Agenda
Minnetonka City Council
Regular Meeting, Monday, September 11, 2017
6:30 P.M.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Bergstedt-Wagner-Ellingson-Allendorf-Acomb-Wiersum-Schneider
4. Approval of Agenda
5. Approval of Minutes: July 24, 2017 regular meeting
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. Ordinance regarding recreational fires
   B. Resolution authorizing just compensation for easement parcels for the Ridgehaven Lane/Ridgedale Drive improvements
   C. Resolution approving a conditional use permit for a microdistillery at 6020 Culligan Way
   D. Resolution approving a conditional use permit for a restaurant serving liquor at 17420 Minnetonka Blvd.
   E. Twelve month extension of the OAKHAVEN ACRES 2nd ADDITION preliminary plat at 13929 Spring Lake Road
   F. Resolution approving a floodplain alteration permit and horizontal floodplain setback variance from 20 feet to 7.5 feet and waiving the McMansion policy; and ordinance to remove area from floodplain overlay district at 3136 County Road 101

Minnetonka City Council meetings are broadcast live on channel 16.
Replays of this meeting can be seen during the following days and times: Mondays, 6:30 p.m., Wednesdays, 6:30 p.m., Fridays, 12 p.m., Saturdays, 12 p.m. The city’s website also offers video streaming of the council meeting.
For more information, please call 952.939.8200 or visit eminnetonka.com
G. Resolution approving floodplain alteration and conditional use permits, ordinance removing areas from the floodplain overlay zoning district, and a resolution approving preliminary and flat plat, at 11806 Cedar Lake Road

11. Consent Agenda - Items Requiring Five Votes: None

12. Introduction of Ordinances: None

13. Public Hearings:
   A. Resolutions for special assessment of 2016-2017 projects
      Recommendation: Hold the public hearing and adopt the resolutions (4 votes)
   B. Temporary on-sale liquor license for Episcopal Parish of St. David, 13000 St. David Road
      Recommendation: Hold the public hearing and grant the license (5 votes)
   C. Off-sale liquor license for Fernriver Enterprises, LLC (dba Strong Liquor) at 11048 Cedar Lake Rd
      Recommendation: Open the public hearing and continue to October 9, 2017 (4 votes)
   D. Resolution approving vacation of drainage and utility easement at 1580 Oakways
      Recommendation: Hold the public hearing and adopt the resolution (4 votes)
   E. Resolution vacating drainage and utility easements at 2800 Jordan Avenue and an adjacent unaddressed parcel
      Recommendation: Hold the public hearing and adopt the resolution approving the vacation (4 votes)

14. Other Business:
   A. Administrative hearing regarding the tobacco license of Boulevard Sinclair
      Recommendation: 1) conduct the administrative hearing; 2) decide whether a violation occurred; and 3) if the council finds a violation occurred, impose penalties as required by city ordinance (4 votes)
B. Discussion of possible coal tar sealant litigation (this discussion may be closed pursuant to Minn. Stat. § 13D.05, subd. 3(b))

Recommendation: Convene in closed session for the attorney-client privilege for discussion of proposed litigation regarding coal tar sealant contamination

15. Appointments and Reappointments: None

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

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

2. **Pledge of Allegiance**

   All joined in the Pledge of Allegiance.

3. **Roll Call**

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

4. **Approval of Agenda**

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

5. **Approval of Minutes: June 12 and 26, 2017 regular council meetings**

   Wagner moved, Acomb seconded a motion to approve the minutes of the June 12, 2017 regular council meeting, as presented. Acomb, Wiersum, Bergstedt, Wagner and Schneider voted “yes.” Allendorf abstained. Motion carried.

   Wagner moved, Acomb seconded a motion to approve the minutes of the June 26, 2017 regular council meeting, as presented. All voted “yes.” Motion carried.

6. **Special Matters: None**

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

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

   Ellingson was present at 6:36 p.m.

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

   Sue Shuff and Vickie Schleuning, from the Lake Minnetonka Conservation District, provided a report on the district’s activities over the past year and plans for the next year.
9. **Bids and Purchases:** None

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

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

12. **Introduction of Ordinances:**

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

      1) Ordinance rezoning properties from B-1 to R-5;
      2) Preliminary and final plats; and
      3) Final site and building plans, with variances

   Community Development Director Julie Wischnack gave the staff report.

   Allendorf asked if the area to the south across Old Excelsior Boulevard was guided for medium density. Wischnack confirmed it was and said it was zoned R1.

   Della Kolpin, Mesaba Capital Development, said she and Anneliese Peterson from Walker Methodist, were present to answer any questions the council may have.

   Acomb asked if affordable housing was included in the project. Kolpin said there had been many internal discussions about including affordable housing. Peterson said Walker Methodist had served seniors for 72 years. She said what they had found was making a plan for affordable housing into years two and three allows the individuals who moved in to stay in place rather than having it available day one. Typically, around 10 percent of the residents after year three switch over to elderly waiver and this was where the affordable product comes in. This allows long-term residents to stay in the community.

   Bergstedt noted the council had reviewed the project several times. He thought the proposal was consistent with the village center study. The proposed use and architectural design serves as a nice transition from the commercial properties to the north to the current single-family homes to the south. As one of the first redevelopment projects in the area, he said it set a high standard for anything that follows.

   Wiersum said the building was very attractive and the scale was about right. Reducing the size to three stories from four helped it fit into the area. The need for this type of housing was there.
Allendorf said looking at the building from the south, he felt the frontage being as close to Old Excelsior Boulevard with a setback variance, was too abrupt. He said having drawings of the view from the south would be useful for the planning commission discussion. Would the view be better served by reducing the number of stories from three to two on that side?

Acomb said the project was a good fit for the parcel. Given the proximity to high school, she felt it important that if possible, to include a trail connection up to County Road 101.

Schneider said it was a challenging site due to the surroundings. Given the future potential for the whole area becoming more dense, he thought the three story building fit well within the context of what will be there 10 years from now. The detailing and the character of the design impressed him. He thought the proposal would be a definite asset to the community and might trigger more open mindedness to the development of the rest of the area.

Wiersum and Acomb asked for more information about how the elderly waiver worked. Wischnack said more information would be provided when the item returned to the council.

Wagner asked if there were any independent units planned for the facility. Kolpin said there were 100 total units, Twenty four were memory care, and the rest were congregate units. At the point of time when the building opens, the types of units would not be differentiated although it was anticipated there would be more independent units that assisted living units.

Schneider said it was commendable wherever there was an opportunity to encourage and provide affordable housing, but for this area the primary motivator for him was the redevelopment potential.

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

13. Public Hearings:

A. Temporary on-sale liquor license for Underdog Rescue, MN, for use at 3739 Tonkawood Road

Barone gave the staff report.
Jessie Jacobson, the owner of Tonkadale Greenhouse, provided information about the event. She said when the community comes together, plants a plant, adopts a dog, and drinks a beer, good things will happen.

Shannon McKenzie, Underdog Rescue, said this was an annual event and fundraiser for the organization. The event has been done in conjunction with breweries in the past and those have been very successful. It was a very family friendly, dog friendly event.

Allendorf asked if the neighborhood had been sent notices about the event. Wischnack said notices were sent out and staff had not received any responses. Allendorf said he was pleasantly surprised by that.

Schneider opened the public hearing at 7:22 p.m. No one spoke. He closed the public hearing at 7:22 p.m.

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

**B. Temporary on-sale liquor license for Unmapped Brewing at 14725 Excelsior Blvd**

Wischnack gave the staff report.

Megan Park, one of the owners of Unmapped Brewing, provided information about the event.

Allendorf noted at the soft opening of Unmapped, the brewery ran out of beer. He asked Park if she was confident there would be enough beer at this event. Park said she was confident the production issues were worked out.

Schneider opened the public hearing at 7:27 p.m. No one spoke He closed the public hearing at 7:27 p.m.

Schneider said the challenge would be people might think they could just drive up to the event only to find limited parking. Park said in marketing the event there would be an effort to encourage walking and biking to the event. Schneider suggested having a shuttle bus service available.

Bergstedt said the grand opening would be a lot of people’s first experience with Unmapped Brewing. There was only one chance to make a good first impression. He said anything that could be done to prepare people and encourage them to walk or bike would be beneficial.
Bergstedt moved, Acomb seconded a motion to grant the temporary liquor license in connection with the grand opening event. All voted “yes.” Motion carried.

14. Other Business:

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

Julie Eddington from Kennedy and Graven, the city’s bond counsel, gave a report.

Acomb moved, Wiersum seconded a motion to adopt resolution 2017-071 authorizing an application of bonding authority from the State of Minnesota with respect to revenue obligations to be issued for the benefit of CHC Minnetonka Affordable Housing LLC; and resolution 2017-072 authorizing and affirming the issuance, sale and delivery of multifamily housing revenue obligations for the benefit of CHC Minnetonka Affordable Housing LLC and authorizing the execution and delivery of documents related thereto. All voted “yes.” Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Wagner moved, Acomb seconded a motion to adjourn the meeting at 7:38 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
City Council Agenda Item #10A  
Meeting of September 11, 2017

Brief Description: Ordinance amending section 910.020 of the Minnetonka City Code, relating to recreational fire permits

Recommended Action: Adopt the ordinance

Background

The city council discussed recreational fire regulations at a study session on June 19, 2017. The council agreed with staff that the city should shift from a one-time recreational fire permit to an annual permit. The annual permit will facilitate the fire department in maintaining accurate records of fire permits and will provide greater opportunity for the city to educate permit holders regarding recreational fire safety and etiquette. Permits will be free and can be obtained through the city’s website.

Staff has prepared a proposed ordinance that requires an annual permit for recreational fires. The ordinance also adds a provision from the permit website to the code, regarding liability of permit holders. Staff has included a grandfather clause that will allow an existing firepit to be used even if it is less than 25 feet from a structure. Lastly, the ordinance reduces the minimum width of wood to be burned in a recreational fire and specifies that the wood must be dry, aged wood.

The ordinance was introduced at the August 28, 2017 city council meeting. There were no questions or changes.

Recommendation

Adopt the ordinance.

Submitted through:
   Geralyn Barone, City Manager
   John Vance, Fire Chief

Originated by:
   Luke Berscheit, Fire Marshal
   Corrine Heine, City Attorney
Ordinance No. 2017-

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

The City of Minnetonka Ordains:

Section 1. Section 901.020, subdivision 1 of the Minnetonka City Code is amended to read as follows:

910.020. Amendments to the Minnesota state fire code.

The state fire code is amended as follows:

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

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

   307.2. Permit required. The person who will be responsible for the recreational fire must obtain a permit from the fire department prior to kindling a recreational fire. The permit holder is responsible for conducting, controlling and extinguishing the fire in compliance with the city fire code. A recreational fire permit does not relieve the applicant from liability due to damage resulting from fire or smoke.

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

   307.4.2. Recreational fires. Recreational fires must not be conducted within 25 feet (7620 mm) of a structure or combustible material; except that the minimum distance from a structure does not apply to a nonmoveable fire pit that existed prior to June 24, 2017. Conditions which could cause a fire to spread within 25 feet 97620 mm) of a structure must be eliminated prior to ignition. Fire pits must be located a minimum of 10 feet from any property line.

The stricken language is deleted; the underlined language is inserted.
307.4.3. Portable outdoor fireplaces. Portable outdoor fireplaces must be used in accordance with the manufacturer's instructions and must not be operated within 15 feet (3048 mm) of a structure or combustible material.

307.4.4. Materials burned. Wood burned in a recreational fire or portable outdoor fireplace must be dry, aged wood and a minimum of 3 inches one inch in diameter. No trash, brush, leaves or treated lumber may be burned.

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

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 _______________, 2017.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this Ordinance:

Date of introduction: August 28, 2017
Date of adoption:
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication:

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

__________________________
David E. Maeda, City Clerk

The stricken language is deleted; the underlined language is inserted.
City Council Agenda Item #10B
Meeting of September 11, 2017

Brief Description:
Resolution authorizing just compensation for easements of parcels for the Ridgehaven Lane/Ridgedale Drive Improvements

Recommended Action:
Adopt the resolution

Introduction

The Ridgedale area has seen a number of changes over the past several years including the recent addition of Nordstrom and expansion of Ridgedale Center, construction of the I-394 westbound ramp at Ridgedale Drive, and redevelopment of the Highland Bank and TCF sites. These improvements align with the long-term progression of this area as envisioned in the city’s Ridgedale Village Center study. As new development interest continues to grow in the area, the city is positioning for the continued transformation.

Background

On April 11, 2016, the city council approved the project layout, authorized preparation of plans and specifications, and authorized easement acquisition for the Ridgehaven Lane/Ridgedale Drive Improvements. The project proposes to create a full access intersection at Ridgehaven Lane/Plymouth Road while providing an underpass for Ridgedale Drive under Ridgehaven Lane to maintain continuous north to south traffic through the intersection. Creating this full access reduces traffic volumes at the intersections of Cartway Lane with Ridgedale Drive and Plymouth Road, and redirects it to the new full access, improving overall traffic operations in the area. Also, additional capacity and safety improvements are proposed along Plymouth Road to provide widening in select locations to better reconfigure the existing travel lanes.

The addition of sidewalks and street lighting to improve pedestrian mobility in the area is also included in the project, as well as overhead utility line burial starting this fall along Plymouth Road from I-394 to south of Ridgedale Drive, to visually enhance the corridor. This will also allow for future sidewalk and streetscaping opportunities to be completed at the time of future redevelopments.

Easements

At the time of approvals on April 11, 2016, Target (13201 Ridgedale Drive), one of the four property owners in which easements were needed to move forward with the project, had officially agreed to donate private property to make this project feasible, at no cost to the city. Since that time, SRF Consulting was authorized to obtain appraisals...
and negotiate with property owners to work towards acquiring the necessary easements for the project. Since the project will have a positive outcome for all affected parcels, donations have been discussed with the three remaining property owners. Staff still anticipates getting most or all of the easements as a donation; however, in order to protect the construction timeline to begin in 2018 and follow the federal funding rules, the project must continue to move forward with the required acquisition process while these private properties continue on a parallel internal process for the acquisitions. This will allow the city to acquire the easements within the project schedule through a provision of the state statute, which allows the city to take title and possession of certain properties, and begin construction even though the process is not yet complete, if for any reason they are not donated, and a purchase or condemnation should be considered.

At this time, the city has obtained appraisals for the easements needed as indicated below, and staff is recommending approval of these amounts:

<table>
<thead>
<tr>
<th>Property</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>13201 Ridgedale Drive (Target)</td>
<td>$400,000</td>
</tr>
<tr>
<td>13101/13081 Ridgedale Drive (Ridgehaven/Byerly's)</td>
<td>$366,000</td>
</tr>
<tr>
<td>13000 Ridgedale Drive (Verizon)</td>
<td>$25,500</td>
</tr>
<tr>
<td>1501 Plymouth Road (Bonaventure)</td>
<td>$16,500</td>
</tr>
</tbody>
</table>

Offers will be made based on the approved amounts, but contingent upon the city approving a contract for construction of the project. That contingency will protect the city from expending funds for acquisition, if for any reason the project ultimately does not go forward.

**Estimated Project Costs and Funding**

The total estimated construction cost, including engineering, administration, easement acquisition and contingency is $8,800,000. The budget amount for the project is shown below and is included in the 2016-2020 CIP. Estimated costs will be further refined during final design and as easement acquisition becomes more apparent. When final costs are known at the time bids are awarded, the city council will likely be requested to amend the CIP to reflect any funding changes. Currently available municipal state aid allotment can support the proposed funding.

Subsequent to council’s April 2016 project approval, the city of Minnetonka received a grant through the Metropolitan Council Regional Solicitation Funding program in the amount of $4,504,000 for this project. This grant funding is expected to be officially approved at the end of the year as part of the federal transportation program and would be available to the city for reimbursement beginning in the year 2021, or sooner if available. At this time, Target, Ridgehaven/Byerly’s and Bonaventure have indicated they plan to donate easements, however paperwork is not complete. In the event that the city must move forward and purchase any of the easements or acquire through
condemnation, the easement costs are eligible for the federal funds that are now available for the project.

Because the federal funding may not be available for reimbursement until 2021, the city will need to be prepared to cash flow the project during construction. When final costs are known, the use of the federal funds will prioritize uses to preserve city sources needed for critical local projects. If any city funding remains after all final costs are known and the federal funds are received, the balances will be available to support those other projects within the city’s capital program.

<table>
<thead>
<tr>
<th>Description</th>
<th>Budget Amount</th>
<th>Proposed Funding</th>
<th>Expense</th>
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<tr>
<td>Construction Costs</td>
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<tr>
<td><strong>Ridgehaven Lane/Ridgedale Drive</strong></td>
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<tr>
<td>Municipal State Aid</td>
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<tr>
<td>Street Improvement Fund</td>
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<td>Storm Water Fund</td>
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<tr>
<td>Tax Abatement</td>
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<tr>
<td>Electric Franchise Fees</td>
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<td></td>
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<tr>
<td>Federal Grant (Met. Council)</td>
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<td>4,000,000</td>
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</tr>
<tr>
<td><strong>Total</strong></td>
<td>$4,100,000</td>
<td>$5,400,000</td>
<td>$5,400,000</td>
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<td><strong>Plymouth Road</strong></td>
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<td>$1,500,000</td>
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<td>Federal Grant (Met. Council)</td>
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<td><strong>Total</strong></td>
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<td>$8,800,000</td>
<td>$8,800,000</td>
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**Schedule**

If the recommended actions are approved by the city council, staff anticipates final council approval of the plans and specifications in January. Bids would be presented for acceptance following and construction would likely begin in April 2018. Utility burial and relocation would likely start in 2017 to allow adequate time for this work.
Recommendation

Adopt the attached resolution authorizing just compensation for the easements for the above project.

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

Originated by:
   Phil Olson, Assistant City Engineer
Resolution No. 2017-

Resolution authorizing just compensation for easement parcels for the Ridgehaven Lane/Ridgedale Drive Improvements

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

Section 1. Background.

1.01. The city council authorized easement acquisition at its regular meeting of April 11, 2016.

1.02. SRF Consulting Group was authorized to obtain appraisals for the necessary easements to determine fair market value of those easements.

1.03. The appraised value of those easements on two parcels requires council approval before offers can be made to purchase those easements.

Section 2. Council Action.

2.01. Just compensation for easements to be acquired for Project No. 16501 is hereby authorized as follows:

<table>
<thead>
<tr>
<th>Property Address</th>
<th>Amount</th>
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<tbody>
<tr>
<td>13201 Ridgedale Drive</td>
<td>$400,000</td>
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<tr>
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<td>$25,500</td>
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<tr>
<td>1501 Plymouth Road</td>
<td>$16,500</td>
</tr>
</tbody>
</table>

2.02. Staff is authorized to make offers to property owners based on the just compensation amounts approved above, contingent upon the city council’s approval of a contract for construction of the Ridgehaven Lane/Ridgedale Drive improvement project.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 11, 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 September 11, 2017.

______________________________
David E. Maeda, City Clerk
Brief Description  Resolution approving a conditional use permit for a microdistillery at 6020 Culligan Way

Recommendation  Adopt the resolution approving the permit

Introduction

Dashfire Bitters is a microdistillery specializing in the creation of single flavor and specialty bitters. Previously located in St. Paul, Dashfire recently moved to the manufacturing/warehouse tenant space formerly occupied by Lucid Brewing at 6020 Culligan Way. While city ordinance permits the distilling of bitters, Dashfire is proposing to start distilling spirits. This requires a conditional use permit. The state requires a microdistillery license, which was issued in July of this year for the Minnetonka location.

Planning Commission Hearing

The planning commission considered the request on August 24, 2017. The commission report and plans are attached. Staff recommended approval of the conditional use permit noting:

- Microbreweries are conditionally permitted uses within the I-1 zoning district, as are “other uses similar to those permitted” in the district. While the brewing and distilling processes may themselves be different, microbreweries and microdistilleries are similar from a land use perspective.

- The proposed microdistillery would meet all minimum conditional use permit standards applicable to microbreweries.

- Given the size of the building and presumed manufacturing/warehousing uses within the building, 27 parking stalls are required. There are 41 striped parking stalls on the property.

At its meeting, the planning commission opened a public hearing to take public comment; no comments were received.

Planning Commission Recommendation

On a 7-0 vote, the commission recommended the city council approve the conditional use permit. Meeting minutes are attached. There have been no changes to the proposal since the hearing.
Staff Recommendation

Adopt the resolution approving a conditional use permit for a microdistillery at 6020 Culligan Way.

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

Originator: Susan Thomas, AICP, Assistant City Planner
Brief Description
Conditional use permit for a microdistillery at 6020 Culligan Way

Recommendation
Recommend the city council adopt the resolution approving the permit

Introduction
Dashfire Bitters is a microdistillery specializing in the creation of single flavor and specialty bitters. Previously located in St. Paul, Dashfire recently moved to the manufacturing/warehouse tenant space formerly occupied by Lucid Brewing at 6020 Culligan Way. While city ordinance permits the distilling of bitters, Dashfire is proposing to start distilling spirits. This requires a conditional use permit.

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

- **Is the proposed distillery use reasonable?**
  Yes. The subject property is zoned I-1, Industrial. Microbreweries are conditionally permitted uses within this zoning district, as are “other uses similar to those permitted” in the district. While the brewing and distilling processes may themselves be different, microbreweries and microdistilleries are similar from a land use perspective.

- **Is existing parking adequate?**
  Yes. Given the size of the building and presumed manufacturing/warehousing uses within the building, 27 parking stalls are required. There are 41 striped parking stalls on the property and additional parking could easily be provided through additional striping of existing paved area.

  At this time, Dashfire is not proposing a cocktail or sample room. If such area were proposed in the future, parking would need to be reevaluated.

Staff Recommendation
Recommend the city council adopt the resolution approving a conditional use permit for a microdistillery at 6020 Culligan Way.
Originator: Susan Thomas, AICP, Assistant City Planner
Through: Loren Gordon, AICP, City Planner
## Supporting Information

<table>
<thead>
<tr>
<th>Surrounding</th>
<th>Northerly: Soo Rail line</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Uses</td>
<td>Easterly: Industrial property, zoned I-1</td>
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<tr>
<td></td>
<td>Southerly: Industrial property, zoned I-1</td>
</tr>
<tr>
<td></td>
<td>Westerly: Industrial property, zoned I-1</td>
</tr>
</tbody>
</table>

### Planning

- **Guide Plan designation:** Industrial
- **Zoning:** I-1, Industrial

### Existing Conditions

The 6020 Culligan Way building was constructed in 1979. Since its construction, portions of the building has been occupied by a variety of tenants including: a woodworking company, a wholesale food distributor, a gymnastics studio, and Lucid Brewing.

### “Other” CUP

By City Code §300.20 Subd. 4(j), microbreweries are conditionally permitted uses in the I-1 zoning district. By City Code §300.20 Subd.4(l), “other uses similar to those permitted … as determined by the city” are also conditionally permitted.

### CUP Standards

The proposed microdistillery would meet the general CUP standards as outlined in City Code §300.21 Subd.2:

1. The use is consistent with the intent of this ordinance;
2. The use is consistent with the goals, policies and objectives of the comprehensive plan;
3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;
4. The use is consistent with the city's water resources management plan;
5. The use is in compliance with the performance standards specified in section 300.28 of this ordinance; and
6. The use does not have an undue adverse impact on the public health, safety or welfare.

The proposal would meet the specific conditional use permit standards for microbreweries as outlined in City Code §300.21 Subd.4(s):
1. Parking requirements: microbrewery, one parking space for each 1000 square feet of floor area. Taproom: one parking space for each 50 square feet of floor area.

**Finding:** Given the size of the building and presumed manufacturing/warehousing uses within the building, 27 parking stalls are required. There are 41 striped parking stalls on the property and additional parking could easily be provided through additional striping of existing paved area.

2. Shall have parking and vehicular circulation in compliance with the requirements of section 300.28 of this code and which items must be adequate to accommodate the restaurant.

**Finding:** No cocktail room or tasting room or restaurant is proposed. Parking and circulation standards would be met.

3. Shall only be permitted when it can be demonstrated that operation will not significantly lower the existing level of service as defined by the Institute of traffic engineers on the roadway system.

**Finding:** The proposed distillery is not anticipated to have any impact on existing traffic volumes or levels of service.

**Liquor License**

The proposed distillery would manufacture spirits and sell directly to distributors. No on-sale or off-sale of spirits would occur at the site. As such, no city-issued liquor license is required. Rather, a state license is necessary.

**Motion Options**

The planning commission has three options:

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

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

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

<table>
<thead>
<tr>
<th>Neighborhood Comments</th>
<th>The city sent notices to 26 property owners and received no comments to date.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deadline for Action</td>
<td>November 13, 2017</td>
</tr>
</tbody>
</table>
Location Map

Project: Dashfire
Address: 6020 Culligan Way
Project No. 11006.17a

This map is for illustrative purposes only.
Adopt the resolution approving a side yard and aggregate side yard setback variance for an attached garage at 4714 Caribou Drive.

B. **Front yard setback variance for a second story addition onto the existing home at 4316 Camelot Drive.**

Adopt the resolution approving the front yard setback variance for additions onto the home at 4316 Camelot Drive.

C. **Conditional use permit for a microdistillery at 6020 Culligan Way.**

Recommend that the city council adopt the resolution approving a conditional use permit for a microdistillery at 6020 Culligan Way.

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

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

8. **Public Hearings**

A. **Aggregate side yard and rear yard setback variances to construct a second story addition at 3715 Huntingdon Drive.**

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.

Robert Boyer, representing the applicant, explained that there would be no basement because of the wetland. All of the mechanical systems would be located between the garage and the house. The only logical place to create additional space is over the garage. The garage appears undersized compared to the mass of the house. The addition would improve the appearance of the residence considerably.

The public hearing was opened.

Nancy Sand, 3644 Shady Oak Road, stated that she was concerned that there would be windows on the side. There are woods on the side, but some of the
Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01 Dashfire Bitters is requesting a conditional use permit for operation of a microdistillery. No cocktail or sample room is proposed at this time.

1.02 The property is located at 6020 Culligan Way. It is legally described as: Lot 3, Block 1, Culligan Industrial Park.

1.03 On August 24, 2017, the planning commission held a hearing on the request. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments and the staff report, which are incorporated by reference into this resolution. The commission recommended the city council approve the conditional use permit.

Section 2. Standards.

2.01 By City Code §300.20 Subd. 4(j), microbreweries are conditionally permitted uses in the I-1 zoning district.

2.02 By City Code §300.20 Subd. 4(l), “other uses similar to those permitted … as determined by the city” are also conditionally permitted uses in the I-1 zoning district.

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

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

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

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

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

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

2.04 City Code §330.21 Subd.4(s) lists the following specific conditional use permit standards for microbreweries:

1. Parking requirements: microbrewery, one parking space for each 1,000 square feet of floor area. Taproom: one parking space for each 50 square feet of floor area.

2. Shall have parking and vehicular circulation in compliance with the requirements of section 300.28 of this code and which items must be adequate to accommodate the restaurant.

3. Shall only be permitted when it can be demonstrated that operation will not significantly lower the existing level of service as defined by the Institute of Traffic Engineers on the roadway system.

Section 3. FINDINGS.

3.01 While the brewing and distilling processes may themselves be different, microbreweries and microdistilleries are similar from a land use perspective. Microdistilleries are, therefore, considered a conditional use permit under City Code §300.20 Subd. 4(l).

3.02 The proposed microdistillery would meet the general and specific standards as outlined in City Codes §300.21 Subd.2 and Subd.4(s) and in the staff report associated with the applicant’s request.
Section 4. City Council Action.

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

1. Any delinquent taxes or utility bills must be paid prior to beginning spirit-distilling operations.

2. The addition of a cocktail or sample room will require a reevaluation of parking requirements.

3. The microdistillery must conform to all aspects of the City Code Chapter 8, Public Health and Public Nuisance Ordinances.

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

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

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 11, 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 September 11, 2017.

__________________________________
David E. Maeda, City Clerk

SEAL
City Council Agenda Item #10D  
Meeting of September 11, 2017

**Brief Description**  
Resolution approving a conditional use permit for a restaurant serving liquor at 17420 Minnetonka Blvd.

**Recommendation**  
Adopt the resolution approving the conditional use permit.

**Proposal**

Kai Tho, owner of Kai’s Sushi, is proposing to operate a full-service sushi restaurant in the westernmost tenant space at 17420 Minnetonka Blvd. But for a 120-square-foot addition onto the rear of the building, no exterior modifications are proposed at this time. The 1,880-square-foot restaurant would have seating for approximately 40 people and would have approximately five employees.

The applicant has indicated that he intends to apply for a liquor license. Restaurants serving liquor are conditionally permitted uses within the B-2, limited business district.

**Planning Commission Hearing**

The planning commission considered the request on August 25, 2017. The commission report and associated plans are attached. Staff recommended approval of the proposed restaurant, finding:

- A parking study confirmed that the anticipated parking demand could be accommodated on-site.
- The restaurant use would be complimentary to the village center and would occupy a currently vacant space.
- The restaurant would meet all conditional use permit standards outlined in the zoning ordinance for restaurants serving liquor.

At the meeting, a public hearing was opened to take comment. One person representing the property owner addressed the commission. She summarized how the proposal has been positively received by the other tenants and stated that the property owner intends to implement the parking lot improvements suggested by the parking study.

Following the public hearing, the commission generally expressed support of the proposal.

**Planning Commission Recommendation**

On a 7-0 vote, the commission recommended that the city council approve the conditional
use permit. Meeting minutes are attached.

**Staff Recommendation**

Adopt the resolution approving a conditional use permit for a restaurant serving liquor at 17420 Minnetonka Blvd.

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

Originator:  Ashley Cauley, Senior Planner
MINNETONKA PLANNING COMMISSION  
August 24, 2017

**Brief Description**  
Conditional use permit for a restaurant at 17420 Minnetonka Boulevard

**Recommendation**  
Recommend the city council adopt the resolution approving the request

---

**Proposal**

Kai Tho, owner of Kai’s Sushi is proposing to operate a full-service sushi restaurant in the westernmost tenant space at 17420 Minnetonka Blvd. As proposed, the 1,880 square foot restaurant would occupy a currently vacant space within the multi-tenant shopping center.

The proposal includes a 120-square-foot addition onto the rear of the building to allow for refrigerator and freezer space. No other exterior building improvements are proposed at this time.

According to the submitted plans and the applicant’s narrative, the restaurant would have seating for approximately 40 people and would have five employees. The restaurant would generally be open:

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

The applicant has indicated that he intends to apply for a liquor license. Restaurants that serve liquor are conditionally permitted uses within the B-2, limited business district, zoning district.

**Staff Analysis**

Staff finds the proposed restaurant is reasonable:

- Staff was initially concerned about the amount of on-site parking and so commissioned a parking study. Ultimately, the study concluded that the anticipated parking demand could be accommodated on-site.
• The restaurant use would be complimentary to the village center and would occupy a currently vacant space.

• The restaurant would meet all conditional use permit standards outlined in the zoning ordinance for restaurants serving liquor.

Staff Recommendation

Recommend the city council adopt the resolution approving a conditional use permit for a restaurant at 17420 Minnetonka Boulevard.

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

Project No. 06027.17a
Property 17420 Minnetonka Boulevard
Applicant Kai Tho, owner of Kai Sushi

Surrounding Land Uses
Northerly: Parking lot, zoned B-2, guided commercial. The Sanctuary Townhome development, zoned PUD, guided for Medium Density Residential.
Easterly: Veterinary clinic, zoned PUD, guided commercial.
Southerly: Properties zoned B-2, guided commercial.
Westerly: Properties zoned B-2, guided commercial.

Planning
Guide Plan designation: Commercial
Zoning: B-2, limited business district

Background Information
The 6,300 square foot neighborhood shopping center was originally constructed in 1952. Currently, the shopping center has three tenant spaces, two of which are occupied by a framing store and a take-out bread shop.
The existing parking lot has 43 parking spaces most of which are located in the rear of the building.

Parking Study
A parking study was commissioned to understand:

1. Amount of available parking prior to the proposed development.
2. If the existing parking lot would be able to accommodate the anticipated increase in parking generated from the proposed use.
3. If signing improvements could potentially reduce internal circulation conflicts.

The full parking study prepared by SRF Consulting Group, Inc. is attached. The following is intended to summarize the study:

- By the parking standards provided in city code, the existing parking lot has a surplus of 15 parking stalls.
• The existing on-site parking could accommodate the proposed development and would still result in a parking surplus of between 5 and 13 parking spaces.

• The parking study suggested two site improvements to reduce internal circulation conflicts: (1) installation of one additional “more parking in the rear” parking sign; and (2) striping of two additional parking stalls at the rear of the building.

CUP Standards

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

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

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

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

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

The proposal would meet the specific conditional use permit standards as outlined in City Code §300.21 Subd. 4(i):

1. Parking shall be in compliance with the requirements of section 300.28 of this ordinance;

   Finding: A parking study was commissioned to determine if there would be sufficient parking available on-site to accommodate the proposed use. The study concluded that not only could the additional parking be accommodated on-site, but there would still be a surplus of parking available.

2. Shall only be permitted when it can be demonstrated that operation will not significantly lower the existing level of service as defined by the Institute of Traffic Engineers on streets and intersections.

   Finding: Generally, high-turnover restaurants have a higher trip generation than small shopping centers. However, the generation of the proposed restaurant would still fall within the trip generation range of a shopping center.
3. Shall not be located within 100 feet of any low-density residential parcel or adjacent to medium or high-density residential parcels. The city may reduce separation requirements if the following are provided:

   a. Landscaping and berming to shield the restaurant use.

   b. Parking lots not located in proximity to residential uses; and

   c. Lighting plans, which are unobtrusive to surrounding uses.

Finding: The closest residential parcel is located 160 feet north of the proposed restaurant. The restaurant would be shielded from the residential area by both an existing parking lot and existing vegetation.

Pyramid of Discretion

Motion Options

The planning commission has three options:

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

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 reasons for the denial recommendation.

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

<table>
<thead>
<tr>
<th><strong>Voting Requirement</strong></th>
<th>The planning commission will make a recommendation to the city council. A recommendation for approval requires an affirmative vote of a simple majority. The city council’s approval requires an affirmative vote of a simple majority.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Neighborhood Comments</strong></td>
<td>The city sent notices to 61 area property owners and received no comments to date.</td>
</tr>
<tr>
<td><strong>Deadline for Decision</strong></td>
<td>October 23, 2017</td>
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</tbody>
</table>
Project: Kai’s Sushi
Applicant: Kai Tho
Address: 17420 Minnetonka Blvd
Project No. 06027.17a
To: City Of Minnetonka

Statement for Proposed property for Restaurant
Property Address: 17420 Minnetonka Blvd, Minnetonka, MN 55345

Property and its intended use
Proposed full service restaurant, dine-in and also take out.
Serving authentic Japanese cuisine, Sushi, RAMEN, Teriyaki (chicken, Shrimp, Salmon, Tofu),
Tempura (chicken, shrimp, vegetable), Noodles, Rice Bowl

The restaurant also serves Beer & Wine on premises only.

The restaurant has a seating capacity of 40 person

Number of employees: Full Time 3
Part Time 2

Hours of Operations: Monday – Thursday 11am – 3pm
4.30 pm – 9,30 pm
Friday & Saturday: 11am – 10 pm
Sunday: 4pm – 9.30 pm

Kai Tho
586 W 78th Street
Chanhassen, MN 55317
Tel: 9173923005
7/3/2017
Parking Study
Memorandum

SRF No. 01710824

To: Ashley Cauley, Senior Planner
City of Minnetonka

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

Date: August 14, 2017

Subject: Kai’s Sushi Parking Study

Introduction

SRF has completed a parking study for the proposed Kai’s Sushi development generally located in the northeast quadrant of County Road 101/Minnetonka Boulevard intersection in the City of Minnetonka (see Figure 1: Project Location). The main objectives of the study are to determine if the existing parking supply is sufficient to meet the demand for the proposed land use and to identify potential parking opportunities, if necessary. The following information provides the assumptions, analysis, and recommendations offered for consideration.

Proposed Development

The proposed development, shown in Figure 2, consists of a 1,880 square foot-high-turnover sit-down sushi restaurant and a bar within a portion of the existing retail shopping center. The proposed development patron capacity is 40 seats. Other tenants within the shopping center include a framing specialty store and a bakery/restaurant. The shopping center has 43 parking spaces on site.

Parking Review

Existing parking surveys were completed to determine the amount of available parking prior to the proposed development. The surveys were conducted on both a weekday and weekend during the lunch and evening dinner hours when the proposed development peak parking demand is expected to occur. Results of the existing parking survey are shown in Table 1.

Table 1. Existing Parking Information

<table>
<thead>
<tr>
<th>Parking Information</th>
<th>Survey Period</th>
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<tr>
<td></td>
<td>Weekday 12:00 p.m.</td>
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<tr>
<td>Demand</td>
<td>16</td>
</tr>
<tr>
<td>Supply</td>
<td>43</td>
</tr>
<tr>
<td>Surplus/(Deficit)</td>
<td>+27</td>
</tr>
</tbody>
</table>
Figure 1

Project Location
Kai’s Sushi Parking Study
City of Minnetonka
Kai's Sushi Location
Approximately 1,880 SF
To determine if the existing parking supply will meet demand for the site, a detailed parking review was completed using both the Minnetonka City Code as well as the *ITE Parking Generation Manual, Fourth Edition*. The following information summarizes the parking demand review.

1) The minimum parking requirement based on Minnetonka City Code (Chapter 3, Section 300.28) states that for a neighborhood retail center, the minimum number of parking spaces required is four and half (4.5) spaces per 1000 square feet of gross floor area.

2) Given that the proposed development includes 6,300 square feet of retail space, a total of 28 parking spaces are required based on City code, which results in a 15-space surplus.

3) The 85th percentile parking demand rates for the proposed development were reviewed to develop a parking demand range. Parking demand information for the proposed development is included within Table 2 for various time periods to determine if the existing parking supply is sufficient to accommodate the proposed development.

Based on this information, the existing shopping center parking supply meets the Minnetonka City Code. Additionally, there is expected to be a parking surplus between five (5) and 13 spaces based on the ITE 85th percentile parking demand and existing parking demand. Therefore, the existing parking on-site can accommodate the proposed development.

Table 2. Proposed Development Parking Summary

<table>
<thead>
<tr>
<th>Parking Information</th>
<th>Demand Period</th>
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<tbody>
<tr>
<td></td>
<td>Weekday 12:00 p.m.</td>
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<tr>
<td>Existing Demand</td>
<td>16</td>
</tr>
<tr>
<td>Proposed Development Demand</td>
<td>22</td>
</tr>
<tr>
<td>Total Parking Demand</td>
<td>38</td>
</tr>
<tr>
<td>Existing Supply</td>
<td>43</td>
</tr>
<tr>
<td>Surplus/(Deficit)</td>
<td>+5</td>
</tr>
</tbody>
</table>

(1) The 85th percentile demands are based on the number of seats within the proposed development.

**Site Review**

While the existing parking supply is expected to be adequate, signing improvements are offered for consideration to potentially reduce internal circulation conflicts. The improvements are shown in Figure 3.
Potential Site Improvements
Kai’s Sushi Parking Study
City of Minnetonka

Potential for two additional parking spaces

Proposed Additional Signing, similar to MUTCD R8-3hP

More Parking In Back

Current Sign Location

More Parking In Back

Potential Additional Sign Location

Minnetonka Boulevard

Figure 3
Resolution
Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01 Kai Tho, on behalf of Kai’s Sushi, is proposing to operate a full-service sushi restaurant in a currently vacant tenant space within an existing shopping center. By city code, a restaurant serving liquor is considered a conditionally permitted use within the B-2, limited business, zoning district.

1.02 The property is located at 17420 Minnetonka Boulevard. It is legally described as:

Parcel 1:

The south 144 feet of that part of Lot 25 and 26, the Herzog Deephaven Acres, lying West of the East 150 feet and lying East of the West 50 feet of said Lot 26, Hennepin County, Minnesota.

(Abstract Property)

Parcel 2:

That part of Lot 26, the Herzog Deephaven Acres, lying North of the South 144 feet thereof and lying East of the West 50.0 feet of said Lot 26, Hennepin County, Minnesota.

(Abstract Property)

1.03 On August 24, 2017, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received
and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. Standards.

2.01 City Code §300.21 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 §300.21 Subd. 4(i) outlines the following specific standards that must be met for granting a conditional use permit for such facilities:

1. Parking shall be in compliance with the requirements of Section 300.28 of this ordinance.

2. Shall only be permitted when it can be demonstrated that operation will not significantly lower the existing level of service as defined by the Institute of Traffic Engineers on streets and intersections.

3. Shall not be located within 100 feet of any low-density residential parcel or adjacent to medium or high-density residential parcels. The city may reduce separation requirements if the following are provided:
   a. Landscaping and berming to shield the restaurant use.
   b. Parking lots not located in proximity to residential uses; and
   c. Lighting plans which are unobtrusive to surrounding uses.

Section 3. Findings.

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

3.02 The proposal meets the specific conditional use permit standards outlined in City Code 300.21 Subd 4(i):

1. A parking study was commissioned to determine if there would be sufficient parking on-site to accommodate the proposed use. The study concluded that not only could the additional parking be accommodated on-site, but there would be a surplus of available parking even with the proposed restaurant occupancy.

2. Generally, high turn-over restaurants have a higher trip generation
than small shopping centers. However, the generation of the proposed restaurant would still fall within the trip generation range of a shopping center.

3. The closest residential parcel is located 160 feet north of the proposed restaurant. The restaurant would be shielded from the residential area by both an existing parking lot and existing vegetation.

Section 4. City Council Action.

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

1. Subject to staff approval, the property must be developed and maintained in substantial conformance with the plans included in the staff report associated with the conditional use permit request including:
   - Applicant’s narrative dated July 3 2017
   - Site plan date stamped June 28, 2017
   - Floor plan date stamped June 28, 2017

2. Prior to issuance of a building permit for tenant finish, this resolution must be recorded with Hennepin County.

3. The restaurant must obtain all applicable food and liquor licenses from the city.

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

5. 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 September 11, 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 September 11, 2017.

David E. Maeda, City Clerk
B. **Conditional use permit for a restaurant at 17420 Minnetonka Boulevard.**

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

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

Schack asked if the tenants expressed concerns. Cauley answered in the negative.

The public hearing was opened.

Victoria Pervix, on behalf of Interstate Development, the applicant, stated that she has received very positive comments from the tenants. The framing shop would share restroom facilities with the applicant. The bread-shop owners have been supportive. The applicant plans to implement the recommendations provided in the parking study report by installing signs and adding parking stalls in the rear.

No additional testimony was submitted and the hearing was closed.

Calvert is excited for a sushi bar.

*O’Connell moved, second by Schack, to recommend that the city council adopt the resolution approving a conditional use permit for a restaurant at 17420 Minnetonka Boulevard.*

*Calvert, Knight, O’Connell, Powers, Schack, Sewell, and Kirk voted yes. Motion carried.*
City Council Agenda Item #10E  
Meeting of September 11, 2017

**Brief Description**  
Twelve month extension of the OAKHAVEN ACRES 2nd ADDITION preliminary plat at 13929 Spring Lake Road

**Recommendation**  
Approve the time extension

**Background**

On July 13, 2015, the city council approved the OAKHAVEN ACRES 2nd ADDITION preliminary plat. As approved, an existing single-family residential property would be divided into two, single-family residential lots.

On August 22, 2016, the city council approved a twelve month extension of the OAKHAVEN ACRES 2nd ADDITION preliminary plat.

**Extensions**

By city code, a preliminary plat approval is valid for one year. If the city does not approve a final plat within one year of preliminary approval, or receive a written application for a time extension, the preliminary approval is rendered void.

The ordinance does not include any specific conditions under which preliminary plat approval may be extended. Nevertheless, the city has generally considered: (1) whether there have been changes to city code or policy that would affect the previous approval; and (2) whether such extension would adversely affect the interests of neighboring property owners.

The property owner recently requested an extension of the OAKHAVEN ACRES 2nd ADDITION preliminary plat.

**Staff Analysis**

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

- The extension would not adversely affect the interests of neighboring property owners.

**Staff Recommendation**

Approve the twelve-month time extension.

Submitted through:  
Geralyn Barone, City Manager  
Julie Wischnack, AICP, Community Development Director  
Loren Gordon, AICP, City Planner
Originated by:
  Susan Thomas, AICP, Assistant City Planner
Location Map

Project: Oakhaven Acres 2nd Addition
Applicant: Lakewest Development Co
Address: 13929 Spring Lake Rd
(15018.15a)
Resolution No. 2015-052

Resolution approving the preliminary plat, with lot width variances, of OAKHAVEN ACRES 2nd Addition at 13929 Spring Lake Road

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

Section 1. Background.

1.01 Tim Thompkins and Lakewest Development have requested preliminary plat approval for OAKHAVEN ACRES 2nd ADDITION. The plat includes lot width at setback variances from 110 feet to 102 feet. (Project 15018.15a)

1.02 The property is located at 13929 Spring Lake Road. It is legally described as follows:

Lot 4, Oakhaven Acres, Hennepin County, Minnesota

1.03 On June 25, 2015, the planning commission held a hearing on the proposed plat. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council grant preliminary plat approval.

Section 2. Standards.

2.01 City Code §400.025 outlines general design requirements for residential subdivisions. These standards are incorporated by reference into this resolution.

2.02 City Code §400.055 states that a variance may be granted, but is not mandated, when the applicant meets the burden of proving that:
1. the proposed variance is a reasonable use of the property, considering such things as:
   a) functional and aesthetic justifications for the variance; and
   b) improvement to the appearance and stability of the property and neighborhood.

2. the circumstances justifying the variance are unique to the property, are not caused by the landowner, are not solely for the landowner's convenience, and are not solely because of economic considerations; and

3. the variance would not adversely affect or alter the essential character of the neighborhood.

Section 3. Findings.

3.01 The proposed preliminary plat meets the design requirements as outlined in City Code §400.025.

3.02 The proposed preliminary plat meets the design requirements as outlined in City Code §400.055:

1. The effective width of the lots would meet the lot width requirements outlined in the ordinance. The lot width at the front yard setback is 102 feet as defined by the ordinance. However, the effective width, as measured along the setback requirement, is 114 feet. This would meet the lot width at setback requirement of 110 feet. The need for the variance is a result of an inconsistency in how lot width is measured by the ordinance. The variance is not a result of the lots actually having a reduced lot width.

2. While not necessarily unique to all residential properties in the community, the large size and width the existing lot is unique to the immediate Spring Lake Road area. In fact, the proposed lot division would result in lots more typical of the area.

3. The proposed variance would not adversely impact the character of the neighborhood. The effective width of the lots would meet the city's lot width requirement.

4.01 The above-described preliminary plat is hereby approved, subject to the following conditions:

1. Final plat approval is required. A final plat will not be placed on a city council agenda until a complete final plat application is received.

   a) The following must be submitted for a final plat application to be considered complete:

      1) A final plat drawing that clearly illustrates the following:

         a. A minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way and minimum 7-foot wide drainage and utility easements along all other lot lines.

         b. Utility easements over existing or proposed public utilities, as determined by the city engineer.

         c. Drainage and utility easements over wetlands, floodplains, and stormwater management facilities, as determined by the city engineer.

   2) Documents for the city attorney’s review and approval. These documents must be prepared by an attorney knowledgeable in the area of real estate.

      a. Title evidence that current within thirty days before release of the final plat.

      b. Conservation easements over the 25-foot wetland buffer on both lots, and a drawing of the easements. The easement may allow removal of hazard, diseased, or invasive species.

2. Prior to final plat approval:

   a) This resolution must be recorded with Hennepin County.

   b) The documents outlined in section 4.01(1)(a)(2) above must be approved by the city attorney.

3. Prior to release of the final plat for recording:
a) Submit the following:

1) Two sets of mylars for city signatures.

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

3) Park dedication fee of $5,000.00

b) The existing house must be demolished.

4. Subject to staff approval, OAKHAVEN ACRES 2\textsuperscript{nd} ADDITION must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:

- Preliminary plat dated April 17, 2015

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

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

1) Final grading and tree preservation plan for the lot. The plan must:


   b. The floodplain elevation of 958.6 must be indicated on the plans, and the house must meet all floodplain setback requirements. No grading is allowed below the floodplain elevation.

   c. Comply with the city's tree preservation ordinance. Final house, driveway, utilities, and stormwater management must be located to maximize tree preservation on both lots. No more than five high priority trees may be removed from Lot 1, and no more than two high priority trees may be removed from Lot 2. City staff may administratively approve adjustment in the tree removal for each lot so long as the total tree removal does not exceed seven high priority trees.
d. Show sewer and water services to minimize impact to any significant or high priority trees. Utilities must be located within driveway areas where possible to minimize tree loss. No additional trees may be removed for installation of utility services.

e. No grading is permitted within the wetland buffer area, unless determined to be necessary by city staff.

2) Final utility plan must meet the following:

a. The existing services shall be removed to their respective mains, the sewer wye is to be cut out and sleeved and the water service pipe removed to the main and the corporation stop turned off.

b. The existing sewer main invert elevations must be confirmed, the proposed house to the east may not be able to be served via gravity sewer service.

c. The proposed sewer services need to connect to the main with a wye. A direct connection to the manhole will not be allowed.

3) A tree mitigation plan. The plan must meet minimum mitigation requirements as outlined in ordinance. However, at the sole discretion of staff, mitigation may be decreased.

4) Stormwater management plan that meets the requirements of the city's water resources management plan.

5) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.

6) Evidence of filing the final plat at Hennepin County and copies of all recorded easements and documents as required in section 4.01(1)(a)(2) of this resolution.
7) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance. If the builder is the same entity doing grading work on the site, the construction management plan submitted at the time of grading permit may fulfill this requirement.

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

- The property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and
- If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.

   b) The driveway to Lot 2 must be roughed in with gravel prior to construction to avoid construction traffic over the sanitary sewer main.

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

   d) Install heavy duty fencing, which may include chain-link fencing, at the conservation easement. This fencing must be maintained throughout the course of construction.

   e) Submit all required hook-up fees.

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

   a) Minimum floor elevation is 960.6.
b) All lots within the development must meet all minimum access requirements as outlined in Minnesota State Fire Code Section 503. These access requirements include road dimension, surface, and grade standards. If access requirements are not met, houses must be protected with a 13D automatic fire sprinkler system or an approved alternative system.

c) Each of the homes must meet the requirements of the city's McMansion Policy. The floor area ratio (FAR) of each of the homes may not exceed the maximum FAR of properties within 400 feet, and 1,000 feet along Spring Lake Road, at the time the building permit is issued. The maximum FAR within the surrounding area is 0.24 as of the date of this resolution.

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

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

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

10. The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.

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

Terry Schneider, Mayor

Attest:  

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

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

David E. Maeda, City Clerk
assessment rolls, and scheduling a public hearing. All voted “yes.” Motion carried.

Allendorf moved, Acomb seconded a motion to adopt resolution 2016-073 declaring costs for city court fines, Project No. 1020 (1-year), ordering the preparation of special assessment rolls, and scheduling a public hearing. All voted “yes.” Motion carried.

Allendorf moved, Acomb seconded a motion to adopt resolution 2016-074 declaring costs for the trip generation fee for the property at 10401 Bren Road East, ordering the preparation of special assessment rolls. All voted “yes.” Motion carried.

B. Resolution approving a conditional use permit, with building plans, for a licensed daycare facility at 6030 Clearwater Drive.

Allendorf moved, Acomb seconded a motion to adopt resolution 2016-075 approving a conditional use permit, with building plans, for a licensed daycare facility at 6030 Clearwater Drive. All voted “yes.” Motion carried.

C. Twelve-month extension of the Saville West final plat at 5290 and 5300 Spring Lane, 5325 County Road 101, 5301 and 5311 Tracy Lynn Terrace, and unassigned addresses.

Allendorf moved, Acomb seconded a motion to adopt resolution 2016-076 approving the 12-month time extension of the Saville West final plat at 5290 and 5300 Spring Lane, 5325 County Road 101, 5301 and 5311 Tracy Lynn Terrace, and unassigned addresses. All voted “yes.” Motion carried.

D. Twelve-month extension of the Oakhaven Acres 2nd Addition preliminary plat at 13929 Spring Lake Road.

Allendorf moved, Acomb seconded a motion to adopt resolution 2016-077 approving the 12-month time extension of the Oakhaven Acres 2nd Addition preliminary plat at 13929 Spring Lake Road. All voted “yes.” Motion carried.

E. Resolution requesting MnDOT variance for Ridgehaven Lane/Ridgedale Drive.

Allendorf moved, Acomb seconded a motion to adopt resolution 2016-078 approving the resolution requesting MnDOT variance for Ridgehaven Lane/Ridgedale Drive. All voted “yes.” Motion carried.
Hi Susan-

Can’t believe another year has passed already, and I see we’re 12 days past the date I sent this request to extend the preliminary plat approval to you last year. Am I still able to extend another year?

Thanks!

Tim

———

From: Tim Tompkins  
Sent: Tuesday, July 12, 2016 3:56 PM  
To: Susan Thomas <sthom@eminnetonka.com>  
Subject: RE: extension request

Hi Susan-

Good to speak with this morning. As per our conversation, I would like to request a one year extension to the preliminary plat approval currently in place for:

Timothy Tompkins  
13929 Spring Lake Road  
Minnetonka, MN 55345

Please let me know if any additional is needed from my end.

Thanks! ☺

Tim

———

From: Susan Thomas [mailto:sthom@eminnetonka.com]  
Sent: Tuesday, July 12, 2016 11:23 AM  
To: Tim Tompkins  
Subject: extension request

Tim,

Per our phone conversation, you need to submit a written request for a one-year extension of your preliminary plat approval. The request must be received by tomorrow – July 13, 2016 – which is the one year “anniversary” of approval. You may simply respond to this email.

Regards,  
Susan
City Council Agenda Item #10F
Meeting of September 11, 2017

Brief Description  Resolution approving a floodplain alteration permit and horizontal floodplain setback variance from 20 feet to 7.5 feet and waiving the McMansion policy; and ordinance to remove area from floodplain overlay district at 3136 County Road 101

Recommendation  Adopt the resolution and ordinance approving the requests

Background

In 2006, the city council approved a two-lot subdivision, creating the property at 3136 County Road 101. At that time, the buildable area of the lot was defined by the required setbacks from property lines and a large wetland area which is adjacent to Shaver’s Lake. Though there was floodplain on the site, the floodplain elevation was located “below” the delineated wetland edge. In other words, the wetland edge was more restrictive – from a building perspective – than the floodplain. The property has remained vacant since the 2006 approval.

Over the last several months, city staff has met with several prospective buyers of the vacant lot. In all meetings, staff provided information regarding required setbacks. The lot was recently purchased by LandMark Construction Solutions, Inc. The company worked to design a home that would fit within the tight confines of the lot and checked in with staff at several points during the design process. A building permit application was then submitted. During the review of that permit, staff discovered that recent 2016 floodplain map revisions have raised the floodplain elevation on the property by roughly four feet. The modeled floodplain elevation is now located “above”, and more restrictive than, the delineated wetland edge. The new elevation essentially renders the lot unbuildable.

Current Proposal

After consultation with city staff, LandMark Construction Solutions, Inc. has submitted a plan that will recreate some buildability on the site. The plan proposes fill of 20 cubic yards of floodplain and creation of 20 cubic yards of new floodplain area. The plan also proposes a horizontal floodplain setback variance from 20 feet to 7.5 feet for the new home. Required vertical separation from the floodplain would be met.

Planning Commission Hearing

The planning commission considered the request on September 7, 2017. The commission report and plans are attached. Staff recommended approval of the requests noting:

1. The proposed floodplain alteration is reasonable. At the time of the 2006 approval, the property contained roughly 3,210 square feet of buildable area. The recent
change to the floodplain elevation reduced the buildable area of the site by 60 percent; under current conditions the site contains just 1,305 square feet of buildable area. The proposed floodplain alteration is intended to reasonably recreate some, but not all, of the “lost” buildable area.

2. The proposed horizontal setback variance is reasonable. The setback variance could be eliminated were more floodplain area filled and compensation area provided. However, increased fill and compensation would result in greater manipulation of the site’s natural features. Further, the low floor of the proposed home would meet the vertical separation from the floodplain elevation. From an engineering perspective, the vertical separation from floodplain provides for greater protection than a horizontal setback.

3. Waiving the McMansion Policy is reasonable, as:

   • The setback variance could be eliminated were more floodplain area filled and compensation area provided. However, increased fill and compensation would result in greater manipulation of natural site features.

   • The proposed home meets the setbacks outlined in the 2006 subdivision approval and as initially relayed to the applicant by staff.

   • The highest floor area ratio (FAR) within the immediate area is 0.26. By city code definition, when calculating FAR, floodplain area must be excluded from the calculation. Given this, a FAR of 0.26 would equate to a total floor area of 3,224 square feet including garage space.

Planning Commission Recommendation

A change memo will be issued prior to the council meeting on Monday, September 11 outlining the planning commission discussion and recommendation.

Staff Recommendation

Recommend the city council adopt the following associated with construction of a house at 3136 County Road 101:

1) Resolution approving a floodplain alteration permit and horizontal floodplain setback variance from 20 feet to 7.5 feet and waiving the McMansion policy.

2) Ordinance to remove area from floodplain overlay district.

Through: Geralyn Barone, City Manager
         Julie Wischnack, AICP, Community Development Director
         Loren Gordon, AICP, City Planner
Originator: Susan Thomas, AICP, Assistant City Planner
MINNETONKA PLANNING COMMISSION
September 7, 2017

Brief Description
Items concerning construction of a house at 3136 County Road 101:

1. Floodplain alteration permit;
2. Horizontal floodplain setback variance;
3. Floodplain rezoning; and
4. Waiving the McMansion policy.

Recommendation
Recommend the city council adopt the resolution and ordinance approving the requests

Background
In 2006, the city council approved a two-lot subdivision, creating the property at 3136 County Road 101. At that time, the buildable area of the lot was defined by the required setbacks from property lines and a large wetland area which is adjacent to Shaver’s Lake. Though there was floodplain on the site, the floodplain elevation was located “below” the delineated wetland edge. In other words, the wetland edge was more restrictive – from a building perspective – than the floodplain. The property has remained vacant since the 2006 approval.

Over the last several months, city staff has met with several prospective buyers of the vacant lot. In all meetings, staff provided information regarding required setbacks. The lot was recently purchased by LandMark Construction Solutions, Inc. The company worked to design a home that would fit within the tight confines of the lot and checked in with staff at several points during the design process. A building permit application was then submitted. During the review of that permit, staff discovered that recent 2016 floodplain map revisions have raised the floodplain elevation on the property by roughly four feet. The modeled floodplain elevation is now located “above”, and more restrictive than, the delineated wetland edge. The new elevation essentially renders the lot unbuildable.

Current Proposal
After consultation with city staff, LandMark Construction Solutions, Inc. has submitted a plan that will recreate some buildability on the site. The plan proposes fill of 20 cubic yards of floodplain and creation of 20 cubic yards of new floodplain area. The plan also proposes a horizontal floodplain setback variance from 20 feet to 7.5 feet for the new home. Required vertical separation from the floodplain would be met.

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

- **Is the proposed floodplain alteration reasonable?**

  Yes. At the time of the 2006 approval, the property contained roughly 3,210 square feet of buildable area. The recent change to the floodplain elevation reduced the buildable area of the site by 60 percent; under current conditions the site contains just 1,305 square feet of buildable area. The proposed floodplain alteration is intended to reasonably recreate some, but not all, of the “lost” buildable area.
• **Is the proposed floodplain setback variance reasonable?**

Yes. The proposed horizontal setback variance is reasonable for two primary reasons:

1. The setback variance could be eliminated were more floodplain area filled and compensation area provided. However, increased fill and compensation would result in greater manipulation of the site’s natural features.

2. The low floor of the proposed home would meet the vertical separation from the floodplain elevation. From an engineering perspective, the vertical separation from floodplain provides for greater protection than a horizontal setback.

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

Yes. The McMansion Policy is a tool the city can utilize to ensure new homes or additions requiring variances are consistent with the character of the existing homes within the neighborhood. By policy, the floor area ratio (FAR) of the subject property cannot be greater than the largest FAR of properties within 1,000 feet on the same street, and a distance of 400 feet from the subject property. The proposed home has a total floor area of 4,400 square feet as defined by the McMansion policy which equates to an FAR of 0.36. The largest FAR in the neighborhood is 0.26.

As Landmark Construction is requesting a setback variance, the city could choose to apply the McMansion policy to the home proposed for the site. However, in staff’s opinion, the policy should be waived for several reasons:

1. The setback variance could be eliminated were more floodplain area filled and compensation area provided. However, increased fill and compensation would result in greater manipulation of natural site features.

2. The proposed home meets the setbacks outlined in 2006 subdivision approval.

3. The highest FAR within the immediate area is 0.26. By city code definition, when calculating FAR, floodplain area must be excluded from the calculation. Given this, a FAR of 0.26 would equate to a total floor area 3,224 square feet including garage space.
4. The topography of the site falls significantly from County Road 101 toward Shaver’s Lake. The elevation of the first floor of the proposed home is 15 feet lower than the elevation of the road. This elevation difference causes the home to sit lower on the site which reduces its perceived mass as viewed from County Road 101 and adjacent properties.

Summary Comments

The recent change in the recognized floodplain elevation on the subject property significantly impacted its buildable area. Under current conditions, the size and shape of the remaining buildable area makes it difficult – if not impossible – for a home to be constructed on the property without relief through some combination of floodplain alteration and setback variance. In staff’s opinion, LandMark Construction has made a good faith effort to work within the tight confines of the property, while minimizing impact to the site’s natural features.

Staff Recommendation

Recommend the city council adopt the following associated with construction of a house at 3136 County Road 101:

1) Resolution approving a floodplain alteration permit and horizontal floodplain setback variance from 20 feet to 7.5 feet and waiving the McMansion policy.

2) Ordinance to remove area from floodplain overlay district.

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

<table>
<thead>
<tr>
<th>Surrounding Land Uses</th>
<th>The subject property is surrounded by single-family homes.</th>
</tr>
</thead>
</table>
| Planning              | Guide Plan designation: low-density residential  
Zoning: R-1          |
| Neighborhood Comments | The city sent notices to 40 area property owners and received no comments to date. |

![Pyramid of Discretion](image)

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

1. Concur with the staff recommendation. In this case a motion should be made recommending the city council approve the requests based on the findings, and subject to the conditions, outlined the staff-drafted resolution and ordinance.

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

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

**Voting Requirement**
The planning commission will make a recommendation to the city council. A recommendation to approve the requests requires an
affirmative vote of a simple majority. City council approval of the rezoning and alteration permit requires an affirmative vote of a simple majority; approval of the requested setback variance requires an affirmative vote of five council members.

**Deadline for Action**  December 4, 2017
Certificate of Survey
for Landmark Construction
Lot 2, Block 1, REEDS ADDITION
City of Minnetonka, Hennepin County, Minnesota

NO EXCAVATION OR CONSTRUCTION CAN BE UNDERTAKEN UNTIL THIS PLAN IS APPROVED BY THE LOCAL BUILDING INSPECTOR.

LOWEST FLOOR ELEVATION IS SUBJECT TO SOIL AND WATER TABLE CONDITIONS.

ALL MEASUREMENTS AND DISTANCE INFORMATION IS PER THE RECORDED PLAT.

Elements shown for proposed plan unless other documentation is provided to us.

Contractor to determine exact location and elevation of sewer service.

The lowest floor elevation is subject to the actual depth and elevation of the sewer service.

Prior to any excavation, excavator must confer survey with house plan and subject to verify type of house and final elevation.

SURVEYOR'S NOTES:
1. Grades/measurements along west side County Road 40 have changed since Advance Surveying & Engineering Co. survey was done in November 28, 2006. For the purposes of this survey, Hennepin County central point "Prf" was used as the elevation benchmark.
2. "Shaver's Lake" Ordinary High Water Elevation = 929.3 ft per MN/DOH (NGVD29).
3. Highest Recorded Elevation = 931.4 ft per MN/DOH (NGVD29).
4. For the purpose of this house plan, only the western portion of the subject lot was surveyed.
5. Per the covenants of REEDS ADDITION, the minimum lowest floor elevation = 932.2 ft.
6. Per City, the lowest floor shall be 2 feet above the 100 year flood elevation = 934.1 ft (NAVD 88) per Mankato Creek Watershed District.
7. Proposed fill area in existing floodplain = 990 S.F. (see cross-hatched area).
8. A variance will be required to reduce the 20 foot floodplain setback to 7.5 feet.

I hereby certify that this survey, plot, or report was prepared by me or under my direct supervision, and that I am a licensed land surveyor under the laws of the State of Minnesota.

SIGNED
Craig A. Wenzelmann
Date: 5/29/17

REV.
NO.
DATE
DESCRIPTION
5/29/17
Survey review of boundaries, converted
3/26/17
Set elevation, add wetland flag symbols
2/7/17
Sheet cornering & feet
8/21/17
494 gallon pressure storage tank, 2000 gal.
8/21/17
494 gallon pressure storage tank, 2000 gal.
8/21/17
494 gallon storage tank, 2000 gal.
8/21/17
494 gallon storage tank, 2000 gal.
Resolution No. 2017-
Resolution approving floodplain alteration and horizontal floodplain setback variance and waiving the McMansion Policy for construction of a house at 3136 County Road 101

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

Section 1. Background.

1.01 The subject property is located at 3136 County Road 101. It is legally described as LOT 2, BLOCK 1, REEDS ADDITION.

1.02 The property was created by plat in 2006. At that time, the recognized floodplain elevation on the site was 930.2. The required setback from this elevation, from the delineated wetland edge, and from property lines confined the buildable area of the site to 3,210 square feet.

1.03 Recent floodplain map revisions have raised the floodplain elevation on the subject property to 934.1. This change has reduced the buildable area to roughly 1,305 square feet.

1.04 LandMark Construction Solutions, Inc. is requesting approval of a floodplain alteration permit and horizontal floodplain setback variance from 20 feet to 7.5 feet to facilitate construction of a house on the subject property.

1.05 On September 7, 2017, the planning commission held a hearing on the proposal. 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 planning commission recommended the city council approve the requests.

Section 2. Standards.

2.01 City Code §300.24 Subd. 9(c), states that in reviewing floodplain alteration permits, the city will consider whether the following general standards are
met:

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

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

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

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

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

6. The alteration will not adversely impact governmental facilities, utilities, services or existing or proposed public improvements; and

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

2.02 City Code §300.24 Subd. 9(d), states that a floodplain alteration permit will not be granted unless the following specific standards are met.

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

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

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

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

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.

2.04 The McMansion Policy is a tool the city can use to ensure that homes constructed on lots requiring variance from the subdivision ordinance, or homes that require variances to zoning standards, have a visual mass similar to that of existing homes within a neighborhood. Under the policy, the floor area ratio (FAR) of the subject property cannot be greater than the largest FAR of properties within 1,000 feet on the same street, and a distance of 400 feet from the subject property.

Section 3. Findings.

3.01 The proposal would meet the general standards outlined in City Code §300.24, Subd. 9(c):

1. The area of floodplain alteration would be minimal relative to the larger floodplain area.

2. The property contained roughly 3,210 square feet of buildable area when it was created in 2006. A recent change to the floodplain elevation has reduced the buildable area of the site by 60 percent. The proposed floodplain alteration is intended to reasonably recreate some, but not all, of the “lost” buildable area.

3. The alteration would not negatively impact adjacent properties or the hydrology of the floodplain.

4. The alteration would not negatively impact the surrounding wetland area.

5. The alteration would meet the intent of the city's water resources management plan and the subdivision and zoning ordinances.
6. The alteration would not adversely impact governmental facilities, utilities, services or existing or proposed public improvements.

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

3.02 The proposal would meet the specific standards outlined in City Code §300.24, Subd. 9(d):

1. The proposed alteration would result in fill of roughly 20 cubic-yards of floodplain; 20 cubic-yards of floodplain would be created.

2. Proposed fill would be located within 20 feet of the proposed home and within areas required to provide driveway access to the home.

3. The proposed alteration itself would not impact regulated trees, wetlands or wetland buffer areas.

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

1. Purpose and Intent of the Ordinance: The purpose and intent of required horizontal floodplain setback is to ensure appropriate separation between floodplain areas and structures for both aesthetic and flood protection reasons. The requested variance would meet this intent.

   a) From an aesthetic perspective, the majority of the proposed house would meet the horizontal setback requirement. Those areas requiring a variance would be over 70 feet from the closest neighboring home.

   b) From a flood protection perspective, the entirety of the home would meet required two-foot vertical separation from the floodplain elevation.

2. Consistent with Comprehensive Plan: The requested variance is consistent with the comprehensive plan. The guiding principles in the comprehensive plan provide for maintaining, preserving, and enhancing existing single-family neighborhoods. The requested floodplain setback variance would not impact the residential character of the neighborhood, and would provide investment in the property to enhance its use.
3. Practical Difficulties: There are practical difficulties in complying with the ordinance:

a) Reasonableness and Unique Circumstance: The proposed 7.5-foot setback is reasonable based on the unique circumstances of the lot.

1) A recent change to the floodplain reduced the buildable area of the site by 60 percent. The proposed floodplain alteration is intended to reasonably recreate some, but not all, of the “lost” buildable area.

2) The setback variance could be eliminated were more floodplain area filled and compensation area provided. However, increased fill and compensation would result in greater manipulation of the site’s natural features.

b) Character of Locality: The proposed home would be over 70 feet from the closest residential structure and generally screened by existing vegetation. Given this, the requested horizontal floodplain setback variance would have little visual impact on the surrounding area.

3.04 Application of the McMansion Policy is not reasonable, as:

1. The setback variance could be eliminated were more floodplain area filled and compensation area provided. However, increased fill and compensation would result in greater manipulation of natural site features.

2. The proposed home meets the setbacks outlined in 2006 subdivision approval.

3. The highest FAR within the immediate area is 0.26. By city code definition, when calculating FAR, floodplain area must be excluded from the calculation. Given this, a FAR of 0.26 would equate to a total floor area 3,224 square feet including garage space.

4. The topography of the site falls significantly from County Road 101 toward Shaver’s Lake. The elevation of the first floor of the proposed home is 15 feet lower than the elevation of the road. This elevation difference causes the proposed home to sit lower on the site, which reduces its perceived mass as viewed from County Road 101 and adjacent properties.
Section 4. City Council Action.

4.01 The city council approves the above-described floodplain alteration permit and horizontal floodplain setback variance based on the findings outlined in section 3 of this resolution.

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

4.03 Approval and waiver are subject to the following conditions:

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, excepted as modified by the conditions below:
   - Exhibit A of this resolution
   - Building Elevations dated May 9, 2017.

2. Prior to issuance of a building permit:
   a) A copy of this resolution must be recorded with Hennepin County.
   b) An encroachment agreement must be signed for location of retaining wall within drainage and utility easements.
   c) Submit confirmation that a water service was installed to the property in conjunction with the County Road 101 reconstruction process.
   d) Erosion control and tree protection fencing must be installed as required by staff for inspection and approval. These items must be maintained throughout the course of construction.

3. Prior to issuance of a certificate of occupancy, submit an as-built survey to verify floodplain cut and fill areas.

4. Note:
   a) Retaining walls in excess of 4-feet height. Engineering plans from a licensed structural engineer must be submitted for retaining walls over four-feet in height.
b) If construction of retaining walls will require access to, or if work will encroach upon, 3140 County Road 101, the owners of 3140 County Road 101 must provide the city with written approval for such access/encroachment.

c) Any work within Hennepin County right-of-way requires a permit from Hennepin County.

d) Connection to Metropolitan Council Environmental Services (MCES) sewer line requires approval of MCES.

5. These approvals will be null and void on December 31, 2018, unless the city has issued a building permit for the project covered by this resolution or has approved a time extension.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 11, 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 September 11, 2017.

David E. Maeda, City Clerk
Ordinance No. 2017-

An ordinance removing area from the floodplain overlay district at 3136 County Road 101

The City Of Minnetonka Ordains:

Section 1.

1.01 LandMark Construction Solutions, Inc. has requested approval of a floodplain alteration to facilitate construction of a new home at 3136 County Road 101.

1.02 The property is legally described as:

LOT 2, BLOCK 1, REEDS ADDITION

1.03 The proposed alteration would remove certain area from the floodplain overlay zoning district.

1.04 By City Code Section 300.24 Subd. 10(b), land may be removed from the floodplain overlay district only:

1. By zoning map amendment; and

2. If water storage will be provided in an amount compensatory to that removed or acceptable hydrologic engineering data must be presented which indicates how conditions have changed so that the floodplain characteristics can be maintained without compensation.

Section 2.

2.01 The proposed floodplain alteration would result in fill of roughly 20 cubic-yards of floodplain; 20 cubic-yards would be created.
2.02 The removal of the area from the overlay district would not compromise the public health, safety, and welfare.

Section 3.

3.01 Floodplain area on the property at 3136 County Road 101, and depicted on Exhibit A of this resolution, is hereby removed from the floodplain overlay district.

Section 4.

4.01 This ordinance is effective immediately.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 11, 2017.

Terry Schneider, Mayor

ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction: August 28, 2017
Date of adoption: 
Motion for adoption: 
Seconded by: 
Voted in favor of: 
Voted against: 
Abstained: 
Absent: Wagner 
Ordinance adopted.

Date of publication:
I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on September 11, 2017.

David E. Maeda, City Clerk
EXHIBIT A

AREA REMOVED FROM FLOODPLAIN OVERLAY ZONING DISTRICT
City Council Agenda Item #10G  
Meeting of September 11, 2017

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

**Recommendation**  
Adopt the ordinance and resolutions approving the request

**Introduction**

Richard Lindberry owns the property located at 11806 Cedar Lake Road. The property is approximately 3.25-acres in size. Of this area, roughly 27,600 square feet is considered upland; the remainder of the site is encumbered by large areas of both wetland and floodplain.

In 2014, the city considered a request to remove the existing buildings on the site and subdivide the property into two, conforming, single-family residential parcels. To accomplish this, floodplain area would be filled and compensatory area would be provided on-site. The floodplain fill and compensation would essentially reallocate the property's upland area. With a positive recommendation from city staff and the planning commission, the city council approved a variety of applications to facilitate the subdivision, including: (1) floodplain alteration permit; (2) conditional use permit; (3) rezoning to remove area from the floodplain overlay zoning district; and (4) preliminary and final plats.

In 2015, the city council granted a twelve-month extension of the preliminary and final plat approvals.

In 2016, the preliminary and final plats approvals expired. Though the floodplain alteration permit and floodplain rezoning technically had no “expiration date,” it is staff’s opinion that the permit and rezoning were also void in 2016, as they were directly related to the preliminary and final plats.

**Current Proposal**

Jeff Martineau, on behalf of the property owner, is again proposing to divide the subject property into two, conforming lots. As previously proposed, floodplain area would be filled and compensatory area would be provided on-site. The areas of fill and compensation vary slightly from those approved in 2016. The variation is based on the most current floodplain regulations and staff’s interpretation of those regulations.
Planning Commission Hearing

The planning commission considered the proposed subdivision and associated requests on August 24, 2017. The commission report and plans are attached. Staff recommended approval of the requests noting:

- The property has over 0.5-acre of upland area, well over the area necessary for two buildable lots. The intent of the proposed floodplain alteration is not to increase the buildable area of the site. Rather, the intent is simply to reallocate buildable area to provide for a more orderly subdivision.

- The proposed floodplain alteration would result in a net increase in floodplain area.

- With floodplain alteration as proposed, the resulting lots would exceed all minimum standards of the subdivision and zoning ordinances.

At its meeting, the planning commission opened a public hearing to take public comment; no comments were received.

Planning Commission Recommendation

On a 7-0 vote, the commission recommended the city council approve the requests. Meeting minutes are attached. There have been no changes to the proposal since the hearing.

Staff Recommendation

Adopt the following for the property at 11806 Cedar Lake Road:

1) A resolution approving a floodplain alteration and conditional use permits.

2) An ordinance removing areas from the floodplain overlay zoning district.

3) A resolution approving preliminary and final plat.

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

Originator: Susan Thomas, AICP, Assistant City Planner
Brief Description  
Items concerning 11806 Cedar Lake Road:
- Floodplain alteration permit;
- Conditional use permit to move over 1,000 cubic yards of earth;
- Rezoning removing area from the floodplain zoning district; and
- Preliminary and final plats.

Recommendation  
Recommend the city council adopt the ordinance and resolutions approving the request

Introduction

Richard Lindberry owns the property located at 11806 Cedar Lake Road. The property is approximately 3.25-acres in size. Of this area, roughly 27,600 square feet is considered upland; the remainder of the site is encumbered by large areas of both wetland and floodplain.

In 2014, the city considered a request to remove the existing buildings on the site and subdivide the property into two, conforming, single-family residential parcels. To accomplish this, floodplain area would be filled and compensatory area would be provided on-site. The floodplain fill and compensation would essentially reallocate the property’s upland area. With a positive recommendation from city staff and the planning commission, the city council approved a variety of applications to facilitate the subdivision, including: (1) floodplain alteration permit; (2) conditional use permit; (3) rezoning to remove area from the floodplain overlay zoning district; and (4) preliminary and final plats.

In 2015, the city council granted a twelve-month extension of the preliminary and final plat approvals.

In 2016, the preliminary and final plats approvals expired. Though the floodplain alteration permit and floodplain rezoning technically had no “expiration date,” it is staff’s opinion that the permit and rezoning were also void in 2016, as they were directly related to the preliminary and final plats.

Current Proposal

Jeff Martineau, on behalf of the property owner, is again proposing to divide the subject property into two, conforming lots. As previously proposed, floodplain area would be filled and compensatory area would be provided on-site. The areas of fill and compensation
vary slightly from those approved in 2016. The variation is based on the most current floodplain regulations and staff’s interstation of those regulations.

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.

- **Is the proposed floodplain alteration reasonable?**

  Yes. Staff continues to find that the proposed floodplain alteration is reasonable for several reasons:

  1. The property has over 0.5-acre of upland area, well over the area necessary for two buildable lots. The intent of the proposed alteration is not to increase the buildable area of the site. Rather, the intent is simply to reallocate buildable area to provide for a more orderly subdivision.

  2. The proposed alteration would result in fill of roughly 30,300 cubic-feet of floodplain and creation of 31,300 cubic-feet of floodplain.

  3. The proposed alteration would not negatively impact adjacent properties or the hydrology of the floodplain.

  4. The proposed alteration would not negatively impact the surrounding wetland area.

- **Is the proposed plat appropriate?**

  Yes. With floodplain alteration as proposed, the resulting lots would meet all minimum standards of the subdivision and zoning ordinances.

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>West Parcel</th>
<th>East Parcel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Areas</td>
<td>22,000 sq.ft.</td>
<td>71,870 sq.ft.</td>
<td>69,260 sq.ft.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(1.65 acres)</td>
<td>(1.59 acres)</td>
</tr>
<tr>
<td>Buildable Area</td>
<td>3,500 sq.ft.</td>
<td>6,815 sq.ft.</td>
<td>11,300 sq.ft.</td>
</tr>
<tr>
<td>Lot width at ROW</td>
<td>80 ft</td>
<td>125 ft</td>
<td>125 ft</td>
</tr>
<tr>
<td>Lot width at setback</td>
<td>110 ft</td>
<td>125 ft</td>
<td>125 ft</td>
</tr>
<tr>
<td>Lot depth</td>
<td>125 ft</td>
<td>&gt; 500 ft</td>
<td>&gt; 500 ft</td>
</tr>
</tbody>
</table>

Numbers rounded down to closest 5 sq.ft. or 5 ft.
Staff Recommendation

Recommend the city council adopt the following for the property at 11806 Cedar Lake Road:

1. A resolution approving a floodplain alteration and conditional use permits.

2. An ordinance removing areas from the floodplain overlay zoning district.

3. A resolution approving preliminary and final plat.

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

**Surrounding**
The subject property is surrounded by single-family homes.

**Land Uses**

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

**Existing Site**
The existing property contains three distinct natural resources: trees, wetland, and floodplain.

**Trees.** There are several mature trees on the site including, ash, elm, walnut, cottonwood, willow, spruce and oak. This area is not considered a woodland protection area. Of these, nine are classified as high-priority.

<table>
<thead>
<tr>
<th>Tree Classification</th>
<th>Number of Trees</th>
</tr>
</thead>
<tbody>
<tr>
<td>High-Priority</td>
<td>9</td>
</tr>
<tr>
<td>Significant</td>
<td>28</td>
</tr>
</tbody>
</table>

**Wetland.** The southern half of the property is almost entirely wetland. The Manage 1 wetland is hydrologically connected to Minnehaha Creek.

**Floodplain.** Over 80 percent of the property is considered 100-year floodplain area. Like the site’s wetland, this floodplain area is hydrologically connected to Minnehaha Creek.

**Proposed Sites**
As proposed, there would be allowable impacts to two of the three natural resources:

**Trees.** The proposed grading would result in removal or significant impact to two of the high-priority trees on the site. This level of removal/impact is allowed under the tree protection ordinance for two reasons: (1) the property would be developed at a density of less than 1 lot per acre; and (2) the removal would be less than 35%.
<table>
<thead>
<tr>
<th>Tree Classification</th>
<th>Number of Trees removed/impacted</th>
<th>Percentage removed/impacted</th>
</tr>
</thead>
<tbody>
<tr>
<td>High-Priority</td>
<td>2</td>
<td>22%</td>
</tr>
<tr>
<td>Significant</td>
<td>11</td>
<td>39%</td>
</tr>
</tbody>
</table>

Based on the general grading plan submitted, the following tree mitigation would be required:

- 30 feet of mitigation for the removal of a 30 foot Norway spruce; and
- 7, 2-inch trees for the removal of 7 significant trees located outside the basic tree removal area

**Wetland.** No wetland impact is proposed.

**Floodplain.** The proposed grading plan would result in fill of roughly 30,300 cubic-feet of floodplain; 31,300 cubic-feet would be created.

**Grading**

In order to evaluate the impacts of anticipated grading, the city requires that all applications for subdivision illustrate general home footprints and an associated grading plan. If a subdivision is approved, final grading must occur in substantial compliance with the general plan. Specific grading plans would be reviewed in conjunction with the building permit applications for each of the new homes.

**Stormwater**

Under the city’s stormwater rule, stormwater management would be required given the site’s proximity to a wetland. Individual management plans would be required and reviewed in conjunction with the building permit applications for each of the new homes.

**Previous Requests**

In recent years the city has received floodplain alteration requests for which staff have recommended denial. These requests have included:

- Floodplain alteration to create a buildable lot.
- Floodplain alteration to create buildable area on an undeveloped lot which already contained twice the amount of required buildable area.
- Floodplain alteration to allow for construction of a two-story addition nearly doubling the value of an existing home.

The applicant’s request is considerable different than these previous requests. The subject property has nearly 0.5-acre of upland area, well over the area necessary for two buildable lots. The intent of the proposed alteration is not to increase the buildable area of the site. Rather, the intent is simply to reallocate buildable area to provide for a more orderly subdivision.

**Neighborhood Comments**
The city sent notices to 67 area property owners and received no comments to date.

**Pyramid of Discretion**

![Diagram showing the pyramid of discretion]

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

1. Concur with the staff recommendation. In this case a motion should be made recommending the city council approve the proposal based on the findings outlined the staff-drafted ordinance and resolutions.

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

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

**Voting Requirement**
The planning commission will make a recommendation to the city council. A recommendation to approve the requests requires only
the affirmative vote of a simple majority. City council approvals
requires and affirmative vote a simple majority.

Deadline for Action  September 11, 2017
LOCATION MAP

Project: Lindberry, Richard
Address: 11806 Cedar Lake Rd
Applicant: Jeff Martineau

This map is for illustrative purposes only.
EXISTING SITE CONDITIONS

PROPOSED LOT LINE REARRANGEMENT AND CERTIFICATE OF SURVEY FOR
RICHARD LINDBERRY
OF LOTS 3 AND 8, BLOCK 3, GOLDEN ACRES
HENNEPIN COUNTY, MINNESOTA

LEGAL DESCRIPTION OF PREMISES SURVEYED:
Lots 3 and 8, Block 3, Golden Acres, Hennepin County, Minnesota

This survey shows the boundaries of the above described property, and the location of an existing house, two sheds, driveway and topography. It does not purport to show any other improvements or encroachments.

- Iron marker
- Existing contour line
- Denotes wetland delineation marker

Bearings shown are based upon an assumed datum

REVISIONS
DATE
DRAWN
CHECKED
2015-05-22
DAN
TERRI
2015-05-22

GRONBERG & ASSOCIATES, INC.
CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS
445 N. WILLOW DRIVE, LONG LAKE, MN 55356
PHONE: 952-473-4141 FAX: 952-473-4435

SCALE IN FEET
0 30 60 120
FLOODPLAIN

PROPOSED GRADING PLAN FOR
RICHARD LINDBERRY
OF lots 3 AND 8, BLOCK 3, GOLDEN ACRES
HENNEPIN COUNTY, MINNESOTA

LEGAL DESCRIPTION OF PREMISES SURVEYED:
Lots 3 and 8, Block 3, Golden Acres, Hennepin County, Minnesota

This survey shows the boundaries of the above described property, and the location of an existing house, two sheds, driveway and topography. It does not purport to show any other improvements or encroachments.

- Iron marker
- Existing contour line
- Proposed contour line
- Proposed spot elevation
- Denotes wetland delineation marker

Bearings shown are based upon an assumed datum.

NOTE:
The west lot has 5500 SF of proposed impervious surface. One inch of runoff over that area equals 450 CF of treatment required. A trench 15' long X 1.5' deep X 3.4' wide or a rain garden of 21.5' X 21.5' X 1' deep would be required.

The east lot has 5000 SF of proposed impervious surface. One inch of runoff over that area equals 450 CF of treatment required. A trench 15' long X 1.5' deep X 3.4' wide or a rain garden of 22.2' X 22.2' X 1' deep would be required.

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445 N. WILLOW DRIVE, LONG LAKE, MN 55356
PHONE: 952-473-4141  FAX: 952-473-4435

SCALE IN FEET

CEDAR LAKE RD (CO. RD. NO. 16)
Victoria Pervix, on behalf of Interstate Development, the applicant, stated that she has received very positive comments from the existing tenants. The framing shop would share restroom facilities with the applicant. The bread shop owners have been supportive. The applicant plans to implement the recommendations provided in the parking study report by installing signs and adding parking stalls in the rear.

No additional testimony was submitted and the hearing was closed.

O’Connell moved, second by Schack, to recommend that the city council adopt the resolution approving a conditional use permit for a restaurant at 17420 Minnetonka Boulevard.

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

C. Items concerning 11806 Cedar Lake 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.

Sewall asked if there would be access on Cedar Lake Road. Thomas explained that access would be on Meadow Lane. A condition of approval would require the existing driveway to be abandoned and turned into a floodplain.

O’Connell asked if this reconfiguration is the same as what was previously approved. Thomas stated that this proposal is slightly different. It accommodates new floodplain rules. The house size would be the same.

Jeff Martineau, of Coldwell Banker, applicant, stated that the proposal is a good outcome for the neighborhood. It is fairly positively supported by the neighbors in the area.

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

Chair Kirk thought the proposal would be an improvement to the area.

Calvert agreed. She was happy that the access would connect to Meadow Lane and the existing driveway used as a floodplain. The plan makes a lot of sense. It
would be incredibly private and buffered from neighbors. It is a tremendous project that would result in two lovely homes.

Schack agreed that access to Meadow Lane would be great. The property is so large that most people would not notice the difference.

Sewall thought that the proposal is a good idea.

**Calvert moved, second by Sewall, to recommend that the city council adopt the following for the property at 11806 Cedar Lake Road:**

1. A resolution approving floodplain alteration and conditional use permits.
2. An ordinance removing areas from the floodplain overlay zoning district.
3. A resolution approving the preliminary and final plats.

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

The city council is tentatively scheduled to review this item at its meeting on September 1, 2017.

**D. Items concerning Shady Oak Crossing at 4312 Shady Oak Road.**

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

Gordon reported. He recommended that the planning commission hear the staff report, conduct a public hearing, discuss the proposal, and table the item to allow the applicant time to provide a revised site plan.

Gordon explained that the planning commission deals with land use issues. Its purview does not include financial aspects of projects. The EDAC and city council review and make decisions regarding financial aspects as well as affordable housing. Wischnack added that the EDAC and city council meetings are linked to the project’s page at eminnetonka.com.

Powers noted that there is only one access to the property. He assumed the easement located on the back of the property prevents the building from being adjusted to the west. He asked if there are any similar sites in the city. Gordon noted that Zvago has one access drive from Stewart Lane. It serves both above
Resolution No. 2017-
Resolution approving floodplain alteration and conditional use permits at 
11806 Cedar Lake Road

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

Section 1. Background.

1.01 Jeff Martineau, on behalf of property owner Richard Lindberry, has requested approval of a floodplain alteration permit and a conditional use permit, to allow movement of over 1,000 cubic yards of earth within the floodplain district, in conjunction with a two-lot subdivision at 11806 Cedar Lake Road.

1.02 The property is legally described as follows:

Lots 3 and 8, Block 3, GOLDEN ACRES, HENNEPIN COUNTY, MINNESOTA

1.03 On August 24, 2017, the planning commission held a hearing on the proposal. 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 planning commission recommended the city council approve the alteration and conditional use permits.

Section 2. Standards.

2.01 City Code §300.24 Subd. 9(c), states that in reviewing floodplain alteration permits, the city will consider whether the following general standards are met:

1. The magnitude of the alteration is appropriate relative to the size of the floodplain district.
2. The amount of any increase in buildable area is appropriate in comparison to the amount of buildable area before alteration.

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

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

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

6. The alteration will not adversely impact governmental facilities, utilities, services or existing or proposed public improvements; and

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

2.02 City Code §300.24 Subd. 9(d), states that a floodplain alteration permit will not be granted unless the following specific standards are met.

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

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

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

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

2.03 City Code 300.26 Subd.2 outlines the following general standards for conditional uses permit with the floodplain district.
1. The use is consistent with the intent of this ordinance;

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

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

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

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

6. Water bodies receiving runoff entering wetlands, floodplain or shoreland areas shall not be adversely impacted by the water quality of runoff;

7. No structure or fill may be placed which adversely affects the minimum required water storage capacity as defined in the water resources management plan of a property;

8. No structure subject to periodic inundation shall be designed for human habitation or shall the structure be serviced with public utilities;

9. Structures shall have a low flood damage potential and shall be firmly anchored;

10. Service facilities, such as electrical and heating equipment, must be located a minimum of two feet above the flood elevation defined in the water resources management plan;

11. There shall be no storage of materials which are flammable, explosive or otherwise dangerous to human, animal or plant life;

12. There shall be only minimal interference with wetland vegetation; and

13. Required approvals shall be secured from all appropriate jurisdictions, including the United States army corps of engineers, Minnesota department of natural resources, governing watershed district and the Lake Minnetonka conservation district. Any conditions imposed upon such approvals shall be met.
2.04 City Code §300.26 Subd. 4, states that a conditional use permit for activity with the floodplain district will not be granted unless the following specific standards are meet:

1. Approval of the permit will not have an adverse impact on the intent of this ordinance or the precepts of the comprehensive plan.

2. Efforts have been made to mitigate to the extent feasible adverse impacts on the subject property and adjacent properties.

Section 3. Findings.

3.01 The proposal would meet the general standards outlined in City Code §300.24, Subd. 9(c):

1. The area of floodplain alteration would be minimal relative to the larger floodplain area surrounding Minnehaha Creek.

2. The property has over 0.5-acre of upland area, well over the area necessary for two buildable lots. The intent of the proposed alteration is not to increase the buildable area of the site. Rather, the intent is simply to reallocate buildable area to provide for a more orderly subdivision.

3. The alteration would not negatively impact adjacent properties or the hydrology of the floodplain.

4. The alteration would not negatively impact the surrounding wetland area.

5. The alteration would meet the intent of the city's water resources management plan and the subdivision and zoning ordinances.

6. The alteration would not adversely impact governmental facilities, utilities, services or existing or proposed public improvements.

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

3.02 The proposal would meet the specific standards outlined in City Code §300.24, Subd. 9(d):

1. The proposed alteration would result in fill of roughly 30,300 cubic-feet of floodplain; 31,300 cubic-feet of floodplain would be created.
2. All proposed structures would be required to meet the minimum horizontal and vertical setbacks from the floodplain elevation.

3. The proposed alteration would result in removal of four significant trees. However, the alteration would improve existing site conditions. It would result in removal of existing non-conforming structures and in a development more characteristic of the surrounding area.

4. The proposed alteration would not adversely impact wetlands or existing wetland buffers, or be unnecessarily located within public easements.

3.03 The proposal would meet the general conditional use permit standards as outlined in City Code 300.26 Subd.2.

3.04 The proposal would meet the specific conditional use permit standards as outlined in City Code §300.26 Subd. 4.


4.01 The city council hereby approves the above described floodplain alteration and conditional use permits based on the findings outlined in section 3 of this resolution. Approval is subject to the following conditions:

1. Floodplain alteration must be done on the entire site prior to issuance of any building permits. A grading permit is required for floodplain alteration work. Unless authorized by appropriate staff, no site work may begin until a complete grading permit application has been submitted, reviewed by staff, and approved.

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

      1) Evidence of filing the final plat at Hennepin County and copies of all recorded easements and documents as required under the preliminary and final plat approvals.

      2) An electronic PDF copy of all required plans and specifications.

      3) Final site, grading, tree mitigation, and wetland buffer restoration plans, and a stormwater pollution prevention plan (SWPPP) for staff approval.
a. Final grading plan must:
   • Illustrate all alteration and mitigation work occurring in substantial compliance with Proposed Grading Plan, revised date August 4, 2017.
   • Minimize tree loss.
   • Show no wetland impact.

b. Tree mitigation plan must meet minimum mitigation requirements as outlined in ordinance. However, at the sole discretion of natural resources staff, mitigation may be adjusted based on site conditions.

c. Wetland buffer restoration plan must:
   • Show removal of the existing gravel driveway.
   • Include native plantings in the required 25-foot buffer.

4) A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance.

5) A copy of the approved MPCA NPDES permit, if required.

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

7) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to construct streets and utility improvements, comply with grading permit, tree mitigation requirements, wetland buffer restoration requirements and to restore the site. One itemized letter of credit is permissible, if approved by staff. The city will not fully release the letters of credit
or cash escrow until: (1) an as-built survey of floodplain alteration and mitigation areas with associated calculations has been submitted; (2) vegetated ground cover has been established; and (3) required tree mitigation and buffer plantings have survived one full growing season.

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

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

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

b) Prior to issuance of the grading permit, install a temporary rock driveway, erosion control, tree and wetland protection fencing and any other measures identified on the SWPPP for staff inspection. These items must be maintained throughout the course of construction.

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

2. An as-built survey verifying compliance with the approved grading permit must be submitted prior to issuance of a building permit for the first new house within the development.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 11, 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 September 11, 2017.

David E. Maeda, City Clerk
EXHIBIT A
Ordinance No. 2017-

An ordinance removing area from the floodplain overlay district at 11806 Cedar Lake Road.

The City Of Minnetonka Ordains:

Section 1.

1.01 Jeff Martineau, on behalf of property owner Richard Lindberry, has requested approval of a floodplain alteration in conjunction with a two-lot subdivision at 11806 Cedar Lake Road.

1.02 The property is legally described as:

Lots 3 and 8, Block 3, GOLDEN ACRES, HENNEPIN COUNTY, MINNESOTA

1.03 The proposed alteration would remove certain area from the floodplain overlay zoning district.

1.04 By City Code Section 300.24 Subd. 10(b), land may be removed from the floodplain overlay district only:

1. By zoning map amendment; and

2. If water storage will be provided in an amount compensatory to that removed or acceptable hydrologic engineering data must be presented which indicates how conditions have changed so that the floodplain characteristics can be maintained without compensation.

Section 2.

2.01 The proposed floodplain alteration would result in fill of roughly 30,300 cubic-feet of floodplain; 31,300 cubic-feet of floodplain would be created.
2.02 The removal of the area from the overlay district would not compromise the public health, safety, and welfare.

Section 3.

3.01 Floodplain area on the property at 11806 Cedar Lake Road, as depicted on Exhibit A of this resolution, is hereby removed from the floodplain overlay district.

Section 4.

4.01 This ordinance is effective immediately.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 11, 2017.

Terry Schneider, Mayor

ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction: August 28, 2017
Date of adoption:
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent: Wagner
Ordinance adopted.

Date of publication:
I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on September 11, 2017.

David E. Maeda, City Clerk
E X H I B I T A

AREA REMOVED FROM FLOODPLAIN OVERLAY ZONING DISTRICT
Resolution No. 2017-

Resolution approving a preliminary and final plat at 11806 Cedar Lake Road

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

Section 1. Background.

1.01 Jeff Martineau, on behalf of property owner Richard Lindberry, has requested preliminary and final plat approval for a two-lot subdivision at 11806 Cedar Lake Road.

1.02 The property is legally described as follows:

Lots 3 and 8, Block 3, GOLDEN ACRES, HENNEPIN COUNTY, MINNESOTA

1.03 On August 24, 2017, the planning commission held a hearing on the proposed plat. The applicant was provided the opportunity to present information to the planning commission. The planning commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council grant preliminary and final plat approval.

Section 2. General Standards.

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

Section 3. Findings.

3.01 The proposed plat meets the design requirements as outlined in City Code
§400.030.


4.01 The above-described preliminary and final plats are hereby approved, subject to the following conditions:

1. Prior to release of the final plat:
   a) The following must be submitted:
      1) A final plat drawing that clearly illustrates the following:
         1. A minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way(s) and minimum 7-foot wide drainage and utility easements along all other lot lines.
         2. Utility easements over existing or proposed public utilities, as determined by the city engineer.
         3. Drainage and utility easements over wetlands, floodplains, and stormwater management facilities, as determined by the city engineer.
      2) Documents for the city attorney’s review and approval. These documents must be prepared by an attorney knowledgeable in the area of real estate.
         1. Title evidence that is current within thirty days before release of the final plat.
         2. Private easement if driveway culvert crosses property lines.
         3. Conservation easement over the Manage 1 wetland and required 25-foot wetland buffer and a drawing of the easement. The easement may allow removal of hazard, diseased, or invasive species, as well location of stormwater management facilities.
      3) Two sets of mylars for city signatures.
4) An electronic CAD file of the plat in microstation or DXF.

5) Park dedication fee of $5,000.

6) All delinquent taxes and utility bills.

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

   • Certificate of Survey, revised date August 4, 2017.
   • Proposed Grading Plan, revised date August 4, 2017.

3. Floodplain alteration must be done on the entire site prior to issuance of any building permits. A grading permit is required for floodplain alteration work. Unless authorized by appropriate staff, no site work may begin until a complete grading permit application has been submitted, reviewed by staff, and approved.

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

      1) Evidence of filing the final plat at Hennepin County and copies of all recorded easements and documents as required in section 4.01(1)(a)(2) of this resolution.

      2) An electronic PDF copy of all required plans and specifications.

      3) Final site, grading, utility, tree mitigation, and wetland buffer restoration plans, and a stormwater pollution prevention plan (SWPPP) for staff approval.

   a. Final grading plan must:

      1. Illustrate all alteration and mitigation work occurring in substantial compliance with Proposed Grading Plan, revised date August 4, 2017.


      3. Show no wetland impact.
b. Tree mitigation plan must meet minimum mitigation requirements as outlined in ordinance. However, at the sole discretion of natural resources staff, mitigation may be adjusted based on site conditions.

c. Wetland buffer restoration plan must:

    1. Show removal of the existing gravel driveway.
    2. Include native plantings in the required 25-foot buffer.

4) A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance.

5) A copy of the approved MPCA NPDES permit.

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

7) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to construct streets and utility improvements, comply with grading permit, tree mitigation requirements, wetland buffer restoration requirements and to restore the site. One itemized letter of credit is permissible, if approved by staff. The city will not fully release the letters of credit or cash escrow until: (1) an as-built survey of floodplain alteration and mitigation areas with associated calculations has been submitted; (2) vegetated ground cover has been established; and (3) required tree mitigation and buffer plantings have survived one full growing season.

8) Cash escrow in an amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge:
• The property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and

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

b) Prior to issuance of the grading permit, install a temporary rock driveway, erosion control, tree and wetland protection fencing and any other measures identified on the SWPPP for staff inspection. These items must be maintained throughout the course of construction.

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

4. Prior to issuance of a building permit for the first new house within the development, submit the following:

a) An as-built survey verifying compliance with the approved grading permit.

b) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.

c) Proof of subdivision registration and transfer of NPDES permit, if required.

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

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

1) Final grading and tree preservation plan for the lot. The plan must:

b. Show sewer and water services to minimize impact to any significant or high-priority trees. No trees may be removed for installation of services.

2) A stormwater management plan. The plan must include runoff rate and volume control, as well as water quality treatment. Additionally, the plan must include a narrative documenting conformance with the city’s Stormwater Management Design Guidelines and Standards and Water Resources Management Plan.

3) A stormwater maintenance agreement.

4) Final utility plan. At least one set of new sewer and water services will be needed. A second water service may be necessary depending on the needs of the proposed home. If this is necessary, the old service must be removed back to the water main and the corporation stop turned off. The road must be repaired to match the existing section.

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

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

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

- If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
If the builder is the same entity doing grading work on the site, the cash escrow submitted at the time of grading permit may fulfill this requirement.

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

c) Install heavy duty fencing, which may include chain-link fencing, at the conservation easement. This fencing must be maintained throughout the course of construction.

d) Submit all required hook-up fees.

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

a) Minimum setbacks are as follows:

<table>
<thead>
<tr>
<th>Setback From</th>
<th>Minimum Distance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front property line</td>
<td>35 feet</td>
</tr>
<tr>
<td>Side property line</td>
<td>30 feet aggregate, no side less than 10 feet</td>
</tr>
<tr>
<td>Delineated Wetland Edge</td>
<td>35 feet to enclosed/covered areas, including screen porches 25 to feet decks.</td>
</tr>
<tr>
<td>Floodplain Elevation – Horizontal</td>
<td>20 feet to enclosed/covered areas, including screen porches. 10 feet to decks.</td>
</tr>
<tr>
<td>Floodplain Elevation – Vertical</td>
<td>2 feet</td>
</tr>
</tbody>
</table>

b) All lots within the development must meet all minimum access requirements as outlined in Minnesota State Fire Code Section 503. These access requirements include road dimension, surface, and grade standards. If access requirements are not met, houses must be protected with a 13D automatic fire sprinkler system or an approved alternative system.
7. The city may require installation and maintenance of signs which delineate the edge of any required conservation easement. This signage is subject to the review and approval of city staff.

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

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

10. The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 11, 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: Wagner
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on September 11, 2017.
David E. Maeda, City Clerk
Brief Description: Resolutions for special assessment of 2016-2017 projects

Recommended Action: Hold the public hearing and adopt the resolutions

Background

The process for special assessment includes numerous communications with parcel owners and opportunities for prepayments of the assessments. Prior to determining the property must be assessed, division staff associated with the specific type of assessment have notified or worked with the property owners regarding the associated work financed by the city. After determination of assessment, staff sends a notice of public hearing to each property owner and publishes a notice in the newspaper in late August.

At its meeting of August 14, 2017, the city council adopted the necessary resolutions pertaining to the levying of 2017 special assessments and scheduled the public hearing for 6:30 p.m. on September 11, 2017. Staff has received payment to prepay one (1) assessment since the August 14, 2017 meeting date. After the public hearing this evening, property owners are given thirty (30) days to prepay assessments or partial assessments without an interest charge. After this first prepayment deadline, property owners are given up to forty-seven (47) additional days to pay the full amount with interest until required certification to the county on December 1st.

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

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

- **Nuisance Abatement Projects.** There are 47 nuisance abatement projects (including diseased tree removals) in which the city has incurred costs totaling $74,423.33. Three of the projects were completed through the use of a Nuisance Abatement Agreement signed by the property owners for extensive work that was needed on the properties at 16417 Hilltop Terrace, 11829 Shady Oak Drive and 3545 Fairlawn Drive. These projects are proposed to be specially assessed in accordance with Minnesota statutes and city council policies regarding the levying of these nuisance abatement projects. These interest rates are benchmarked to the current Aaa municipal bond rate. The term and interest rate for each assessment is as follows:
Subject: Resolutions for special assessments of 2016-2017 projects

<table>
<thead>
<tr>
<th>Nuisance and Tree Term and Interest Structure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessment Amount</td>
</tr>
<tr>
<td>--------------------</td>
</tr>
<tr>
<td>&lt;$1,000</td>
</tr>
<tr>
<td>$1,000-2,999</td>
</tr>
<tr>
<td>$3,000-5,000</td>
</tr>
<tr>
<td>&gt;$5,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2017 Nuisance Abatements – Project No. 4894 (1-year term)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project No.</td>
</tr>
<tr>
<td>-------------</td>
</tr>
<tr>
<td>N-535</td>
</tr>
<tr>
<td>N-536</td>
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<tr>
<td>N-537</td>
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<tr>
<td>N-528</td>
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<tr>
<td>N-511</td>
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<tr>
<td>N-523</td>
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<td>N-504</td>
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<tr>
<td>N-526</td>
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### 2017 Nuisance Abatements – Project No. 4894 (3-year term)

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-522</td>
<td>12525</td>
<td>Ridgemount Ave W</td>
<td>02-117-22-22-0014</td>
<td>$1,080.55</td>
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<tr>
<td>N-514</td>
<td>4826</td>
<td>Royal Oaks Dr</td>
<td>27-117-22-14-0069</td>
<td>$1,936.65</td>
</tr>
<tr>
<td>N-524</td>
<td>16108</td>
<td>Minnetonka Blvd</td>
<td>17-117-22-41-0036</td>
<td>$1,936.65</td>
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<tr>
<td>N-506</td>
<td>2500</td>
<td>Sylvan Pl</td>
<td>11-117-22-31-0068</td>
<td>$2,062.48</td>
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<tr>
<td>N-508</td>
<td>2701</td>
<td>Cherrywood Rd</td>
<td>10-117-22-42-0013</td>
<td>$2,173.30</td>
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<tr>
<td>N-532</td>
<td>16417</td>
<td>Hilltop Ter</td>
<td>32-117-22-12-0035</td>
<td>$2,564.10</td>
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<tr>
<td>N-516</td>
<td>13015</td>
<td>Lake St Extension</td>
<td>22-117-22-41-0005</td>
<td>$2,904.98</td>
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### 2017 Nuisance Abatements – Project No. 4894 (5-year term)

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<tr>
<th>Project No.</th>
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<th>Street Name</th>
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<th>Assessment Amount</th>
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<tbody>
<tr>
<td>N-513</td>
<td>14010</td>
<td>Minnehaha Pl</td>
<td>15-117-22-22-0035</td>
<td>$3,673.94</td>
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<td>N-533</td>
<td>11829</td>
<td>Shady Oak Dr</td>
<td>26-117-22-12-0032</td>
<td>$4,618.17</td>
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### 2017 Nuisance Abatements – Project No. 4894 (10-year term)

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
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<th>Assessment Amount</th>
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<tbody>
<tr>
<td>N-501</td>
<td>5117</td>
<td>Beacon Hill Rd</td>
<td>28-117-22-41-0050</td>
<td>$5,642.27</td>
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<tr>
<td>N-502</td>
<td>11806</td>
<td>Cedar Lake Rd</td>
<td>11-117-22-43-0015</td>
<td>$6,147.24</td>
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<tr>
<td>N-515</td>
<td>3545</td>
<td>Fairlawn Dr</td>
<td>17-117-22-43-0063</td>
<td>$11,428.26</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>Subtotal</strong></td>
</tr>
</tbody>
</table>
There are 20 properties in the diseased tree removals project this year in which the city has incurred costs. Some property owners have paid part of the total cost. It is proposed that these projects be specially assessed for the remaining cost of the abatement in accordance with Minnesota statutes and city council policies regarding the levying of these nuisance abatement projects. The terms for the 2017 diseased tree assessments will be based on the assessment amount similar to the nuisance abatement assessments. The special assessment amount on each parcel is as follows:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-33</td>
<td>5701</td>
<td>Lake Rose Dr</td>
<td>33-117-22-24-0016</td>
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<td>T-66</td>
<td>10402</td>
<td>34th Circle W</td>
<td>13-117-22-42-0323</td>
<td>$48.78</td>
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<tr>
<td>T-35</td>
<td>5540</td>
<td>Mahoney Ave</td>
<td>31-117-22-11-0040</td>
<td>$76.40</td>
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<tr>
<td>T-38</td>
<td>5537</td>
<td>Glenavon Ave</td>
<td>34-117-22-12-0028</td>
<td>$151.08</td>
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<tr>
<td>T-19</td>
<td>292</td>
<td>Whitegate La</td>
<td>05-117-22-11-0079</td>
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<tr>
<td>T-71</td>
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<td>T-36</td>
<td>11622</td>
<td>Live Oak Dr</td>
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<td>T-39/T-25</td>
<td>4441</td>
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<td>Traymore Rd</td>
<td>01-117-22-31-0015</td>
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<tr>
<td>T-22</td>
<td>4230</td>
<td>Fairview Ave</td>
<td>23-117-22-31-0017</td>
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<td>T-69</td>
<td>11700</td>
<td>Live Oak Dr</td>
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<tr>
<td>T-76</td>
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<td>Oakland/Plymouth Rd</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>Subtotal</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-74</td>
<td>12015</td>
<td>Mayflower Cir</td>
<td>11-117-22-31-0042</td>
<td>$1,130.89</td>
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<tr>
<td>T-63</td>
<td>3825</td>
<td>Cottage La</td>
<td>23-117-22-12-0048</td>
<td>$1,343.35</td>
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<tr>
<td>T-70</td>
<td>n/a</td>
<td>Stone Rd/Hwy 494</td>
<td>10-117-22-33-0001</td>
<td>$2,337.26</td>
</tr>
<tr>
<td>T-79</td>
<td>4724</td>
<td>Williston Rd</td>
<td>28-117-22-12-0031</td>
<td>$2,590.70</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>Subtotal</strong></td>
</tr>
</tbody>
</table>
Annual Report on Deferred Assessments.

Pursuant to City Council Policy 2.17, Deferment of Special Assessments and Storm Sewer Charges, the following is a summary of the deferred assessments for 2016:

<table>
<thead>
<tr>
<th>No. of Applications submitted</th>
<th>2</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of Applications granted</td>
<td>2</td>
</tr>
<tr>
<td>Outstanding amounts as of 12/31/2016</td>
<td>$10,029.31</td>
</tr>
</tbody>
</table>

Staff may analyze and bring to council prior to the special assessment hearing in 2018 recommended amendments to Policy 2.17 in order to update its provisions and better meet the program's policy intent.

Recommendation

Hold the public hearing and adopt the following attached resolutions:

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

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

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


5. Resolution adopting special assessments for 2017 Diseased Trees Project No. 4902, one-year assessment term.


Submitted through:
- Geralyn Barone, City Manager
- Perry Vetter, Assistant City Manager
- Merrill King, Finance Director
- Colin Schmidt, City Assessor
- John Weinand, Environmental Health Supervisor
- Jo Colleran, Natural Resource Manager

Originated by:
- Denise Ostlund, Assessment Specialist
Resolution No. 2017-

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

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

Section 1. Background.

1.01. Pursuant to proper notice duly given as required by Minnesota statute, the Council has met on September 11, 2017 to hear and to pass upon all objections to the proposed special assessments for 2017 Nuisance Abatement Projects at the following properties lying within the City of Minnetonka:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-535</td>
<td>5108</td>
<td>Beacon Hill Rd</td>
<td>28-117-22-41-0026</td>
<td>$84.48</td>
</tr>
<tr>
<td>N-536</td>
<td>4561</td>
<td>Ellerdale Rd</td>
<td>22-117-22-34-0033</td>
<td>$84.48</td>
</tr>
<tr>
<td>N-537</td>
<td>4926</td>
<td>Clear Spring Rd</td>
<td>29-117-22-24-0029</td>
<td>$84.48</td>
</tr>
<tr>
<td>N-528</td>
<td>13929</td>
<td>Excelsior Blvd</td>
<td>27-117-22-34-0024</td>
<td>$112.64</td>
</tr>
<tr>
<td>N-511</td>
<td>4942</td>
<td>Acorn Ridge Rd</td>
<td>30-117-22-23-0051</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-523</td>
<td>5623</td>
<td>Lakeland Rd</td>
<td>32-117-22-13-0015</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-504</td>
<td>17081</td>
<td>Creek Ridge Tr</td>
<td>32-117-22-33-0008</td>
<td>$268.33</td>
</tr>
<tr>
<td>N-530</td>
<td>14222</td>
<td>Bellevue Dr</td>
<td>27-117-22-32-0014</td>
<td>$420.33</td>
</tr>
<tr>
<td>N-520</td>
<td>11303</td>
<td>Royzelle La</td>
<td>14-117-22-44-0048</td>
<td>$436.65</td>
</tr>
<tr>
<td>N-521</td>
<td>11911</td>
<td>Ridgemount Ave W</td>
<td>02-117-22-12-0022</td>
<td>$436.65</td>
</tr>
<tr>
<td>N-525</td>
<td>4831</td>
<td>Williston Rd</td>
<td>28-117-22-14-0068</td>
<td>$436.65</td>
</tr>
<tr>
<td>N-512</td>
<td>5608</td>
<td>Whited Ave</td>
<td>33-117-22-24-0062</td>
<td>$573.15</td>
</tr>
<tr>
<td>N-527</td>
<td>5013</td>
<td>Mayview Rd</td>
<td>27-117-22-31-0019</td>
<td>$604.98</td>
</tr>
<tr>
<td>N-519</td>
<td>4941</td>
<td>West La</td>
<td>30-117-22-23-0053</td>
<td>$705.59</td>
</tr>
<tr>
<td>N-526</td>
<td>16211</td>
<td>Gleason Lake Rd</td>
<td>05-117-22-11-0017</td>
<td>$936.65</td>
</tr>
</tbody>
</table>

Subtotal $5,521.72
Section 2. Council Action.

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

2.02. The special assessment may be paid within 30 days from the date of this resolution, or may be paid in a single installment in the same time and manner as the payment of real estate taxes with interest at the rate of 2.46 percent per annum. To the first installment of each assessment will be added interest on the entire assessment from the date of this resolution to December 31 of the year in which the first payment is payable. Subsequently, one year's interest on the remaining balance will be added to each subsequent installment. Any property owner may pay the entire unpaid balance of the assessment against his/her property at any time with interest accrued to December 31 of the year in which the payment is made, provided the payment is made before November 30 in the first year and before November 15 in subsequent years.

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

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 11, 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 September 11, 2017.

__________________________________________

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

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

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

Section 1. Background.

1.01. Pursuant to proper notice duly given as required by Minnesota statute, the Council has met on September 11, 2017 to hear and to pass upon all objections to the proposed special assessments for 2017 Nuisance Abatement Projects at the following properties lying within the City of Minnetonka:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-522</td>
<td>12525</td>
<td>Ridgemount Ave W</td>
<td>02-117-22-22-0014</td>
<td>$1,080.55</td>
</tr>
<tr>
<td>N-514</td>
<td>4826</td>
<td>Royal Oaks Dr</td>
<td>27-117-22-14-0069</td>
<td>$1,936.65</td>
</tr>
<tr>
<td>N-524</td>
<td>16108</td>
<td>Minnetonka Blvd</td>
<td>17-117-22-41-0036</td>
<td>$1,936.65</td>
</tr>
<tr>
<td>N-506</td>
<td>2500</td>
<td>Sylvan Pl</td>
<td>11-117-22-31-0068</td>
<td>$2,062.48</td>
</tr>
<tr>
<td>N-508</td>
<td>2701</td>
<td>Cherrywood Rd</td>
<td>10-117-22-42-0013</td>
<td>$2,173.30</td>
</tr>
<tr>
<td>N-532</td>
<td>16417</td>
<td>Hilltop Ter</td>
<td>32-117-22-12-0035</td>
<td>$2,564.10</td>
</tr>
<tr>
<td>N-516</td>
<td>13015</td>
<td>Lake St Extension</td>
<td>22-117-22-41-0005</td>
<td>$2,904.98</td>
</tr>
</tbody>
</table>

Subtotal $14,658.71

Section 2. Council Action.

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

2.02. The special assessment may be paid within 30 days from the date of this resolution, or may be paid in 3 equal annual installments in the same time and manner as the payment of real estate taxes with interest at the rate of 2.98 percent per annum. To the first installment of each assessment will be added interest on the entire assessment from the date of this resolution to December 31 of the year in which the first payment is payable. Subsequently, one year's interest on the remaining balance will be added to each subsequent installment. Any property owner may pay the entire unpaid balance of the assessment against his/her property at any time with interest accrued to December 31 of the year in which the payment is made, provided the payment is made before November 30 in the first year and before November 15 in subsequent years.
2.03. The owner of any property assessed may, at any time within 30 days following the adoption of this resolution, pay all or part of the assessment to the city, provided that partial payments are made in increments of not less than $100 and provided that any balance remaining unpaid is not less than $100 no interest will be charged on the amount paid.

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 11, 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 September 11, 2017.

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

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

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

Section 1. Background.

1.01. Pursuant to proper notice duly given as required by Minnesota statute, the Council has met on September 11, 2017 to hear and to pass upon all objections to the proposed special assessments for 2017 Nuisance Abatement Projects at the following properties lying within the City of Minnetonka:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-513</td>
<td>14010</td>
<td>Minnehaha Pl</td>
<td>15-117-22-22-0035</td>
<td>$3,673.94</td>
</tr>
<tr>
<td>N-533</td>
<td>11829</td>
<td>Shady Oak Dr</td>
<td>26-117-22-12-0032</td>
<td>$4,618.17</td>
</tr>
</tbody>
</table>

Subtotal: $8,292.11

Section 2. Council Action.

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

2.02. The special assessment may be paid within 30 days from the date of this resolution, or may be paid in 5 equal annual installments in the same time and manner as the payment of real estate taxes with interest at the rate of 3.12 percent per annum. To the first installment of each assessment will be added interest on the entire assessment from the date of this resolution to December 31 of the year in which the first payment is payable. Subsequently, one year's interest on the remaining balance will be added to each subsequent installment. Any property owner may pay the entire unpaid balance of the assessment against his/her property at any time with interest accrued to December 31 of the year in which the payment is made, provided the payment is made before November 30 in the first year and before November 15 in subsequent years.

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 11, 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 September 11, 2017.

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

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

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

Section 1. Background.

1.01. Pursuant to proper notice duly given as required by Minnesota statute, the Council has met on September 11, 2017 to hear and to pass upon all objections to the proposed special assessments for 2017 Nuisance Abatement Projects at the following properties lying within the City of Minnetonka:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-501</td>
<td>5117</td>
<td>Beacon Hill Rd</td>
<td>28-117-22-41-0050</td>
<td>$5,642.27</td>
</tr>
<tr>
<td>N-502</td>
<td>11806</td>
<td>Cedar Lake Rd</td>
<td>11-117-22-43-0015</td>
<td>$6,147.24</td>
</tr>
<tr>
<td>N-515</td>
<td>3545</td>
<td>Fairlawn Dr</td>
<td>17-117-22-43-0063</td>
<td>$11,428.26</td>
</tr>
</tbody>
</table>

Subtotal: $23,217.77

Section 2. Council Action.

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

2.02. The special assessment may be paid within 30 days from the date of this resolution, or may be paid in 10 equal annual installments in the same time and manner as the payment of real estate taxes with interest at the rate of 3.87 percent per annum. To the first installment of each assessment will be added interest on the entire assessment from the date of this resolution to December 31 of the year in which the first payment is payable. Subsequently, one year's interest on the remaining balance will be added to each subsequent installment. Any property owner may pay the entire unpaid balance of the assessment against his/her property at any time with interest accrued to December 31 of the year in which the payment is made, provided the payment is made before November 30 in the first year and before November 15 in subsequent years.
2.03. The owner of any property assessed may, at any time within 30 days following the adoption of this resolution, pay all or part of the assessment to the city, provided that partial payments are made in increments of not less than $100 and provided that any balance remaining unpaid is not less than $100 no interest will be charged on the amount paid.

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 11, 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 September 11, 2017.

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

Resolution adopting special assessments for 2017 Diseased Trees Project No. 4902, one-year assessment term

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

Section 1. Background.

1.01. Pursuant to proper notice duly given as required by Minnesota statute, the Council has met on September 11, 2017 to hear and to pass upon all objections to the proposed special assessments for 2017 Diseased Tree Projects at the following properties lying within the City of Minnetonka:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-33</td>
<td>5701</td>
<td>Lake Rose Dr</td>
<td>33-117-22-24-0016</td>
<td>$21.83</td>
</tr>
<tr>
<td>T-66</td>
<td>10402</td>
<td>34th Circle W</td>
<td>13-117-22-42-0323</td>
<td>$48.78</td>
</tr>
<tr>
<td>T-35</td>
<td>5540</td>
<td>Mahoney Ave</td>
<td>31-117-22-11-0040</td>
<td>$76.40</td>
</tr>
<tr>
<td>T-38</td>
<td>5537</td>
<td>Glenavon Ave</td>
<td>34-117-22-12-0028</td>
<td>$151.08</td>
</tr>
<tr>
<td>T-19</td>
<td>292</td>
<td>Whitegate La</td>
<td>05-117-22-11-0079</td>
<td>$168.96</td>
</tr>
<tr>
<td>T-71</td>
<td>14400</td>
<td>Minnehaha Pl</td>
<td>16-117-22-11-0050</td>
<td>$168.96</td>
</tr>
<tr>
<td>T-36</td>
<td>11622</td>
<td>Live Oak Dr</td>
<td>11-117-22-12-0015</td>
<td>$359.74</td>
</tr>
<tr>
<td>T-39/T-25</td>
<td>4441</td>
<td>Gaywood Dr</td>
<td>22-117-22-34-0004</td>
<td>$466.76</td>
</tr>
<tr>
<td>T-1</td>
<td>5123</td>
<td>Belwood La</td>
<td>29-117-22-41-0046</td>
<td>$481.97</td>
</tr>
<tr>
<td>T-21</td>
<td>1504</td>
<td>Traymore Rd</td>
<td>01-117-22-31-0015</td>
<td>$563.20</td>
</tr>
<tr>
<td>T-22</td>
<td>4230</td>
<td>Fairview Ave</td>
<td>23-117-22-31-0017</td>
<td>$563.20</td>
</tr>
<tr>
<td>T-69</td>
<td>11700</td>
<td>Live Oak Dr</td>
<td>11-117-22-12-0027</td>
<td>$573.66</td>
</tr>
<tr>
<td>T-76</td>
<td>n/a</td>
<td>Oakland/Plymouth Rd</td>
<td>15-117-22-11-0001</td>
<td>$760.32</td>
</tr>
</tbody>
</table>

Subtotal $4,404.86

Section 2. Council Action.

2.01. The proposed special assessments listed above are hereby adopted, and each tract of land is found to be benefited by the improvement in the amount of the assessment levied against it.
2.02. The special assessment may be paid within 30 days from the date of this resolution, or may be paid in a single installment in the same time and manner as the payment of real estate taxes with interest at the rate of 2.46 percent per annum. To the first installment of each assessment will be added interest on the entire assessment from the date of this resolution to December 31 of the year in which the first payment is payable. Subsequently, one year's interest on the remaining balance will be added to each subsequent installment. Any property owner may pay the entire unpaid balance of the assessment against his/her property at any time with interest accrued to December 31 of the year in which the payment is made, provided the payment is made before November 30 in the first year and before November 15 in subsequent years.

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

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 11, 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 September 11, 2017.

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

Resolution adopting special assessments for 2017 Diseased Trees Project No. 4902, three-year assessment term

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

Section 1. Background.

1.01. Pursuant to proper notice duly given as required by Minnesota statute, the Council has met on September 11, 2017 to hear and to pass upon all objections to the proposed special assessments for 2017 Diseased Tree Projects at the following properties lying within the City of Minnetonka:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-74</td>
<td>12015</td>
<td>Mayflower Cir</td>
<td>11-117-22-31-0042</td>
<td>$1,130.89</td>
</tr>
<tr>
<td>T-63</td>
<td>3825</td>
<td>Cottage La</td>
<td>23-117-22-12-0048</td>
<td>$1,343.35</td>
</tr>
<tr>
<td>T-70</td>
<td>n/a</td>
<td>Stone Rd/Hwy 494</td>
<td>10-117-22-33-0001</td>
<td>$2,337.26</td>
</tr>
<tr>
<td>T-79</td>
<td>4724</td>
<td>Williston Rd</td>
<td>28-117-22-12-0031</td>
<td>$2,590.70</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Subtotal</td>
<td></td>
<td>$7,402.20</td>
</tr>
</tbody>
</table>

Section 2. Council Action.

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

2.02. The special assessment may be paid within 30 days from the date of this resolution, or may be paid in 3 equal annual installments in the same time and manner as the payment of real estate taxes with interest at the rate of 2.98 percent per annum. To the first installment of each assessment will be added interest on the entire assessment from the date of this resolution to December 31 of the year in which the first payment is payable. Subsequently, one year's interest on the remaining balance will be added to each subsequent installment. Any property owner may pay the entire unpaid balance of the assessment against his/her property at any time with interest accrued to December 31 of the year in which the payment is made, provided the payment is made before November 30 in the first year and before November 15 in subsequent years.
2.03. The owner of any property assessed may, at any time within 30 days following the adoption of this resolution, pay all or part of the assessment to the city, provided that partial payments are made in increments of not less than $100 and provided that any balance remaining unpaid is not less than $100 no interest will be charged on the amount paid.

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 11, 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 September 11, 2017.

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

Resolution adopting special assessments for 2017 Diseased Trees Project No. 4902, five-year assessment term

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

Section 1. Background.

1.01. Pursuant to proper notice duly given as required by Minnesota statute, the Council has met on September 11, 2017 to hear and to pass upon all objections to the proposed special assessments for 2017 Diseased Tree Projects at the following properties lying within the City of Minnetonka:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-49</td>
<td>3978</td>
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<td>$3,604.44</td>
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<tr>
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<td>11410</td>
<td>Oakvale Rd N</td>
<td>14-117-22-44-0007</td>
<td>$3,604.44</td>
</tr>
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<td>Kathleene Dr</td>
<td>31-117-22-13-0018</td>
<td>$3,717.08</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Subtotal</td>
<td>$10,925.96</td>
</tr>
</tbody>
</table>

Section 2. Council Action.

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

2.02. The special assessment may be paid within 30 days from the date of this resolution, or may be paid in 5 equal annual installments in the same time and manner as the payment of real estate taxes with interest at the rate of 3.12 percent per annum. To the first installment of each assessment will be added interest on the entire assessment from the date of this resolution to December 31 of the year in which the first payment is payable. Subsequently, one year's interest on the remaining balance will be added to each subsequent installment. Any property owner may pay the entire unpaid balance of the assessment against his/her property at any time with interest accrued to December 31 of the year in which the payment is made, provided the payment is made before November 30 in the first year and before November 15 in subsequent years.
2.03. The owner of any property assessed may, at any time within 30 days following the adoption of this resolution, pay all or part of the assessment to the city, provided that partial payments are made in increments of not less than $100 and provided that any balance remaining unpaid is not less than $100 no interest will be charged on the amount paid.

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 11, 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 September 11, 2017.

_____________________________________________________________________
David E. Maeda, City Clerk
City Council Agenda Item #13B  
Meeting of September 11, 2017

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

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

**Background**

The city has received an application for a temporary on-sale liquor license from Episcopal Parish of St. David (St. David’s) for an indoor fundraiser event at 13000 St. David Road.

**The Event**

St. David’s is requesting approval for a temporary liquor license in connection with its annual gala on Saturday, November 11, 2017. This is an annual fundraising event, which supports their Outreach Ministries. The ICA Foodshelf ministry will be featured at this year’s event.

The event will be a single-day event with all activities in the evening from 5:00 - 10:00 p.m. inside the church building. The event will sponsor a silent auction, dinner, live auction, and entertainment. Champagne will be available during the silent auction and wine will be served only at dinner. Tickets to this event will be sold to adults over age 21. Identifications will be checked at the entrance. All of the event activity takes place in one room with adult parish members ensuring that there are no liquor consumption issues. The city did not encounter any issues with the event in 2016.

City liquor ordinances allow temporary on-sale liquor licenses to be issued to clubs and other charitable, religious, or not-for-profit organizations, subject to application, public hearing, and approval by the city council. St. David’s has completed the license application, paid the fee, and provided proof of insurance. They are a non-profit charitable organization, and are therefore eligible for a temporary liquor license.

**Recommendation**

Staff recommends the council hold the public hearing and grant the temporary liquor license for the annual gala at St. David’s.
Submitted through:
   Geralyn Barone, City Manager
   Julie Wischnack, AICP, Community Development Director

Originated by:
   Kathy Leervig, Community Development Coordinator
August 25, 2017

On Saturday November 11th, St. David’s Episcopal Church will hold its Blessing and Bounty Outreach Gala. This is our major annual fundraising event to support our Outreach Ministries. Again this year we will coordinate this event with the ICA Foodshelf, who will share in the benefits. In past years we have raised $10,000 to $15,000 through this effort.

This will be a single-day event with all activities to be held on Saturday evening, November 11th, inside the St. David’s church building at 13000 St. David’s road. From 5:00 PM to 10:00 PM we will sponsor a silent auction, dinner, live auction, and entertainment. We anticipate selling up to 96 tickets for the evening’s activities. Tickets will be sold to adults only, and ID’s will be checked at the entrance. The main entrance to St. David’s church will be the only entrance to the event. We will lock and control all other outside doors during the event, and we will have specific adult parish members in attendance and assigned the task of being alert to insure that no abuses of liquor occur.

Champagne or sparkling cider will be available during the silent auction, and wine will be served at dinner. Soft drinks, water and coffee will also be served throughout the entire event. St. David’s members will procure and pick up all liquor products, and our caterer’s staff will be the only ones pouring wine. Our caterer has an ongoing contract to regularly use our church kitchen, and is familiar with our church members.

We are looking forward to another successful fundraiser, and appreciate the support of the City of Minnetonka and the City Council in securing our temporary liquor license.

Sincerely,

St. David’s Episcopal Church
William R. Jacobs
Applicant
UNDERCROFT Room - all wine in this area only

ST. DAVID'S EPISCOPAL CHURCH
GIFTS & GROUNDS
City Council Agenda Item #13C  
Meeting of September 11, 2017

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

**Recommendation**  
Open the public hearing and continue to October 9, 2017

**Background**

The city has received a request for an ownership change from Fernriver Enterprises, LLC (dba Strong Liquor), located at 11048 Cedar Lake Road. Fernriver Enterprises, LLC, equally owned by Stephen Smitley and Todd Abram, purchased the business in 2016. An executed purchase agreement has been submitted allowing Mr. Smitley to acquire 100% of the business effective October 31, 2017. The change in ownership, which requires a new license, is contingent upon approval of the license by the city council.

All other operation aspects of the existing business will remain the same. A background check on Mr. Smitley was completed last year as part of an ownership change in 2016, so no further investigation is required. The police department has not encountered any issues on-site under the new management.

**Recommendation**

Staff recommends that the city council open the public hearing and continue the hearing to October 11, 2017.

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

Originated by:  
Kathy Leervig, Community Development Coordinator
Location Map

Project: Strong Liquor
Address: 11048 Cedar Lake Rd

City of minnetonka

This map is for illustrative purposes only.
City Council Agenda Item #13D  
Meeting of September 11, 2017

**Brief Description**  
Resolution approving vacation of a drainage and utility easement at 1580 Oakways

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

**Introduction**

The property owners at 1580 Oakways and 1423 Linner Road have submitted an application for an administrative lot line adjustment. The property owners of 1580 Oakways are intending to construct a pool and the administrative lot line adjustment would allow the pool to maintain the required setbacks from all property lines and the adjacent wetland.

To vacate the easements along the “old” lot line, the property owner has requested vacation of the drainage and utility easement on the property at 1580 Oakways.

**Staff Comments**

The requested vacation is reasonable, as: (1) no utilities are located within the easements; and (2) the applicant will be required to establish a new easement along the “new” lot line.

**Staff Recommendation**

Staff recommends the city council hold the public hearing and adopt the resolution approving the vacation of the easement.

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

Originated by:
- Ashley Cauley, Senior Planner
Location Map

Project: Ramirez Residence
Address: 1580 Oakways
Project No. 17019.17a

City of minnetonka

This map is for illustrative purposes only.
31 July 2017

Written Statement – Intended Use of Property

To Whom It May Concern:

Vacation of the Drainage and Utility Easement is being requested in order to install an in-ground pool on our property. We request the drainage and utility easement be relocated to the new western property line.

Sincerely,

[Signature]
Roxanne Ramirez
1580 Oakways St.
**LEGAL DESCRIPTION (1350 OAKWAYS):**
Lot 1, Block 1, Oakways 4th Addition, Hennepin County, Minnesota.

**LEGAL DESCRIPTION (1350 OAKWAYS):**
Lot 1, Block 1, Oakways 4th Addition, Hennepin County, Minnesota.

**PROPOSED LEGAL DESCRIPTION OF TRANSFER PARCEL:**
That part of Lot 1, Superior Boulevard Gardens and Lot 1, Block 1, Oakways 4th Addition, Hennepin County, Minnesota, described as follows: Beginning at the Southeast corner of Lot 1, Superior Boulevard Gardens, thence North 60 degrees 20 minutes 51 seconds East, along the East line thereof, a distance of 82.06 feet to the Southeast corner of Lot 1, Oakways 4th Addition, thence North 60 degrees 20 minutes 51 seconds East, along the West line thereof, a distance of 135.93 feet to the Northwest corner of Lot 1, Oakways 4th Addition, thence South 60 degrees 20 minutes 51 seconds West, along the Southwest extension of the North line of Lot 1, Oakways 4th Addition, a distance of 47.0 feet; thence South 14 degrees 13 minutes 09 seconds West, a distance of 133.0 feet; thence North 12 degrees 09 minutes 35 seconds East, a distance of 93.0 feet to the Southeast line of said Lot 1; thence South 89 degrees 51 minutes 30 seconds East, a distance of 35.6 feet to the point of beginning.

**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 a 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 in the survey have been shown.
2. Showing the location of existing improvements not deemed necessary for the survey.
3. Setting survey markers or verifying existing survey markers to establish the corners of the property.
4. Ensuring building and setback lines are measured to outside of footing or structure.
5. The survey has been completed without the benefit of a current title commitment. Therefore, the survey is based on the conditions existing at the time of the survey. The surveyor has no knowledge of any easements or encroachments.
6. We have a proposed easement for the property per your instructions. Please review the proposed division to verify that it is what you intended. We suggest you submit this survey to the governmental agencies that have jurisdiction over it to obtain their approval, if you can, before making any decisions regarding the property.

**STANDARD SYMBOLS & CONVENTIONS:**
* * Denotes iron survey marker, set, unless otherwise noted.
Resolution No. 2017-

Resolution vacating a drainage and utility easement at 1580 Oakways

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

Section 1. Background.

1.01 Oscar and Roxanne Ramirez have petitioned the Minnetonka City Council to vacate a drainage and utility easement located at 1580 Oakways.

1.02 The easement is legally described as follows, to wit:

The West 7 feet of Lot 1, Block 1, Oakways 4th Addition, Hennepin County, Minnesota, lying South of the North 7 feet and lying North of the South 7 feet thereof.

1.03 In accordance with City Charter Section 12.06, a hearing notice on said petition was published in the City of Minnetonka’s official newspaper and written notice was mailed to the owners of each abutting property and to all landowners in the plat.

1.04 On September 11, 2017, the City Council held a hearing on such petition, at which time all persons for and against the granting of said petition were heard.

Section 2. Standards.

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

Section 3. Findings.

3.01 The Minnetonka City Council makes the following findings:
1. There are no public utilities located within the easement.

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

3. There is no anticipated public need for the easement.

4. The property owner will be required to rededicate a new drainage and utility easement along the newly establish lot line.


4.01 The City Council vacates the above-described easement subject to the following condition:

1. The easement vacation is not valid until the new drainage and utility easement along the newly established property line has been recorded.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 11, 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 September 11, 2017.
David E. Maeda, City Clerk
City Council Agenda Item #13E  
Meeting of September 11, 2017  

**Brief Description**  
Resolution vacating drainage and utility easements at 2800 Jordan Avenue and an adjacent unaddressed parcel

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

**Introduction**  
On August 28, 2017, the city council approved the Minnetonka Hills Apartments project. As approved, the existing single-family home would be removed and the single-family residential property was included in the MINNETONKA HILLS APARTMENTS 2nd ADDITION plat.

Mark Kronbeck, on behalf of Alliant Engineering, is requesting vacation of the obsolete drainage and utility easements associated with the single-family residential property and the adjacent unaddressed parcel.

**Staff Comments**  
The requested vacation is reasonable, as: (1) no utilities are located within the easements; and (2) new easements were established as part of the MINNETONKA HILLS APARTMENTS 2nd ADDITION.

**Staff Recommendation**  
Staff recommends the city council hold the public hearing and adopt the resolution approving the vacation of the easement.

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

Originated by:  
  Ashley Cauley, Senior Planner
Location Map

Project: Minnetonka Hills Apartment 2nd Addn
Applicant: Alliant Engineering
Address: 2800/2828 Jordan Ave
Project No. 86157.17a

This map is for illustrative purposes only.
LEGAL DESCRIPTION OF EASEMENT AREA TO BE VACATED:

That part of the 7 foot wide public drainage and utility easement dedicated over, under and across that part of Lot 1, Block 2, Minnetonka Hills Apartments, recorded as Document No. 5203533 in the records of the County Recorder and also recorded as Document No. 1786842 in records of the Registrar of Titles adjoining OUTLOT C, of said Minnetonka Hills Apartments and that part adjoining said Lot 1, platted and adjudicated as being the West line of the East 265.00 feet and the North line of the South 170.00 feet of the North 450.00 feet of the Southeast Quarter of the Southeast Quarter of Section 12, Township 117, Range 22, excepting that part of the 7.00 foot easement lying within the 10.00 foot wide drainage and utility easement adjoining the easterly line of said Lot 1.
DESCRIPTION OF PROPERTY:
That part of Lot 1, Block 2, Minnetonka Hills Apartments, lying North of the North line of Outlot C, said Addition and its Westerly extension.
(Torrens Certificate Number 1075439)
And,
Lot 1, Block 2, Minnetonka Hills Apartments, Hennepin County, Minnesota, EXCEPT that part of Lot 1, Block 2, Minnetonka Hills Apartments, lying North of the North line of Outlot C, said Addition and its Westerly extension.
(Abstract property)

LEGAL DESCRIPTION OF EASEMENT AREA TO BE VACATED:
That part of the 7 foot wide public drainage and utility easement dedicated over, under and across that part of Lot 1, Block 2, Minnetonka Hills Apartments, recorded as Document No. 5203533 in the records of the County Recorder and also recorded as Document No. 1786842 in records of the Registrar of Titles adjoining OUTLOT C of said Minnetonka Hills Apartments and that part adjoining said Lot 1, platted and adjudicated as being the West line of the East 265.00 feet and the North line of the South 170.00 feet of the North 450.00 feet of the Southeast Quarter of the Southeast Quarter of Section 12, Township 117, Range 22, excepting that part of the 7.00 foot easement lying within the 10.00 foot wide drainage and utility easement adjoining the easterly line of said Lot 1.
Resolution No. 2017-
Resolution vacating obsolete drainage and utility easements at 2800 Jordan Avenue and an adjacent, unaddressed parcel

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

Section 1. Background.

1.01 Alliant Engineering, on behalf of CSM Corporation, has petitioned the Minnetonka City Council to vacate an existing drainage and utility easement on the property at 2800 Jordan Avenue and an adjacent, unaddressed parcel.

1.02 The easement is legally described as follows, to wit:

That part of the 7 foot wide public drainage and utility easement dedicated over, under and across that part of Lot 1, Block 2, Minnetonka Hills Apartments, recorded as Document No. 5203533 in records of the County Recorder and also recorded as Document No. 1786842 in records of the Registrar of Titles adjoining OUTLOT C, of said Minnetonka Hills Apartments and that part adjoining said Lot 1, platted and adjudicated as being the West line of the East 265.00 feet and the North line of the South 170.00 feet of the North 450.00 feet of the Southeast Quarter of the Southeast Quarter of Section 12, Township 117, Range 22, excepting that part of the 7.00 foot easement lying within the 10.00 foot wide drainage and utility easement adjoining the easterly line of said Lot 1.

1.03 In accordance with City Charter Section 12.06, a hearing notice on said petition was published in the City of Minnetonka’s official newspaper and written notice was mailed to the owners of each abutting property and to all landowners in the plat.

1.04 On September 11, 2017, the city council held a hearing on such petition, at which time all persons for and against the granting of said petition were
Section 2. Standards.

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

Section 3. Findings.

3.01 The Minnetonka City Council makes the following findings:

1. There are no public utilities located within the easement.
2. There is no anticipated public need for the easement.
3. The vacation is not counter to the public interest.


4.01 The City Council vacates the above-described easement.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 11, 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 September 11,
2017.

David E. Maeda, City Clerk
City Council Agenda Item #14A  
Meeting of September 11, 2017

Brief Description: Administrative hearing regarding the tobacco license of Boulevard Sinclair

Recommended Action:
1) Conduct the administrative hearing.
2) Decide whether a violation occurred.
3) If the council finds a violation occurred, impose penalties as required by city ordinance.

Background

The licensee listed above has requested a hearing before the city council regarding an allegation that an employee of the licensee sold tobacco to a person under the age of 18 on June 26, 2016.

At the administrative hearing, the city council will be asked to review evidence submitted by city staff and the licensee and decide whether a violation occurred. If the council determines that a violation occurred, the penalties are established by state law and city ordinance and are not subject to council modification. Under the ordinance, the penalty for a first violation is $250 and the penalty for a second violation within 24 months is $500.

Because the council members will be acting as judges during the administrative hearing, no further information is included with this report. All relevant information will be presented at the hearing. Council members are directed not to contact either staff or the licensee regarding this matter prior to the hearing, so as to avoid any claim that contacts outside the hearing itself improperly influenced council members.

Recommendation

1) Conduct the administrative hearing.
2) Decide whether a violation occurred.
3) Impose a penalty if a violation occurred.

Submitted through:
Geralyn Barone, City Manager
Julie Wischnack

Originated by:
Corrine Heine, City Attorney
Brief Description: Discussion of possible coal tar sealant litigation (this discussion may be closed pursuant to Minn. Stat. § 13D.05, subd. 3(b))

Recommended Action: Convene in closed session under the attorney-client privilege for the discussion of proposed litigation regarding coal tar sealant contamination

Background

The city council may close a meeting under an exception to the Open Meeting Law found at Minn. Stat. § 13D, subd. 3(b) as allowed by the attorney-client privilege. The city attorney and city engineering staff have engaged in discussions with outside legal counsel regarding the possibility of bringing a legal action related to the existence of hazardous materials in the city’s storm water ponds. The city has been asked to consider whether to join as a party in the action.

The city attorney has arranged for outside counsel to meet with the city council, in person and by telephone. The city attorney has determined there is a need for absolute confidentiality of that discussion, in order to have a candid discussion of the merits, weaknesses and strategy for the litigation.

Recommendation

Convene in closed session under the attorney-client privilege for the discussion of proposed litigation regarding coal tar sealant contamination.

Submitted through:
   Geralyn Barone, City Manager
   Will Manchester, City Engineer

Originated by:
   Corrine Heine, City Attorney
10F. Resolution approving a floodplain alteration permit and horizontal floodplain setback variance from 20 feet to 7.5 feet and waiving the McMansion policy; and ordinance to remove area from floodplain overlay district at 3136 County Road 101

Attached is a change memo from the city planner with information from the September 7 planning commission meeting.

13A. Resolutions for special assessment of 2016-2017 projects

Attached is updated assessment information and an updated resolution to reflect two assessments that were paid.

14A. Administrative hearing regarding the tobacco license of Boulevard Sinclair

The staff report inadvertently left out the establishment's address. The address is 9800 Minnetonka Boulevard.
**Memorandum**

To: City Council  
From: Loren Gordon, AICP, City Planner  
Date: September 11, 2017  
Subject: Change Memo for September 11, 2017

**ITEM 10F – 3136 County Road 101**

At its September 7 meeting, the planning commission opened a public hearing to take public comment on the proposed floodplain alteration, rezoning, horizontal setback variance, and waiver of the McMansion Policy. No comments were received. The commission then asked questions of staff:

- **McMansion Policy.** The commission asked whether waiver of the McMansion Policy could result in a larger home being built than what was presented in the staff report. Staff answered in the negative. A larger home could not be built for two reasons: (1) the approval resolution specifically reference the plans presented in the staff report; and (2) the proposed home occupies the entirety of the functional buildable area – changes to the footprint would likely require variances not presented or approved as part of this application.

- **Slope.** A commissioner confirmed with staff that the slope on the site was not a defined “steep slope”. Staff indicated that it was not. Staff further pointed out that, as the property is a legal lot of record, the city is legal obligated to provide reasonable use of the property.

- **Shavers Lake.** A commissioner asked whether creation of the floodplain compensation area would impact the water table and, therefore, the level of Shavers Lake. Engineering staff answered in the negative.

**Planning Commission Recommendation**

On a 6-0 vote, the commission recommended the city council approve the requests. Unapproved meeting minutes are attached.
ITEM 14A – Administrative hearing regarding the tobacco license of Boulevard Sinclair

The location of Boulevard Sinclair was omitted from the report. The establishment is located at 9800 Minnetonka Blvd.
B. **Items concerning construction of a house at 3136 County Road 101.**

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.

In response to Chair Kirk's question, Thomas explained that if the McMansion Policy were applied the maximum FAR for the property would be .26. The .26 FAR would allow a house up to 3,200 square feet with an attached garage. A change in the plan would require approval by the planning commission. The proposed house would take up the buildable area, so it could not be expanded without an additional variance.

Schack asked for the size of the property. Thomas answered 1.4 acres.

Knight asked if there would be risk that the lake would be drained. Dietrich answered in the negative. The ground water table is several feet below the compensation area.

The applicant was present for questions.

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

Calvert asked if the slope is considered a steep slope. Thomas answered in the negative. The elevation does not go up 25 feet.

Chair Kirk thought the tree loss was minimalized. The created floodplain works around most of the trees in the area.

Colleran explained the conservation easement adjacent to the wetland.

*Knight moved, second by Calvert, to recommend that the city council adopt the following associated with construction of a house at 3136 County Road 101:*

1. **A resolution approving a floodplain alteration permit and horizontal floodplain setback variance from 20 feet to 7.5 feet and waiving the McMansion policy.**
2. **An ordinance to remove area from the floodplain overlay district.**

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

C. **Items concerning Shady Oak Crossing at 4312 Shady Oak 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.

Chair Kirk listed comments from the last public hearing.

Mike Waldo, of Ron Clark Construction and Design, stated that the revised site plan works quite well. It would have zero fill along the pipe and it provides more green space and buffer from the single-family residence. The building was reduced a foot and a half in relationship to the road to make everything work for the grade. He is available for questions.

The public hearing was continued.

Kyle Holm, 4234 Oak Drive Lane, asked what would be the livable space for the buildings and what would be the zoning.

Chris Aanestad, 4255 Oak Drive Lane, stated that:

- He wanted the project scraped because of the location of the retention pond. He asked if Ron Clark would pay for 4292 Oak Drive Lane. The city already discounted 4312 Oak Drive Lane.
- He asked for the plans for 4292 Oak Drive Lane.
- The revised site plan is unacceptable. He wanted the planning commission to deny the proposal.

Stephen Philbrook, 4222 Oak Drive Lane, stated that:

- The road is narrow. If a vehicle is parked on one side, other vehicles can barely pass through.
- He does not want kids playing in four lanes of traffic. He was concerned with safety.
- He would like a stop light and entrance on the adjacent property.
ADDENDUM

City Council Agenda Item #13A
Meeting of September 11, 2017

Brief Description: Resolutions for special assessment of 2016-2017 projects

Since publication of the council agenda packet, additional information has developed regarding two of the proposed special assessments, as indicated below:

The owner of 5540 Mahoney Avenue has paid the assessment (1-year tree) in full. The attached resolution for this assessment has been revised to reflect this payment, and should be adopted in place of the resolution contained within the packet.

The owner of 5123 Belwood Lane has paid the assessment (1-year tree) in full. The attached resolution for this assessment has been revised to reflect this payment, and should be adopted in place of the resolution contained within the packet.

Submitted through:
Geralyn Barone, City Manager
Merrill King, Finance Director
Colin Schmidt, City Assessor
Jo Colleran, Natural Resource Manager

Originated by:
Denise Ostlund, Assessment Specialist
Resolution No. 2017-

Resolution adopting special assessments for 2017 Diseased Trees Project No. 4902, one-year assessment term

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

Section 1. Background.

1.01. Pursuant to proper notice duly given as required by Minnesota statute, the Council has met on September 11, 2017 to hear and to pass upon all objections to the proposed special assessments for 2017 Diseased Tree Projects at the following properties lying within the City of Minnetonka:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
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<td>Glenavon Ave</td>
<td>34-117-22-12-0028</td>
<td>$151.08</td>
</tr>
<tr>
<td>T-19</td>
<td>292</td>
<td>Whitegate La</td>
<td>05-117-22-11-0079</td>
<td>$168.96</td>
</tr>
<tr>
<td>T-71</td>
<td>14400</td>
<td>Minnehaha Pl</td>
<td>16-117-22-11-0050</td>
<td>$168.96</td>
</tr>
<tr>
<td>T-36</td>
<td>11622</td>
<td>Live Oak Dr</td>
<td>11-117-22-12-0015</td>
<td>$359.74</td>
</tr>
<tr>
<td>T-39/T-25</td>
<td>4441</td>
<td>Gaywood Dr</td>
<td>22-117-22-34-0004</td>
<td>$466.76</td>
</tr>
<tr>
<td>T-21</td>
<td>1504</td>
<td>Traymore Rd</td>
<td>01-117-22-31-0015</td>
<td>$563.20</td>
</tr>
<tr>
<td>T-22</td>
<td>4230</td>
<td>Fairview Ave</td>
<td>23-117-22-31-0017</td>
<td>$563.20</td>
</tr>
<tr>
<td>T-69</td>
<td>11700</td>
<td>Live Oak Dr</td>
<td>11-117-22-12-0027</td>
<td>$573.66</td>
</tr>
<tr>
<td>T-76</td>
<td>n/a</td>
<td>Oakland/Plymouth Rd</td>
<td>15-117-22-11-0001</td>
<td>$760.32</td>
</tr>
</tbody>
</table>

Subtotal       |                           |                   | $3,846.49           |

Section 2. Council Action.

2.01. The proposed special assessments listed above are hereby adopted, and each tract of land is found to be benefited by the improvement in the amount of the assessment levied against it.
2.02. The special assessment may be paid within 30 days from the date of this resolution, or may be paid in a single installment in the same time and manner as the payment of real estate taxes with interest at the rate of 2.46 percent per annum. To the first installment of each assessment will be added interest on the entire assessment from the date of this resolution to December 31 of the year in which the first payment is payable. Subsequently, one year’s interest on the remaining balance will be added to each subsequent installment. Any property owner may pay the entire unpaid balance of the assessment against his/her property at any time with interest accrued to December 31 of the year in which the payment is made, provided the payment is made before November 30 in the first year and before November 15 in subsequent years.

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

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 11, 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 September 11, 2017.

__________________________
David E. Maeda, City Clerk