
  - 21, MGB TO Cable RING TO TOWER RING 
  - 22, MGB TO FUEL RING 
  - 23, MGB TO TOWER RING 
  - 26, MGB TO PDU FRAME 
  - 28, MGB TO PNL #6 1-STR 
  - 30, MGB TO TOWER RING 
  - 31, MGB TO CABLE RING 
  - 32, MGB TO TOWER RING 
  - 33, MGB TO INTEGRAL FRM 
  - 34B, MGB TO GATE POST 250.66.48 LEAD 
  - 35, MGB TO INTEGRAL FRM 
  - 36, MGB TO GATE POST 250.66.48 LEAD
PROPOSED FUTURE GENERATOR

PROPOSED EQUIPMENT CABINETS TO BE GROUNDED PER MANUFACTURER'S SPECIFICATIONS AND ATTACHED TO MAIN BUS BAR.

PROPOSED GROUND RODS 20'-0"

PROPOSED GROUND LEAD FROM MAIN BUS BAR TO TOWER BUS BAR, FOLLOW CABLE ROUTE.

NOTE: CONTRACTOR SHALL ENSURE THAT EACH WHIP IS ROUTED TO LEAD 1 BY THE SHORTEST PATH, AND BENDS SHALL NOT BE LESS THAN 12" RADIUS.

GROUNDING DETAIL INDEX

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<td>11.6</td>
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DESIGN
9973 VALLEY VIEW RD.
EDEN PRARIE, MN 55344
(952) 903-9299
WWW.DESIGN1EP.COM

PROJECT
20111120193
LOC. CODE: 308586

MINC
ALADDIN
WILLISTON RD.
MINNETONKA, MN 55345

SHEET CONTENTS:
GROUNDING PLAN
GROUNDING DETAIL INDEX

DRAWN BY: CT
DATE: 11-11-16
CHECKED BY: MJS
REV. A 12-14-16
REV. B 01-18-17
REV. C 02-27-17
REV. D 03-31-17

G-2
PROPOSED ABER DISTRIBUTION PEDESTAL MAY BE REQUIRED BY UTILTY PROVIDER

PROPOSED WD HOLE/PULL BOX, LOCATED WITHIN PUBLIC R.O.W. INSTALLED BY SHAW FIBER PROVIDER

PROPOSED WD HOLE/PULL BOX, LOCATED WITHIN PUBLIC R.O.W. INSTALLED BY UT ABER PROVIDER

---

PROPOSED WD HOLE/PULL BOX, LOCATED WITHIN PUBLIC R.O.W. INSTALLED BY DREAM ABER PROVIDER (SEE 1/U-1)

---

PROPOSED UNDERGROUND ELECTRICAL BOX WITH PULL STRING & TRACABLE WIRE FROM HAND HOLE/PULL BOX AT PROPERTY LINE TO COMPOUND WD HOLE/PULL BOX G.C., MIN OF 42” BELOW GRADE W/ 2 DETECTABLE RIBBONS (APPROX. 100’)

---

CONTRACTOR TO COORDINATE PUBLIC AND PRIVATE UTILITY LOCATES PRIOR TO CONSTRUCTION START. NOTIFY THE ARCHITECT AND THE VZW CONSTRUCTION ENGINEER IMMEDIATELY OF ANY UTILITY LINE ISSUES.

EXISTING UNDERGROUND UTILITY LOCATIONS ARE APPROXIMATE AND NOT ALL UTILITIES ARE SHOWN. CONTRACTOR IS RESPONSIBLE TO NOT DAMAGE UNDERGROUND UTILITIES AND MUST CONDUCT BOTH PUBLIC AND PRIVATE UTILITY LOCATES BEFORE EXCAVATING.

CONTRACTOR SHALL RESTORE ALL AREAS, INCLUDING LANDSCAPING, DISTURBED BY CONSTRUCTION TO PRE-CONSTRUCTION CONDITIONS.

G.C. TO PROVIDE ADDITIONAL HARDWARE AT END OF FIBER CONDUIT, NOT SHOWN FOR CLARITY.
DESCRIPTION OF PROPERTY SURVEYED
(Draft Title Survey Report of Title No. 55328-MH61-1-5520, report date November 8, 2016)
Lot 3, Block 1, as shown on the original Plat Map of Tower Hill 2nd Addition
recorded 8/9/2003 in Instrument No. 7785161, Hamne County, Minnesota.

TITLE REPORT
US Title Solutions Report of Title No. 55328-MH61-1-5520, report date November 8, 2016, was relied upon as the present record.

Schedule B

Exceptions are indicated on survey with circled numbers where applicable.

1. Owner/Applicant, Representative/Charles Springer, and attorney, in fee and for City of Minneapolis, a Minnesota municipality corporation, dated 5/1/1992 recorded 6/7/1993 in Ramsey County, Minnesota.

2. Construction and Public Right of Way


5. Maps [Title] of Tower Hill recorded 8/7/1977 in Instrument No. 4308862 [partially deleted]

6. Ordinance of City of Minneapolis, Title V and Title X, Planning and Zoning, dated 10/6/1979 recorded 10/7/1979 in Instrument No. 4605380.

7. Easement by Maynard R. Johnson and Sandra J. Johnson; and Gregory A. Johnson and Gena Johnson, recorded in Instrument No. 5432313.


DESCRIPTION OF PROPERTY FROM ADDITIONAL REPORT OF TITLE
Lot 3, Block 1, as shown on the original Plat Map of Tower Hill 2nd Addition
recorded 8/9/2003 in Instrument No. 7785161, Hamne County, Minnesota.

Schedule B

1. None within parcel described.

2. No work was completed.


GENERAL NOTES

1. Survey coordinates basic Hamne County Coordinate System

2. This Deed Survey is based upon Reference Information Report of Title No. 55328-MH61-1-5520, report date November 8, 2016, and 5432313-MH61-1-5520, report date June 28, 2016, prepared by US Title Solutions.

3. The information contained herein is subject to revision upon receipt of a revised title insurance commitment or attorney's opinion.

4. Last field work completed was on December 13, 2016.

5. The Proposed Plat Spaces together with all Access and Utilities Rights of Way on and within the area described herein.

6. The Property Descriptions contained herein.

UTILITY NOTES

1. Utility information from plans and markings was combined with observed evidence of utilities to develop a map for consideration of utility and vegetation features shown on this map may not accurately reflect the actual condition of those features.

2. Any underground utilities of which we are unaware may exist.

3. Some underground utility locations are shown as marked solely by those utility companies whose locations respond to our Survey Data Line. Their number: 911-200.

4. Contact Gopher State One Call at 651-454-5002 (800-252-1166) for precise onsite location of utilities prior to any excavation.

I hereby certify that this survey, plans, or report was prepared by me or under my direct supervision and is relied upon as the present record under the laws of the State of Minnesota.

Dated this 24th day of January, 2017.

Surveyor

[Signature]
March 14, 2017

Re: Verizon Wireless proposed 140' stealth monopole at Williston Rd, Minnetonka MN 55345.

To Whom It May Concern:

I am the Verizon Wireless Radio Frequency Engineer responsible for the proposed site, MIN Aladdin, located at Williston Rd, Minnetonka MN 55345. Verizon Wireless has selected this location because it will improve the quality of service Verizon Wireless provides to its customers and it meets specific design criteria set by Verizon Wireless Engineering.

There are two objectives for the proposed MIN Aladdin site. First, is to improve the coverage along Hwy-7 and Williston Rd as well as improving coverage to the businesses and residential areas in the surrounding area. Second objective is to provide capacity offload to the neighboring site Tonka about 1 mile east of this location and south of Hwy-7.

![Map of coverage area]

FIGURE 1: Current predicted coverage without MIN Aladdin
Figure 1 shows the current in-building coverage of the neighboring Verizon sites around the proposed MIN Aladdin site. All of these neighboring sites are greater than a mile away resulting in unreliable or weak signals around the proposed MIN Aladdin site. This is especially true inside homes and businesses.

![Map showing coverage](image)

**FIGURE 2: Predicted coverage including proposed MIN Aladdin coverage**

Figure 2 shows the added coverage of the MIN Aladdin site. With the improved coverage from the proposed MIN Aladdin site location Verizon Wireless will be able to provide better coverage and user experience.

Respectfully,

Nithyakalyani Jaipuriyar  
Verizon Wireless  
RF Engineer
TELECOMMUNICATIONS CONSULTANT STUDY
REPORT REGARDING CONSTRUCTION
OF A 180-FOOT COMMUNICATIONS TOWER
ON THE ALADDIN WATER TOWER
MINNETONKA, MINNESOTA
FOR VERIZON WIRELESS

PREPARED BY:

GARRETT G. LYSIAK, P.E.

APRIL 21, 2017
**Engineering Statement**

The documents submitted by Verizon Towers to The City of Minnetonka for a new 180-foot tower were reviewed for compliance with the technical requirements of the (Wireless Telecommunications Overlay) of the zoning ordinance. The site is located at the Aladdin Water tower on Williston Road.

The proposed site has been evaluated several times in the past for both locating on the top of the water tank and various new tower locations in the surrounding area. The studies showed that a new tower is required to achieve the desired coverage and loading for the communications system.

In the proposed location, the water tower will shield the signals so various heights were examined to minimize this condition.

Once the new tower location was determined, the coverage was determined and several heights between 140 and 180 feet were analyzed.

The minimum height for the tower to provide adequate coverage was determined to be 140-feet. However, one consideration was to have the tower designed for future increase in height to permit other communications systems to be located on the new tower. Verizon submitted the new application with the increased height so future users could be located on it at a minimal disruption to their system operation.

This proposed height would eliminate the future need for a tower in the nearby area since the Ordinance requires using existing towers before any new towers could be approved.

**Summary**

The review of the proposed Verizon tower indicates that:

- It would provide the required wireless system coverage to eliminate the present existing poor coverage area and provide enhanced existing coverage.

- The site is not predicted to cause any interference products to any protected frequency in the area and is not predicted to be an RF radiation hazard.

- The tower at the proposed height is designed to accommodate additional communications systems.
• The proposal is in compliance with the structural requirements of the ordinance.

• Due to the lack of any existing towers or adequate support structures in the vicinity, the site would need to locate very near to the proposed location to fill the coverage gap.

Respectfully submitted,

Garrett G. Lysiak, P.E.
City of Minnetonka  
Ms. Susan M. Thomas, Principal Planner  
14600 Minnetonka Blvd.  
Minnetonka, MN 55435

Reference: Height Verification Study - Verizon Wireless for the Williston Road Water Tank at 4525 Williston Rd., Minnetonka, MN

Dear Ms. Thomas:

We have completed the height verification study for the Verizon proposal for one antenna to be located on top of the Williston water tower and the remaining antennas to be located at 70'

The first step in the analysis was to perform a shadow study to show the effect of the topography to the south of the water tower (Figure 1) using all the antennas at 70'. The shadow area is apparent to the SE of the water tower on this map.

The second step was to perform the same study with the antenna moved to the 132' level on the water tank (Figure 2). This map shows that this new height will significantly reduce the shadow effect of the nearby hills to the water tower. It doesn't eliminate the shadow entirely. Both of these shadow studies considered the terrain, however, foliage such as trees were not considered and would only further increase the path losses.

The applicant expressed their concerns:

"The problem is further complicated by the fact that this ridge is heavily wooded by trees ranging from fifty to seventy-five feet making signal propagation impossible if the antennas facing south had to be located on the fluted portion of the tank." ¹

We then performed several coverage studies of the Williston site and 2 potential replacements on the Xcel power towers to the east of the water tank.

The first of these studies is Figure 3. This shows the coverage if the Williston site were constructed at 70'. As you can see, there are coverage gaps to the SE of the water tank.

¹ March 25, 2015 letter: Antenna Placement on the top of the tank
The second study is Figure 4 and this is the Williston site constructed at 132’. It is apparent that the coverage to the south is enhanced with this additional height.

We then ran 2 studies with the Williston site not constructed and the Verizon site to be built on one of the existing two (2) Xcel power towers along I494 to the east of the site (Figures 5 & 6). As you can see, both of these locations do cover the area south of the Williston WT, but they create significant coverage gaps to the west of Williston road.

In summary, we have verified that the additional height requested by Verizon on the Williston water tower is necessary to provide quality coverage to the south of Hwy. 7 due to the rolling terrain and foliage in the area.

Conclusions drawn in this report are based on observations and on information available, known and declared at the date of investigation and/or the time of preparation of this report. Should additional information be uncovered or made available, we retain the right to revise or supplement our report accordingly.

If you have any questions in this matter please contact either of us.

Sincerely,

Garrett G. Lysiak, P.E.

Michael O'Rourke
VERIZON AT WILLISTON

Shadow map

- Shadowed
- LOS

Display threshold level: -120.0 dBmW
RX Antenna - Type: ISOTROPIC
Height: 5.0 ft AGL  Gain: -2.15 dBd

OWL ENGINEERING
SHADOW MAP
ANTENNA AT 132 FEET  12/10/2015

FIGURE 2
C. Conditional use permit for a telecommunications tower on the property located at 4525 Williston Road.

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

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

Karen O’Brian, representing the applicant, was available to answer questions. She held a neighborhood meeting, but no neighbors attended. City staff have been wonderful to work with.

Gary Lysiak, engineering consultant, stated that the proposed tower’s height has been increased to provide the needed height for potential additional users. The tower would be erected in one day.

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

In response to Schack’s question, Gordon explained that Verizon would construct the telecommunications tower on city property. Mr. Lysiak added that most cities, including Minnetonka, have an ordinance requiring telecommunication companies to utilize existing towers before constructing a new one. Telecommunication companies are accustomed to the sharing equipment.

Schack noted that the neighbors have probably come to terms with having a water tower on the site, so it would make the telecommunications tower less noticeable. It is a good location. She is glad that there would be space for additional users.

Chair Kirk noted that the first time around, neighbors did provide comments.

Powers thought that the proposal is a good idea. Staff worked hard and figured out the exact right place to locate the tower. The neighbors have already adjusted to the proximity of the water tower.

Calvert said that the additional photos in the presentation were extremely helpful.
Calvert moved, second by Powers, to recommend that the city council adopt a resolution approving a conditional use permit for a telecommunication facility at 4525 Williston Road.

Calvert, Powers, Schack, Sewall, and Kirk voted yes. Knight and O’Connell were absent. Motion carried.
CONCEPT PLAN REVIEW
Brief Description: Concept plan review Williston water tower monopole

Action Requested: Discuss concept plan with the applicant. No formal action required.

Background

In 2015, the city was approached by Verizon Wireless to locate telecommunications equipment on the Williston Water Tower located at 4525 Williston Road. Specifically, Verizon’s request was to locate equipment at the top of the water tower to gain improvements to its coverage area to the south.

The city has a policy regarding the use of public water towers for antennas. As stated in city council policy 12.5, priority is granted to public safety and governmental agencies before private entities. Currently, the top of the water tower is exclusively used by public safety and governmental agencies. Private cellular providers have only been allowed on the “flute” of the tower under the bulb of the tank. (See pages 5-9).

In the 2015 discussion, the city determined that:

1) The Verizon proposal to locate private equipment on top of the water tower would not be advantageous to telecommunications equipment already in place, and

2) Exploration of other alternatives such as a monopole antenna on the water tower property was a possibility.

Over the past many months, city staff, the city’s wireless consulting engineer and Verizon representatives have worked together on a monopole antenna as an alternative to locating Verizon telecommunications equipment on top of the water tower. The potential monopole would be 140-feet in height (slightly higher than the 135 foot water tower) and be located approximately 100-feet directly south of the water tower on city property at a ground elevation 17 feet higher than the base elevation of the water tower. (See plans on pages 1–4.)

The monopole was sited in this location after a careful review of many factors including:

1) Not disturbing habitat restoration areas of Tower Hill Park,

2) Location of the underground water storage tank at Tower Hill Park,

3) Location of watermains and other underground utilities,
4) Proximity to the water tower,

5) Proximity to surrounding residential neighborhoods,

6) Visual impact to the Highway 7 corridor and

7) Viable options that work with the carrier’s requirements.

Planning Commission Concept Review

The planning commission reviewed the concept plan at their September 22, 2016 meeting. The commission generally agreed that a monopole was appropriate. Discussion comments included questions about the existing capacity for new providers below the bulb, tree impacts, health impacts and design. (See pages 11-12). There were no members of the public in attendance.

Review Process

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

1) Consent from the city for use of public property and,

2) An application for a conditional use permit for the construction of a monopole telecommunications tower.

- Neighborhood Meeting. The city hosted a neighborhood meeting along with Verizon on August 24, 2016. Three neighborhood residents were in attendance. Discussion among residents, city staff and Verizon representative in attendance included:

  o What other locations were looked at?
    o Why not a location on city property to the east nearer to Woodhill Road?
    o Move the tower south up the hill, possibly into the residential neighborhood if the city were to purchase additional residential property.
  o What is the size of the tower? Will the tower have guy wires?
  o Will other providers want to locate on the monopole?
  o Co-location options for other providers available on the monopole?
  o Discussion about the two design options: 1) a monopole with stealth design or internal antennas and 2) a monopole with a “crow’s nest” or external antennas. External antennas may allow for more co-location potential than a stealth design monopole. What would be the possibilities of other providers wanting to locate on a monopole? It would be beneficial to receive additional
input on both options as it has implications on future site development and use. A stealth monopole could limit the number of providers. Would limiting colocation opportunities create the need for an additional monopole in the future?

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

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

**Staff Recommendation**

Staff recommends the city council provide comment and feedback to assist the applicant with future direction that may lead to the preparation of more detailed development plans. Feedback on the notification area for future mailings during the formal review process is also requested.

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

Originator: Loren Gordon, AICP, City Planner
ADDITIONAL INFORMATION

Next Steps

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

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

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

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

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

Roles and Responsibilities

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

- **Public.** Neighbors and the general public will be encouraged and enabled to participate in the review process to the extent they are interested. However, effective public participation involves shared responsibilities. While the city has an obligation to provide information and feedback opportunities, interested residents are expected to accept the responsibility to educate themselves about the project
and review process, to provide constructive, timely and germane feedback, and to stay informed and involved throughout the entire process.

- **Planning Commission.** The planning commission hosts the primary forum for public input and provides clear and definitive recommendations to the city council. To serve in that role, the commission identifies and attempts to resolve development issues and concerns prior to the council’s consideration by carefully balancing the interests of applicants, neighbors, and the general public.

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

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

Williston water tower site monopole
4525 Williston Road

This map is for illustrative purposes only.
Staff Preferred Location
Staff Preferred Location
Policy Number 12.5
Use of City Water Towers for the Location of Antennas

Purpose of Policy: This policy establishes a uniform policy for reviewing requests for the location of antennas on city water towers.

Introduction
The city has received requests for the location of various antennae on its water towers. The council has determined that a uniform policy for reviewing these requests is desirable.

Permitted Locations
Antennae not owned by the city of Minnetonka will be permitted only on water towers that have been sufficiently modified, in the opinion of the public works director to adequately accommodate those antennae. The modification must be done at the user’s expense.

Permitted Users
Only the following entities may place antennae on city water towers, in order of descending priority:

1. City of Minnetonka
2. Public safety agencies, including law enforcement, fire, and ambulance services, that are not part of the city of Minnetonka.
3. Other governmental agencies, for uses that are not related to public safety.
4. Government-regulated entities whose antennae offer a service to the general public for a fee, in a manner similar to a public utility, such as long distance and cellular telephone. This does not include radio or television broadcasters.

If there is a conflict in use between potential and existing users, permission for use will be granted in order of priority listed above.

Application Process
All applicants who wish to locate antennae on city water towers must submit to the public works director a completed application form and a detailed plan of the proposed installation. Staff will review the application to determine the appropriateness of the request, including the aesthetic impact and the structural integrity of the tower. Staff may retain the services of a structural engineer to analyze the structural capacity. The applicant must reimburse the city for the cost of this analysis.

The technical analysis and other relevant data will be submitted to the city council for its review. City council approval is conditioned on a finding by a professional communications engineer that there will be no interference with other users. The applicant must reimburse the city for the cost of this analysis before installation of the
antennas. After approval by the city council, the successful applicant must sign an agreement with the city, in a form acceptable to the city attorney, that requires the application to pay a periodic fee, to obtain adequate liability insurance, and to comply with other appropriate requirements. The fees will be established by the city council after considering comparable rates in other cities, potential expenses and risks to the city, and other appropriate factors.

Standards
No application will be granted unless the following standards are met:

- The potential use must not interfere with other users who have a higher priority.
- The user must comply with minimum equipment and site standards prepared by the city.
- The user must have its own sources of electrical power and telephone service.
- The user's equipment and personnel must not interfere with normal operation of the water tower.
- The user must reimburse the city for any costs that it incurs because of the user's existence on city property.
- The user must agree to pay a fee for each time it wants admittance into the tower structure, if required by the city.
- The user must be responsible for the security of its own equipment.
- The user must have obtained all necessary land use approvals.
- The user must comply with the attached Guidelines for Antennas on City Water Towers.

Revocation
The city council may revoke permission to use a city water tower if it determines that any one of the following situations exist:

- A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with an existing use;
- A user's antennae unreasonably interfere with other users with higher priority, regardless of whether or not this was adequately predicted in the technical analysis; or
- A user violates any of the standards in this policy or the conditions attached to the city's permission.
• The city council decides to dismantle the water tower.

Before taking action, the city will provide notice to the user of the intended revocation and the reasons for it, and provide an opportunity for the user to address the city council regarding the proposed action. This procedure need not be followed in emergency situations.

Reservation of Right
Notwithstanding the above, the city council reserves the right to deny, for any reason, the use of any or all city water towers by any one or all applicants.

Adopted by Resolution No. 88-8767
Council Meeting of November 7, 1988

Amended by Resolution No. 97-043
Council Meeting of March 31, 1997

Amended by Resolution No. 2003-077
Council Meeting of August 25, 2003

Amended by Resolution No. 2006-026
Council Meeting of March 27, 2006
Guidelines for Antennas on City Water Towers

1. **Design plans.** Drawings and specifications detailing equipment installation, cable runs, supports, penetrations, fastening methods, foundations, panels, electrical power connections, grounding, and all other required details for a complete installation must be submitted for review and approval. A drawing depicting the final appearance of the tank must also be included. A certified professional engineer in the utility's state must stamp all drawings and specifications.

2. **Operation.** Either by design, function, or installation, proposed equipment must not interfere with the facility's operation and its ability to deliver safe, potable water at sufficient pressure to customers.

3. **Appearance.** The equipment must have minimal detrimental effect on the facility's aesthetic appearance. The design must not significantly alter the appearance of the tank. The use of permanently installed false overflow pipes as cable conduits is not allowed. Wherever possible, tank cable runs must be internal to the tank's structure. No exposed exterior cable runs will be allowed without the written approval of the utility. Color for cables, antennas, and any other visible appurtenances must match the tank colors and be submitted for approval.

4. **Coatings.** Existing rank interior and exterior coating systems must be protected or repaired with new equivalent coating systems during the work of antenna company equipment installation. Coating repairs must be subject to approval. Existing tank coating specifications are available on request.

5. **Enclosures.** Proposed communication equipment to be installed at ground level outside a tank's structure must be enclosed in approved, aesthetically pleasing enclosures. All ground structures must be contained within the city owned parcel subject to planning approval. Unsupervised access into the water storage facility is not permitted. Supervised access shall be granted based on the Lease agreement. Wherever possible, a private access to the antenna company's designated area must be provided by the antenna company. The antenna company will have unlimited access to its designated area through this access point.

6. **Exclusion zone.** An exclusion perimeter zone of 10 ft (minimum) beyond the outermost tank component (i.e., catwalk or widest tank diameter) must exist (outermost structure from the tank center plus 10 ft). No aboveground appurtenance is permitted within the exclusion zone without the utility's written approval.

7. **Installation.** All cable runs between the antenna company's designated area and the tank must be buried. No ice bridges or other exposed (above grade) cable support systems may be installed without written approval. All cable tank penetrations must be sealed. The penetration sealing method and/or detail must be submitted for approval. The utility may request a structural analysis be performed, at antenna company expense, if the number of wall penetrations is a structural concern. No proposed
apprtenance may interfere with the periodic maintenance of the site grounds. The antenna company must maintain the grounds inside its designated equipment area.

8. **Maintenance.** Presence and operation of proposed equipment must have minimal impact on the tank's periodic maintenance work (e.g., tank inspections and painting). Antennas may be required to be out of service for a period of time during periodic tank maintenance work.

9. **Safety.** Any and all proposed equipment, installation work, maintenance work, or any other work performed on the premises by the antenna company, or agents of the antenna company, must not result in any safety hazards or OSHA violations. Such hazards and violations may include, but are not limited to, ladder cage/riser clearance, toe-rung clearance, hatch interference, and vent interference.

10. **Security.** No antenna company property or activities, including the operation and maintenance of antenna company equipment and appurtenances, may, in any way, impinge on the ability of the utility to provide security for its facility.

11. **Regulations.** The proposed communication system design must comply with all federal, state, and local standards regulations, whether identified by the utility in its review or not. Antenna company must correct any design deficiencies discovered subsequent to approval of the installation at its expense and with the approval of the utility. Communication equipment must not interfere with any utility communication or control signals. If interference between the antenna company and other communication equipment is discovered, it must be corrected at the antenna company's expense.
Notice Area

Williston water tower site monopole
4525 Williston Road
A. **Concept plan review for Williston water tower monopole.**

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

Gordon 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. Feedback on the notification area for future mailings during the formal review process is also requested.

Chair Kirk asked if it would be possible to put the antennae array below the bulb. Gordon answered that the area below the bulb was at capacity.

Chair Kirk asked if a footing would require tree removal. Gordon explained that stabilizing the tower would not cause tree loss, but two trees would have to be relocated because of the ground equipment.

Odland has no service at her house, so she would appreciate having service. She asked what health risks are associated with telecommunications towers.

Gary Lysiak, of Owl Engineering, city consultant, compared possible foundations for the monopole. He stated that:

- The health concerns are not a problem.
- More towers could be added to the site. The city would not allow an antennae on top of the water tower. The problem with Verizon’s coverage is on the other side of the water tower. The tower must be taller than the water tower.
- One more user could be added to the monopole. The city must look at a stealth design with limited users or putting visible antennae on the outside of the pole.
- Companies change antennae all of the time. If the use changes, wireless internet or remote meter readers could use the tower. The towers are gold mines because they are there, they are tall, and they are located in residential neighborhoods.
- It would provide revenue and service for the city.
- There are federal rules, local laws, and environmental factors to consider. There are a lot of cogs in the wheel that have to mesh.
- The city is in an interesting place because there is no health problem and there is a need in service.
- It would be preferable to have the antennae visible to change providers because in six months the towers would not be noticed anymore.
Gordon noted that the city is not interested in the crow’s nest appearance, but prefers the stealth appearance.

Mr. Lysiak stated that every time a provider changes something, then the equipment must change. The challenge is maintaining the band width.

Wischnack clarified that the existing pole would be made wider instead of adding more poles on the site. Mr. Lysiak explained that each provider needs 10 feet of separation between providers. The terrain will limit the separation.

Wischnack noted that the tower by Cub Foods is a stealth tower.

Calvert asked if there would be more visual clutter to have a crow’s nest or a forest of monopoles. Wischnack clarified that a monopole could house another provider on the 149-foot pole. Mr. Lysiak agreed. A monopole could be made modifiable.

Karen O’Brien, representing Verizon, was available for questions.

Chair Kirk obtained agreement from commissioners that the site would be appropriate for a stealth monopole in accordance with staff’s recommendation.
from a traffic, safety, and design point of view. The size and number of lots complies with ordinance regulations.

Bergstedt said that two new houses would change the character of the neighborhood somewhat, but there is no legal reason to deny the application.

Schneider concurred. The proposed location of the driveway would be the best option and a private turn around next to a very nice house would generate a better design and quality of houses that would fit appropriately on the site. Trees would be removed, but new trees may be planted and five to eight years from now the two residences would fit. He agreed that there is no basis for denial. It would be preferable to have the shared driveway in the proposed location than to have one driveway access McGinty Road West.

Barone clarified that a two-thirds vote of the council is needed to pass a motion to approve the application.

Allendorf moved, Acomb seconded a motion to adopt resolution 2016-126 approving Mayfair at Copperfield. Acomb, Allendorf, Bergstedt, Wiersum, and Schneider voted "yes." Ellingson voted "no." Wagner was excused. 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.

This item was removed from the agenda at the applicant's request.

D. Concept plan review for a Williston water tower monopole.

Gordon provided the staff report.

Allendorf did not object to the proposal, but asked if Towerhill Park's reservoir would be a good location for a monopole. It would not be as noticeable. Gordon explained that the location of the reservoir and area topography would not make it feasible.
Wiersum understood the limitations of placing the antennae on top of the water tower. He asked if there is another option on the water tower that could work. He found the monopole unsightly. He questioned the need for it.

Gordon explained that the issue is the height needed for the antennae to be effective. Wischnack explained the reasons why other options had been disqualified. The height is needed. The question is where to locate the monopole. The proposal is the best solution.

Wiersum asked if there would be technology in the future that would make monopoles irrelevant. It is amazing how creative people can be when told "no." He did not want to settle for this. He wanted to see if there is a better solution to the eye pollution. Gordon stated that technology is evolving. There is a trend to use more antennae that cover smaller sites. He could not predict how long there would be a need for monopoles.

Bergstedt asked if the city has a legal obligation to help a cell phone company. Gordon explained that the Federal Communications Commission does obligate governments to not inhibit the use and delivery of communication services. Bergstedt noted that the proposal would locate the monopole on public property. He asked if it would change anything if the proposed site would be privately owned. Gordon answered in the negative. Wischnack clarified that the city has the authority to allow or deny the monopole as the property owner of the proposed site. The applicant could apply to locate a monopole somewhere else.

Gordon noted that the organization of the equipment on the water tower follows the city's policy. Changing the policy could be revisited, but that has been done before and the policy remained the same.

Schneider said that the proposal could be a lot worse. The city is obligated to allow something to happen. Having some ability to control the design, location, and configuration while gaining a substantial amount of revenue may not be such a bad idea. After a while, a person would get used to seeing the tower. The water tower is more unsightly than the monopole. The lease would be for a defined amount of time. He saw a trend of residents discontinuing their land lines. Having the best location, utilizing a stealth pole, and the city receiving the revenue may be the best scenario.

Acomb agreed that the trend is to discontinue land-line telephones. Requiring colocation with another provider could be a condition of approval to prevent redundancy. City Attorney Corrine Heine explained that the details of the negotiation have not taken place yet. The city would
require the facility to be capable of colocation and would require colocation as owner and proprietor of the site. In addition, in the zoning ordinance, the city requires an applicant to collocate telecommunications equipment if the applicant is able to obtain the same coverage area by colocation.

Wiersum anticipated that cell use will continue to grow. The proliferation of need should be discussed. He would like to have a thought-out approach to determine where in the city the antennae and equipment would have the least amount of impact.

Bergstedt understood that no one loves monopoles. The location recommended by staff is one of the highest points in Hennepin County and city-owned property. Without the water tower, a monopole would stick out visually a lot more. People will notice the monopole initially, but within a few months, it would blend into the water tower and wooded backdrop. From the proposed site, there is a steep topographic drop traveling toward Glen Lake and Eden Prairie. He saw the service as one needed by the residents of Minnetonka. He is not enamored with the monopole, but delaying action on the application to have time to create a policy does not make sense. The proposal is the best option available.

Allendorf stated that it is inevitable that the monopole would be built. He agrees that it would disappear over time. He suggested moving it more to the east, away from Williston Road. Gordon explained that water lines are buried in that space.

Schneider suggested moving the monopole 20 feet into the trees and planting new trees around it so it would not be as visible without looking up.

Acomb suggested locating the monopole on the edge of the trees and planting additional trees around it.

Gary Lysiak, Owl Engineering, city consultant, stated that:

- The federal government prevents telecommunication companies from talking to each other.
- After looking at the coverage maps, he agrees that the antennae must be at the proposed height or taller.
- His analysis looks at each provider separately. It is hard to do a “what if” scenario with any accuracy. He does not recommend it.
- If this proposal would be denied, then Verizon would apply for a monopole on a commercial property in Minnetonka.
Wiersum stated that he voiced his preferences, but understood that something has to be done.

Bergstedt attended the neighborhood meeting where staff reviewed the other sites that had been considered. Every possible site has been considered. This is the best site possible.

Wiersum would be open to considering locating the monopole on private property if it would provide better aesthetics.

15. Appointments and Reappointments: None

16. Adjournment

Schneider moved, Allendorf seconded a motion to adjourn the meeting at 10:26 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

Lois T. Mason
Deputy City Clerk
Resolution No. 2017-____

Resolution approving a conditional use permit for a telecommunications tower with a height variance at 4525 Williston Road

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

Section 1. Background.

1.01 Verizon Wireless has requested a conditional use permit for a telecommunications tower and associated ground equipment to be located at 4525 Williston Road.

1.02 The property is legally described as:

Lot 2, Block 1, Tower Hill Second Addition

1.03 The proposed telecommunications tower would be 180 feet in height and include associated ground equipment.

1.04 On May 4, 2017, the planning commission held a hearing on the request. The applicant was provided the opportunity to present information to the planning commission. The planning commission considered all of the comments received, the staff report, and the telecommunications consultant report, all of which are incorporated by reference into this resolution. The commission recommended that the city council approve the conditional use permit.

Section 2. Standards

2.01 By 47 US Code §332(c)7, local governments have authority over the placement, construction, and modification of personal wireless service facilities, except local government may not:

a. Unreasonably discriminate among providers of functionally equivalent services;
b. Prohibit or have the effect of prohibiting the provision of personal wireless services; and

c. Regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission’s regulations concerning such emissions.

2.02 City Code 300.34 Subd.4(b) outlines the following conditional use permit standards for telecommunications facilities within residential and commercial zoning districts:

a. Telecommunication facilities may be located only on public or institutional property: in R-1 and R-2 residential districts and on property guided for low-density residential in the Planned I-394 District subject to the standards listed in subparagraphs b through e which follow.

b. An applicant must provide an analysis prepared by a radio or electrical engineer demonstrating that the proposed location of the antennas is necessary to meet the coverage and capacity needs of its system and that there is no existing antenna support structure that could adequately serve the area if antennas were placed on it. The applicant must also pay the reasonable expenses of a radio or electrical engineer retained by the city, at its option, to review this analysis;

c. A telecommunications facility must use as many stealth design techniques as reasonably possible. Economic considerations alone are not justification for failing to provide stealth design techniques. The city council may require that a different location be used if it would result in less public visibility, is available, and would meet the applicant’s reasonable capacity and coverage needs; and

d. A telecommunications tower and antennas, including attachments other than lighting rods, must not exceed 75 feet in height, measured from grade. The city council may increase this height to 90 feet if the increase in height would not have a significant impact on surrounding properties because of proximity, topography or screening by trees or buildings or would accommodate two or more users. The city council may waive this height standard for a tower used wholly or partially for essential public services, such as public safety.
e. Telecommunications facilities may be located in public right-of-way of a major collector or arterial roadway as defined in the comprehensive plan, if they meet all of the following requirements:

1. The facility is not located within a special area designated subdivision 7;

2. The facility is not located adjacent to residentially zoned property unless the applicant demonstrates by providing a study prepared by a radio or electrical engineer demonstrating that the proposed location of the antennas is necessary to meet the coverage and capacity needs of its system and no other location is feasible in a non-residential zone;

3. The facility must use as many stealth design techniques as reasonably possible. In particular, the antennas must be designed to minimize their size and appearance. Economic considerations alone are not justification for failing to provide stealth design techniques; and

4. The facility must also comply with the requirements in subdivision 6(k).

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

Section 3. Findings.

3.01 The proposal meets the variance standard outlined in City Code §300.07 Subd. 1(a):

1. PURPOSE AND INTENT OF THE ZONING ORDINANCE: The R-1 District allows telecommunications facilities as a conditional use on public or institutional property guided for low-density residential.
2. CONSISTENT WITH COMPREHENSIVE PLAN: The comprehensive plan guides the property for low-density residential use.

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

   a. REASONABLENESS:

      i. The request is reasonable for the applicant to achieve reasonable telecommunications coverage. The city’s telecommunications consulting engineer determined the minimum height required to obtain reasonable coverage exceeds the 90 feet telecommunications tower standards established in city code section 300.34 subd. 4(b)(1)(d). Therefore a variance is warranted to comply with the Federal Telecommunications Act.

   b. UNIQUE CIRCUMSTANCE:

      ii. Although the water tower would provide the necessary height for reasonable coverage, space is not available for collocation. There are no other facilities or buildings available for collocation in the required coverage area. The construction of a telecommunications tower at this location and height is unique. The city does allow tower of similar height up to 199 feet high if the applicant can demonstrate that off-site views of the tower will be minimized by the topography of the site and surrounding area, the location of the tower, the tower design, the surrounding tree cover and structures, or the use of screening.

   c. CHARACTER OF LOCALITY:

      iii. The request is reasonable for the applicant to achieve reasonable telecommunications coverage. The city’s telecommunications consulting engineer determined the minimum height required to obtain reasonable coverage exceeds the 90 feet telecommunications tower standards established in city code section 300.34 subd. 4(b)(1)(d). Therefore a variance is warranted to comply with the Federal Telecommunications Act. City code would allow a telecommunications tower as a conditional use permit on many properties in the immediate area.
The presence of the water tower, commercial development, tree canopy and topographic change help reduce the visual impact of the additional tower height requested. The location of the proposed tower was determined in order to minimize potential visual impacts.

3.02 The proposal would not meet the specific conditional use permit standards as outlined in City Code §300.34 Subd.4(b):

1) Telecommunication facilities may be located only on public or institutional property: in R-1 and R-2 residential districts and on property guided for low-density residential in the Planned I-394 District subject the standards listed in subparagraphs b through e which follow.

**Finding:** The proposed facility would be located on institutional property.

2) An applicant must provide an analysis prepared by a radio or electrical engineer demonstrating that the proposed location of the antennas is necessary to meet the coverage and capacity needs of its system and that there is no existing antenna support structure that could adequately serve the area if antennas were placed on it. The applicant must also pay the reasonable expenses of a radio or electrical engineer retained by the city, at its option, to review this analysis;

**Finding:** The information supplied by the applicant was reviewed by the city’s telecommunications consultant. The consultant confirmed that the location and height reasonably meet the applicant’s coverage needs.

3) A telecommunications facility must use as many stealth design techniques as reasonably possible. Economic considerations alone are not justification for failing to provide stealth design techniques. The city council may require that a different location be used if it would result in less public visibility, is available, and would meet the applicant’s reasonable capacity and coverage needs; and

**Finding:** The applicant is proposing a stealth design monopole structure.

4) A telecommunications tower and antennas, including attachments other than lightning rods, must not exceed 75 feet in height, measured from grade. The city council may increase this height to 90 feet if the increase in height would not have a significant impact on surrounding properties because of proximity, topography or screening by trees or buildings or would accommodate two or more users. The city council may waive this
height standard for a tower used wholly or partially for essential public services, such as public safety.

**Finding:** The city’s telecommunications consultant has confirmed that the minimum height needed exceeds the city’s 90-foot height maximum. The council will need to approve a height variance in order to provide the applicant with reasonable coverage.

Section 4  Council Action.

4.01 The above-described conditional use permit is hereby approved based on the findings of section 3 of this resolution.

4.02 The conditional use permit is approved with the following conditions:

a. This resolution must be recorded with Hennepin County.

b. The applicant shall enter into an agreement with the city that addresses the use, maintenance and ownership or leasing arrangements of the telecommunications facility.

c. If the project exceeds 50 cubic yards of excavation/fill or 5,000 square feet of land disturbing activity stormwater management will be required, and the applicant must conform to the following criteria:

1. Rate Control: limit peak runoff flow rates to that from existing conditions for the 2-, 10-, and 100-year events for all points where stormwater leaves the site.

2. Volume Control: Provide on-site retention of 1" over the additional impervious surface added through the project.

3. Water Quality Treatment: Provide for all runoff generated by the additional impervious surface be treated to at least 60% annual phosphorus removal and 90% annual total suspended solid removal. Pollutant removal efficiencies can also be achieved through onsite retention/detention of the 2.5-inch event.

d. Provide an updated landscape plan to address the following:

1. The project will impact 5 honey locust and 1 hawthorn trees that are unable to be moved. Provide $2,000 to plant and care for six new trees.
2. Maintain the temporary access south of the cottonwood and catalpa trees to avoid any tree damage.

3. Tree protection fencing or silt fence will be required on the west side of the stairway so the grading activity is contained and tree impacts are minimized.

4. The project must not impact the woodland area. Minimize impacts to a 29” black cherry tree on the corner of the woods, (indicated as a 15” box at the SE corner of sheet A-7 on the submitted survey).

5. The closest Ponderosa Pine tree on the east side of the water tower is about 10-feet away from the "underground electrical run". If the electrical line is not bored underground, any surface disturbance should be kept 15-20 feet away.

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

   f. Submit necessary project escrows as required by the city.

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

   h. The approval will expire on December 31, 2018 if a building permit has not been issued.

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 22, 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 22, 2017.

______________________________
David E. Maeda, City Clerk
**City Council Agenda Item #14B**  
**Meeting of May 22, 2017**

**Brief Description**  
Appeal of planning commission denial of a sign plan amendment for the CycleBar at Ridgedale Center

**Recommendation**  
Adopt the resolution upholding the planning commission decision

**Background**
CycleBar is a new tenant at Ridgedale Center that will operate a fitness club, specializing in cycling classes. The CycleBar space is generally located near the new southeast entrance to the mall, between Nordstrom and Sears. The tenant space has its own exterior access on the south side of the mall and no interior access. The tenant space was not part of the final site and building plans approved by the city council for the Ridgedale Center expansion; at that time the space was shown as “back of house” space. Rather, the space has been created through review and approval of building permits.

**Proposal**
The existing Ridgedale Center Sign Plan allows exterior wall signs for: (1) Ridgedale Center proper; (2) anchor department stores exceeding 100,000 square feet in size; and (3) restaurants with exterior mall access. CycleBar is requesting an amendment to the sign plan to allow exterior display of a wall sign.

The planning commission considered the request on May 4, 2017. Staff recommended denial of the request, noting:

- Though General Growth was comfortable with the proposed sign, the applicant was aware that the tenant space would not be permitted exterior signage “as of right.” Nevertheless, the tenant space was built out.

- An approved amendment for this tenant space may encourage additional sign plan amendment requests for other tenants at Ridgedale Center that do not have exterior wall signage.

- The applicant has a viable option, as the city does not regulate window signs. A sign of the same dimensions and size proposed by the applicant could be displayed in the glass façade of the tenant space with no city approval.
Following a public hearing, in which no members of the public provided comment, the commission asked questions and discussed the proposal at length. Commissioners generally indicated that they did not fundamentally disagree with the applicant’s request; the sign was tastefully designed and appropriately located. Further, they did not believe additional wall signs at the mall would be inherently “bad.” However, the majority of commissioners felt that the Ridgedale Center Sign Plan should be reevaluated and considered holistically. They were concerned about incremental changes to the sign plan.

**Planning Commission Recommendation**

On a 3-2 vote, the commission denied the request.

**Since Planning Commission Hearing**

The applicant has appealed the planning commission decision. (See attached.)

**Staff Recommendation**

Staff recommends the city council adopt the attached resolution, upholding the commission’s denial.

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

Originator: Susan Thomas, AICP, Assistant City Planner
Location Map

Project: Cyclebar
Applicant: Sign Source
Address: 12401 Wayzata Blvd
Project No. 03046.17b

This map is for illustrative purposes only.
2014 Site and Building Plan Review Submittal
2014 Building Permit Submittal

Subject Space
EXISTING TENANT SPACE
AREA: 2,593 SQ. FT.
SPACE NUMBER: 2085

EXISTING OVERALL PLAN

PROPOSED FLOOR PLAN

CYCLE BAR
at
RIDGEDALE CENTER
RIDGEDALE CENTER
12401 WAYZATA BLVD.
MINNETONKA, MN
55343

February 2017 Building Permit
February 2017 Building Permit

EXISTING WALL STRUCTURE TO REMAIN - SHOWN SHaded
EXISTING STEEL COLUMN TO REMAIN - SHOWN DASHED
EXISTING CURTAIN WALL FRAME AND GLASS SYSTEM TO REMAIN - SHOWN SHaded
EXISTING GLASS SYSTEM AND SILL FRAME TO BE REMOVED - SHOWN DASHED
EXISTING WALL TO BE REMOVED - SHOWN DASHED
EXISTING DOOR AND FRAME TO BE REMOVED - SHOWN DASHED
EXISTING ROOF DRAIN TO REMAIN

REFER TO EXTERIOR ELEVATIONS FOR EXTENTS OF FRAME AND GLASS REMOVAL.

EXISTING/DEMO PLAN
1/4" = 1'-0"

PROPOSED FLOOR PLAN
1/4" = 1'-0"

DOOR HARDWARE:
1 ea. Continuous hinge 760-900 'Hager'
1 ea. Rim Exit Device 2103 CD 'Stanley Security Solutions'
1 ea. Rim Cylinder 12E-82 'Stanley Security Solutions'
1 ea. Pull 12J 'Hager'
1 ea. Overhead Stop 104S 'Glynn-Johnson'
1 ea. Surface Close D-3550 'Stanley Security Solutions'
1 ea. Threshold S205A 36" 'Reese Enterprises'
1 ea. Rain Guard (if needed) R201A 'Reese'
1 ea. Sweep 354C 'Reese'

Aluminum color: standard aluminum mil finish
Glass: Tinted to match existing.

SIGNATURE:
Corey A. Brunton
Reg. No. 26338
1/12/2017

I hereby certify that this plan, specification, and report was prepared by me or under my direct supervision and that I am a duly registered Architect under the laws of the state of Minnesota.

CYCLE BAR
at
RIDGEDALE CENTER
RIDGEDALE CENTER
12401 WAYZATA BLVD.
MINNETONKA, MN 55306

FLOOR PLANS
Sheet No. A2-10

Sheet Title: February 2017 Building Permit

© ALL RIGHTS RESERVED
PROPOSED FRONT ELEVATION

NOTE: CONTRACTOR TO VERIFY THE INTEGRITY OF THE EXISTING (REMAINING) WINDOW SYSTEM ONCE THE ITEMS ARE REMOVED. CONSULTATION FROM A CURTAIN WALL SUPPLIER/EXPERT MAY BE WARRANTED.

EXISTING CURTAIN WALL GLASS SYSTEM TO REMAIN - SHOWN SHADED

PRE-FINISHED METAL FLASHING

ALUMINUM STORE-FRONT SYSTEM

CALQUING AROUND PERIMETER

EXISTING GLASS PANEL

EXISTING CURTAIN WALL FRAME

CONTINUOUS CAULKING

PRE-FINISHED FLASHING WITH HEMMED EDGE

ALUMINUM STORE FRONT WIND/DOOR SYSTEM

NOTE: CONTRACTOR TO PROVIDE ARCHITECT WITH DETAILS OF THIS CURTAIN WALL FRAME SYSTEM ONCE THE AREA IS EXPOSED. THE ARCHITECT WILL PROVIDE PROPER DETAILING TO PREVENT WATER INTRUSION.

NOTE: CONTRACTOR TO VERIFY THE INTEGRITY OF THE EXISTING (REMAINING) WINDOW SYSTEM ONCE THE ITEMS ARE REMOVED. CONSULTATION FROM A CURTAIN WALL SUPPLIER/EXPERT MAY BE WARRANTED.
Exhibit A
Ridgedale Sign Plan

Exterior signs for Ridgedale Center must meet all of the requirements of the city’s sign ordinance, except for the following:

1. The mall is allowed exterior signs according to the following standards:
   a) The signs must not exceed the following number, height, and size:

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Quantity (max.)</th>
<th>Height (max.)</th>
<th>Copy and graphic area (max.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>pylon sign</td>
<td>1</td>
<td>85 ft.</td>
<td>480 sq. ft.</td>
</tr>
<tr>
<td>monument signs</td>
<td>4</td>
<td>8 ft.</td>
<td>40 sq. ft.</td>
</tr>
<tr>
<td>directional signs</td>
<td>9</td>
<td>8 ft.</td>
<td>20 sq. ft.</td>
</tr>
<tr>
<td>entrance towers</td>
<td>4</td>
<td>N/A</td>
<td>225 sq. ft.</td>
</tr>
</tbody>
</table>

   b) There may be no additional freestanding or pylon signs than identified above. All freestanding signs must include the name of the shopping center only, and must not include individual tenant identification. Directional signs must include only directional messages.

2. Anchor department stores that exceed 100,000 square feet in size are allowed exterior signs according to the following standards:
   a) Maximum of one wall sign per exterior elevation.
   b) The total height of the sign must not exceed 8 feet.
   c) The total length of the sign must not exceed 25% of the lineal footage of the surface to which it is affixed.

3. Restaurants that have frontage on the mall exterior are allowed exterior signs according to the following standards:
   a) Maximum of one wall sign per exterior elevation.
   b) The total height of the sign must not exceed 42 inches.
   c) The sign must be located within the tenant’s leased space, unless an alternative location is approved by the planning commission or city council, based on the unique characteristics of the tenant space or building design.
4. Freestanding buildings are allowed exterior signs according to the following standards:
   a) Maximum of one wall sign per exterior elevation.
   b) The total height of the sign must not exceed 5 feet.
   c) The total length of the sign must not exceed 75% of the lineal footage of the surface to which it is affixed.

5. All other tenants are not allowed exterior signs, including temporary business signs.
To Whom It May Concern,

We are requesting a sign plan amendment for the CycleBar Ridgedale Center Mall located at 12802 Lindelane suite 2085 Minnetonka, MN 55305. The CycleBar Space is located on the exterior of the mall, with no exposure or entrance to the interior of the mall. We would like to install an exterior sign on the CycleBar storefront. Without an exterior sign we would not be able to identify our business appropriately to our customers and potential customers.

Thank you for your consideration,

Mallory Yancy
8. Public Hearings

A. Amendment to the existing Ridgedale Center Sign Plan to allow a wall sign that is not for the mall proper, an anchor department store, or a restaurant with exterior wall frontage.

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

Ingvalson reported. He recommended denial of the application based on the findings listed in the staff report.

In response to Powers’ question, Ingvalson explained that the city does not regulate the size or movement of interior signs.

Chair Kirk confirmed with Ingvalson that five votes would be required to approve the amendment.

In response to Powers’ question, Ingvalson explained that sign regulations were created differently for restaurants than other businesses when the mall was first built.

Schack asked if there are other uses in the mall that have exterior access and a sign. Ingvalson responded that there is one use with exterior access that has a sign, but no approval was found to allow that sign. No building permit or sign permit could be located, leading staff to believe that it was put up without approval from the city.

Schack asked where additional doors could be added to the mall to create the same situation. Ingvalson stated that staff saw the potential for other businesses to request additional doors.

Kevin Kendall, of Accent Graphics and national sign coordinator for CycleBar, applicant, stated that:

- He enjoyed working with Ingvalson.
- There are currently 80 operating CycleBars and 135 under construction.
- The proposed sign located above the outside door would be more aesthetically pleasing than locating it inside a window. The visibility and finished product would match the improvements to the mall. It would be a disservice to the community and mall to put the sign on the inside of the window.
• The Minnesota Fire Code classifies a workout area the same as a restaurant, which would allow the CycleBar to have an exterior entrance.
• The business needs the exterior visibility in order to be successful since there is only one entrance and no mall access.
• The facility would look nice and benefit the city.
• He would hate to see the Lens Crafters sign taken down since it would hurt their business.

Greg Randall, of Sign Source, stated that:

• His company would install the sign.
• With online shopping becoming more common, the future will include malls providing more services and less product sales.
• CycleBar would be good for the city and the mall. It would need a sign above the only door.

Mark Schneider, owner of CycleBar, stated that he is excited about bringing CycleBar to the City of Minnetonka. He lives in Minnetonka and has been active in the community. The business would not be in the mall, it would be on the exterior. It would operate well outside of the mall hours, which makes it similar to a restaurant. Customers would be there at 5:30 a.m. He appreciated the commissioners’ time. He asked that the use be considered as something other than retail.

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

Chair Kirk asked what would happen if the sign plan would be changed to allow signs like the current proposal. Ingvalson explained that approval of the application would be an amendment to the sign plan that would allow just the proposed sign.

Gordon explained that the fire code classifications are part of the building code and deal with sprinkler systems and emergency exits. If the mall is interested in having more spaces that have only outside access and do not have access to the interior of the mall, then the mall should submit a comprehensive sign plan. Schack would appreciate a comprehensive fix initiated by the mall.

Chair Kirk noted that setting a precedent without amending the master plan for the mall may be a concern.
Calvert agreed. She favored a comprehensive approach to signage for the mall. The CycleBar logo is attractive and it is a great business.

Powers felt that the space is unique and the door is the only way to get in. He did not think that future changes should impact CycleBar. That is a whole other set of circumstances. He drove around Ridgedale Center and did not see a lot of signs. It looks very nice. He did not think that the proposal would cause a dramatic, near-term precedent to be set. It is a conservative building. Business times are changing and the city needs to change with them. He felt that it is a unique situation.

Schack agreed that it is a unique situation. She was torn.

Powers was leaning towards the proposed sign being an o.k. idea. He noted that the applicant knew the sign would not be allowed without special approval, so he concluded that the applicant was not overly concerned that not having the proposed sign would impact the business’ success, but that the proposed sign would enhance the business’ success. The issue could be revisited a year from now.

Schack visited the site and thought that a sign visible through a window could look attractive for now. That might give the mall and city staff more time to develop a long-term signage plan.

Chair Kirk stated that any of the main entrances to any of the anchor stores could become a Barnes and Noble or other store similar to Eden Prairie Center. He had no problem with that. It would be a logical course of action for General Growth Properties to submit a modification to its sign plan to attract additional businesses.

Schack noted that signs are expensive, but felt it might be worth requiring the applicant to complete two steps.

Sewall saw a need for a sign since this would be the business’ only access point. He could not think of another business in the mall that does not have access to the mall interior that does not have an exterior sign. He was o.k. with the commission taking more time to make a decision to not set a precedent, but there does need to be some sort of sign since there would only be one entrance.

Schack agreed that not having interior access to the mall makes the site unique. The front window is huge. There could be a pretty huge sign in the interior visible from the outside of the window. She favors a more holistic approach to signage.
Powers did not want to saddle the small business with the ambitions for the entire mall. That would be unfair. He assumed that the applicant believes that the business would be successful with or without the proposed sign. Schack agreed.

Mr. Schneider stated that the applicant signed the lease because General Growth Properties approved of the proposed sign plan. The business would be a $550,000 to $800,000 investment. A sign is needed to be successful. He appreciated the struggle. There is a benefit to taking a risk in a business. A sign is 99 percent responsible for making a business a success. This is an unusual situation in a mall.

Chair Kirk noted that everyone wants the business to be successful. Setting a precedent was the concern. He did not think it would be a bad precedent to set.

*Calvert moved, second by Schack, to adopt the attached resolution denying the requested amendment to the Ridgedale Sign Plan associated with the CycleBar at 12401 Wayzata Boulevard.*

*Calvert, Schack, and Kirk voted yes. Powers and Sewall voted no. Knight and O’Connell were absent. Motion passed.*

Chair Kirk stated that written intent to appeal the planning commission’s decision to the city council must be given to city staff within 10 days.
Resolution No. 2017-

Resolution denying an amendment to the existing sign plan for
Ridgedale Center at 12401 Wayzata Boulevard

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

Section 1. Background.

1.01 Under the existing Ridgedale Center sign plan, the mall proper, anchor department stores, and restaurants with frontage on the mall exterior are allowed exterior wall signage.

1.02 The applicant Greg Rendall, on behalf of CycleBar, is requesting an amendment to the sign plan to allow exterior signage for a fitness club.

1.03 The proposed sign would have a 30-inch tall logo and 20-inch tall letters. The total length of the sign would be 25 feet.

1.04 On May 4, 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 denied the sign plan amendment request.

Section 2. Findings.

2.01 Under the existing Ridgedale Center sign plan, only the mall proper, anchor department stores, and restaurants with exterior access are permitted exterior wall signage. While the subject tenant space does have exterior access, it does not qualify for exterior signage, as it does not fall into the previously mentioned three categories.

2.02 The city has granted amendments to the Ridgedale Center Sign Plan for sign dimensions, but has not granted amendments for tenants that are not anchor department stores or restaurants with exterior access.

2.03 Additional signage that does not meet the Ridgedale Sign Plan would have the potential to create a cluttered appearance on the building that would be
detrimental to the health, safety, general welfare, aesthetics and image of the community.

2.04 Previously approved site and building plans and building permit construction plans did not display the subject space with exterior access. Instead, this space was shown as a display and “back of house” space, not an independent tenant space with exterior access. Only recently have building permits been issued to create exterior access to the subject space.

Section 3. Planning Commission Action.

3.01 The requested sign plan amendment is hereby denied.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on May 4, 2017.

_______________________________________
Brian Kirk, Chairperson

Attest:

_________________________________
Kathy Leervig, Deputy City Clerk

Action on this resolution:

Motion for adoption: Calvert
Seconded by: Schack
Voted in favor of: Calvert, Schack, Kirk
Voted against: Powers, Sewall
Abstained: "
Absent: Knight, O’Connel
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Planning Commission of the City of Minnetonka, Minnesota, at a meeting held on May 4, 2017.

__________________________________
Kathy Leervig, Deputy City Clerk
Good Morning Drew

This is formal notice that Cycle Bar would like to appeal the decision of the Planning Commission regarding the amendment the Ridgedale Center Sign Plan.

Thanks

Greg Rendall
Sales/Project Manager

7660 Quattro Drive
Chanhassen, MN 55317
D 952.908.9130
C 612.770.6361
F 952.908.9131

Assistant:
Krystal Prueser
952.908.9132
KrysP@sign-source.com

www.sign-source.com
www.techniprint.net
Brief Description: Reappointments to the senior citizen advisory board

Recommended Action: Approve the recommended reappointments

Background

On May 31, 2017, the following board members will reach the end of their terms and are eligible for reappointment: Frances Dranginis, Judith Hansen, Ron Parker, Bonnie Sussman and Wendy Woodfill. All of them have been valuable and productive members and each member has indicated an interest in continuing to serve an additional term. In addition, Edward Herzog and Dewey Hassig are resigning from the board.

With the information listed for each of the above members, the board has three openings.

The updated membership roster showing the composition of the senior citizen advisory board is attached.

Recommendation

Approve the following terms on the senior citizen advisory board:

- Frances Dranginis, to the senior citizen advisory board, to serve a two-year term, effective June 1, 2017 and expiring on May 31, 2019.
- Judith Hansen, to the senior citizen advisory board, to serve another two-year term, effective June 1, 2017 and expiring on May 31, 2019.
- Ron Parker, to the senior citizen advisory board, to serve another two-year term, effective June 1, 2017 and expiring on May 31, 2019.
- Bonnie Sussman, to the senior citizen advisory board, to serve another two-year term, effective June 1, 2017 and expiring on May 31, 2019.
- Wendy Woodfill, to the senior citizen advisory board, to serve another two-year term, effective June 1, 2017 and expiring on May 31, 2019.

Respectfully submitted,

Terry Schneider
Mayor
Senior Citizen Advisory Board

Current Members

This board is comprised of 15 members whose duties include advising the city council on the needs and status of seniors in the city, recommending ways in which those needs may be met; determining and assessing existing resources in the city which may be utilized by seniors to meet their needs; evaluating and assessing proposed programs, grants and other governmental activities which may impact seniors; recommending policies, goals and objectives for the operation of the Senior Center, and working with staff and the senior director. Members serve two-year terms, and meet the second Tuesday of each month at 10:00 a.m.

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<tr>
<th>Name</th>
<th>Ward</th>
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<td>Richard</td>
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<td>5/31/2018</td>
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<td>Ron Parker</td>
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<td>Tom Scott</td>
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<td>Vice President</td>
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<td>Robert Waddell</td>
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<td>Wendy Woodfill</td>
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**Staff Liaison:**
Steve Pieh, Senior Services Director, Ph # 939-8366
## City Council Agenda Item #15B
### Meeting of May 22, 2017

<table>
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<tr>
<th>Brief Description</th>
<th>Appointments to the comprehensive guide plan steering committee</th>
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<tr>
<td><strong>Recommendation</strong></td>
<td>Approve the recommended appointments</td>
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**Background**

I am recommending the appointment of Farhia Mohamed and Barb Westmoreland to the comprehensive guide plan steering committee as the final committee members. Previous committee appointments were made at the May 1, 2017 council meeting.

In identifying residents for the committee, one of my goals has been to ensure that a variety of community viewpoints is represented. Farhia and Barb’s background, experience and area of residence in the city will be important additions to the committee. I am pleased that they are willing to dedicate the time and energy necessary to be a contributing member.

A roster showing the composition of the comprehensive guide plan steering committee is attached.

**Recommendation**

To appoint Farhia Mohamed and Barb Westmoreland to the comprehensive guide plan steering committee, effective May 22, 2017 and expiring at the completion of the plan update in 2018.

Respectfully submitted,

Terry Schneider
Mayor
## 2040 Minnetonka Comprehensive Guide Plan
### Steering Committee Roster

<table>
<thead>
<tr>
<th>Name</th>
<th>Group Representative</th>
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<tr>
<td>Terry Schneider</td>
<td>Chair</td>
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<td>Brad Wiersum</td>
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<td>Brian Kirk</td>
<td>Planning Commission</td>
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<td>Rebecca Schack</td>
<td>Planning Commission</td>
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<td>Melissa Johnson</td>
<td>EDAC</td>
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<td>Madeline Seveland</td>
<td>Park Board</td>
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<td>Thomas Scott</td>
<td>Senior Advisory Board</td>
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<td>Steve Adams</td>
<td>School District</td>
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<td>Jerry Nystuen</td>
<td>Housing</td>
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<td>Colbert Boyd</td>
<td>Imagine Minnetonka</td>
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<td>Lance Reschke</td>
<td>Resident</td>
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<td>Zach Robins</td>
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<td>Matt Henry</td>
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<tr>
<td>Farhia Mohamed</td>
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<tr>
<td>Barb Westmoreland</td>
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Addendum
Minnetonka City Council
Meeting of May 22, 2017

13C - Off-sale liquor licenses for Target Corporation, 4848 Co Rd 101

Attached are emails received after the council packet was distributed.
Memorandum

To: City Council
From: Julie Wischnack, AICP, Community Development Director
Date: May 22, 2017
Subject: Change Memo for May 22, 2017

13C Off-sale liquor license for Target Corporation, 4848 Co Rd 101

The following comments were received following distribution of the packet.

From: Rochelle Martin
Sent: Sunday, May 21, 2017 4:00 PM
To: Terry Schneider <tschneider@eminnetonka.com>; Dick Allendorf <dallendorf@eminnetonka.com>; Patty Acomb <pacomb@eminnetonka.com>; Bob Ellingson <bellingson@eminnetonka.com>; Tony Wagner <twagner@eminnetonka.com>; Brad Wiersum <bwiersum@eminnetonka.com>; Tim Bergstedt <tbergstedt@eminnetonka.com>; Geralyn Barone <gbarone@eminnetonka.com>
Subject: Target Liquor License Application

Dear City Council Members,

I write this letter to you regarding Target's application for a liquor license in their Highway 7 & 101 store. I live on the border of Minnetonka and work full-time in the city. While I am a supporter of Target and their business model, I would like to raise a few points for you all to consider during your decision-making process.

1. Availability: There is a plethora of liquor available in Minnetonka, including the area around Highway 7 & 101. Since alcohol is a known addictive substance, it may not be in the community's best safety and health interests to add additional access to alcohol. I applaud your efforts to keep a cap on the number of licenses allowed!
2. Youth: Target is close to the high school, and it is a researched risk factor to have alcohol and other drugs in close proximity to a school or a place frequented by youth. This community has invested a great amount of time and money to prevent youth from consuming alcohol. Allowing Target to obtain a liquor license would run counter to those efforts.

3. Image: Whether or not it is ever spoken out loud, the presence of alcohol in a store that sells necessary household items and food communicates a message to youth that alcohol is necessary as well. Adding this message on top of the barrage of advertisements on TV and elsewhere creates a social norm of acceptance and normalcy around an addictive drug.

4. Traffic safety: Increasing the availability of alcohol is correlated with increased intoxicated driving and traffic safety issues. Since the intersection of 101 & 7 is already congested, allowing Target to sell alcohol could increase the incidence of DWIs, DUls, traffic accidents, and fatalities in the area.

5. Addicts: Please consider the impact that a liquor store in a prominent and necessary business can have on those who are in treatment or recovery from alcohol addiction. Few people can forego a weekly trip to the store. Establishments like Target provide the community with necessary items like clothing, toothpaste, and food. No addict should be tempted by readily available liquor, visible from the checkout aisle, when he or she is simply trying to purchase everyday necessities.

I urge you not to put "convenience" before the community's public health. Please consider the potential impacts this could have on our youth, those struggling with addiction, and the safety of our roads.

Thank you for you time. I greatly appreciate the city's concern and care for the community.

Rochelle Martin

From: Heidi Nauman
Sent: Friday, May 19, 2017 11:00 AM
To: Terry Schneider <tschneider@eminnetonka.com>; Geralyn Barone <gbarone@eminnetonka.com>; Tony Wagner <twagner@eminnetonka.com>; Brad Wiersum <bwiersum@eminnetonka.com>; Dick Allendorf < dallendorf@eminnetonka.com>; Patty Acomb < pacomb@eminnetonka.com>; Bob Ellingson <bellingson@eminnetonka.com>; Tim Bergstedt < tbergstedt@eminnetonka.com>
Subject: Please Protect our Community Youth, Deny Target Liquor License

Dear Chosen Community Leaders,
Please vote NO to deny a liquor license for Target (101 and 7).

- That particular Target store is ONLY 1 MILE from Minnetonka High School.
- There are already 3 liquor stores within 1.5 miles from the high school. Close proximity of liquor stores to schools is a known risk factor for youth consumption.
- No legitimate advantages to having another liquor store in that location (other than convenience for adult consumers)
- Our community has been working SO diligently to reduce youth alcohol consumption. Adding another liquor store that close to the school will hinder our efforts.
- Kids would be exposed even more to liquor advertising offered in Target vs a Liquor store as they are already shopping there. A national study published concluded that greater exposure to alcohol advertising contributes to an increase in drinking among underage youth. Specifically, for each additional ad a young person saw (above the monthly youth average of 23), he or she drank 1% more. For each additional dollar per capita spent on alcohol advertising in a local market (above the national average of $6.80 per capita), young people drank 3% more. (L.B. Snyder, F.F. Milici, M. Slater, H. Sun, and Y. Strizhakova, "Effects of Alcohol Advertising Exposure on Drinking Among Youth," *Archives of Pediatrics and Adolescent Medicine* 160 (2006): 18-24.)

Please consider the reasons and consequences when you are voting and VOTE NO!

Thank you for helping care for the youth in our community. We really appreciate all that you do, and we put our trust in you to be responsible leaders who are not just focused on money, but advocates for the well being of our families!

Kind regards,

Heidi Nauman
Minnetonka parent of 2
Tonka Cares partner- youth advocate

---

From: Sarah Ogilvie
Sent: Friday, May 19, 2017 11:41 AM
To: Terry Schneider <tschneider@eminnetonka.com>; Geralyn Barone <gbarone@eminnetonka.com>; Tony Wagner <twagner@eminnetonka.com>; Brad Wiersum <bwiersum@eminnetonka.com>; Dick Allendorf <dallendorf@eminnetonka.com>; Patty Acomb <pacomb@eminnetonka.com>; Bob Ellingson <bellingson@eminnetonka.com>; Tim Bergstedt <tbergstedt@eminnetonka.com>
Subject: Fwd: Target Liquor License

I agree with Linda's thoughts below. Please vote no on the Liquor License for Target.
Begin forwarded message:

From: Linda  
Subject: Target Liquor License  
Date: May 18, 2017 at 8:31:21 PM CDT  
To: tschneider@eminnetonka.com, Geralyn Barone <gbarone@eminnetonka.com>, twagner@eminnetonka.com, bwiersum@eminnetonka.com, dallendorf@eminnetonka.com, pacomb@eminnetonka.com, bellingson@eminnetonka.com, tbergstedt@eminnetonka.com

Hello!

I am writing to you in hopes to convince you to deny a liquor license for Target (101 and 7).

My reasons are as follows:

- That particular Target store is ONLY 1 MILE from Minnetonka High School.  
- There are already 3 liquor stores within 1.5 miles from the high school. Close proximity of liquor stores to schools is a known risk factor for youth consumption.  
- No legitimate advantages to having another liquor store in that location (other than convenience for adult consumers)  
- Our community has been working so diligently to reduce youth alcohol consumption. Adding another liquor store that close to the school will hinder our efforts.  
- Kids would be exposed even more to liquor advertising offered in Target vs a Liquor store as they are already shopping there. A national study published concluded that greater exposure to alcohol advertising contributes to an increase in drinking among underage youth. Specifically, for each additional ad a young person saw (above the monthly youth average of 23), he or she drank 1% more. For each additional dollar per capita spent on alcohol advertising in a local market (above the national average of $6.80 per capita), young people drank 3% more. (L.B. Snyder, F.F. Milici, M. Slater, H. Sun, and Y. Strizhakova, "Effects of Alcohol Advertising Exposure on Drinking Among Youth," Archives of Pediatrics and Adolescent Medicine 160 (2006): 18-24.)

Please consider the above reasons when you are voting and VOTE NO!

Thank you for helping care for the youth in our community. We really appreciate all that
The following comment was received by all councilmembers from approximately 25 Minnetonka residents/employees of Target Corporation

From: On Behalf Of Your Constituent  
Date: May 18, 2017 at 10:51:35 AM CDT  
To:  
Subject: Please support Target’s application for a liquor license

Dear Council member,

I know you’re well aware of Target’s interest in acquiring an off-sale liquor license for its store on County Road 101, but I personally wanted to express my support. As a resident of Minnetonka and a Target shopper, I am asking you to please vote yes at your City Council meeting on May 22. I will continue to support small businesses in our area, such as Tonka Bottle Shop and the Wine Shop, which are important pillars in our community. I would, however, like the convenience and ease of this offering at my local Target. As it stands today, if I would like to purchase at Target, I need to visit the St. Louis Park or Plymouth locations, and I’d prefer to shop locally.

I also work at Target, and can share that Target sells a combination of beer, wine or spirits in over 1,400 stores in 38 states. We’ve had an overwhelmingly positive response from our guests to our existing separate-entrance liquor stores in Minnesota, and we are excited about the opportunity to grow that list in a location so important to Target.

Target has a history of responsible liquor sales and is a strong community partner. I would appreciate the convenience a Target liquor store would bring to Minnetonka.

Thanks in advance for your support!

Sincerely,
Minnetonka resident