Agenda
Minnetonka City Council
Regular Meeting, Monday, March 19, 2018
6:30 p.m.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Wagner-Ellingson-Acomb-Calvert-Bergstedt-Wiersum
4. Approval of Agenda
5. Approval of Minutes: None
6. Special Matters:
   A. Recognition of 2018 Citizen Academy graduates
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases:
   A. Bids for the Ridgehaven Lane/Ridgedale Drive (Cartway Lane) and Plymouth Road Improvements
      Recommendation: Award the contract, adopt the resolutions and amend the CIP (5 votes)
10. Consent Agenda - Items Requiring a Majority Vote:
   A. Resolution appointing election judges for the April 10, 2018 Ward 3 Special Election
   B. Resolution approving a fire sprinkler retrofit at 5445 Eden Prairie Road for Copper Cow Restaurant
   C. Ordinance repealing and replacing City Code 300.34, Telecommunication Facilities
   D. Resolution approving an Interim Use Permit for Garden City, a seasonal flower market, at 11400 Highway 7
   E. Resolutions requesting the sale of certain tax-forfeited land to the City of Minnetonka, pursuant to Minn. Stat. § 281.01, subd. 1a(c)
   F. Order for liquor license stipulation
11. Consent Agenda - Items Requiring Five Votes:
   A. Items concerning Eden Prairie Islamic Community Center at 5620 and 5640 Smetana Dr.:
      1) Resolution amending and replacing Resolution No. 2016-064 for a conditional use permit, with a parking variance, at 5620 Smetana Dr.
      2) Resolution approving a conditional use permit, with a parking variance, for a banquet facility at 5640 Smetana Dr.
   B. Resolution approving a conditional use permit, with variances, for a fast food restaurant at 17603 Minnetonka Blvd.

12. Introduction of Ordinances: None

13. Public Hearings:
   A. Resolution vacating public right-of-way at 11706 Wayzata Blvd.
      Recommendation: Hold the public hearing and adopt the resolution (majority vote)
   B. Resolution approving vacation of a drainage and utility easement at 3533 and 3535 Orchard Lane
      Recommendation: Hold the public hearing and adopt the resolution (4 votes)
   C. Temporary on-sale liquor license for Bet Shalom Congregation, 13613 Orchard Rd.
      Appeal of peddler/solicitor license denial for Steven J Brown
      Recommendation: Hold the public hearing and grant the license (5 votes)

14. Other Business:
   A. Resolutions for the Plymouth Road trail project (Amy Lane to Hilloway Road)
      Recommendation: Adopt the resolutions (majority vote)
   B. Appeal of peddler/solicitor license denial for Steven J Brown
      Recommendation: Uphold the denial of the license (majority vote)

15. Appointments and Reappointments: None

16. Adjournment
City Council Agenda Item #6A
Meeting of March 19, 2018

Brief Description: Recognition of 2018 Citizen Academy graduates

Recommended Action: Recognize 2018 Citizen Academy graduates

Background

The City of Minnetonka’s Citizen Academy is designed to inform residents about the workings of the city through six sessions hosted by each of the city’s departments: administration, finance, community development, legal, engineering, public works, recreation, police and fire.

To graduate, attendees had to participate in at least four of the six sessions. Tonight we congratulate 2018 Citizen Academy graduates.

Graduates are Kristin Benson, Cindy Brown, Hans Cederblad, Nadia De La Rosa, Christine Denzer, Ernie Denzer, David Dollahan, Wanda Dollahan, Joe Fredkove, W. James Hendrickson, Matt Henry, Peter Hitch, Kris Huether, Pat Kessler, Jackie Miller, Michele Picard, Kathryn Redding, David Teigland, Mark Werley and Clay Young.

We congratulate these graduates and present them with a certificate commemorating their accomplishment, and encourage all of them to continue to be involved with the City of Minnetonka. The next citizen academy will take place in 2020.

Recommendation

Recognize 2018 Citizen Academy graduates

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

Originated by:
  Kari Spreeman, Communications and Marketing Manager
Brief Description: Bids for the Ridgehaven Lane/Ridgedale Drive (Cartway Lane) and Plymouth Road Improvements

Recommended Action: Award the contract, adopt the resolutions, and amend the CIP

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 Bank 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 Jan. 24, 2018, the city council accepted plans and specifications and authorized the advertisement for bids 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 along Plymouth Road from I-394 to south of Ridgedale Drive, to visually enhance the corridor. This will also allow future sidewalk and streetscaping opportunities to be completed on Plymouth Road at the time of future redevelopments.

Bid Opening

Bids were opened for the project on Feb. 23, 2018. Four bids were received in response to the call for bids, and the results are as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Total Bid</th>
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</thead>
<tbody>
<tr>
<td>C.S. McCrossan Construction, Inc.</td>
<td>$7,899,724.61</td>
</tr>
<tr>
<td>Kraemer North America, LLC</td>
<td>$9,087,425.03</td>
</tr>
<tr>
<td>Ames Construction</td>
<td>$9,223,951.61</td>
</tr>
<tr>
<td>S.M. Hentges &amp; Sons, Inc.</td>
<td>$9,244,329.45</td>
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<tr>
<td>Engineer's Estimate</td>
<td>$8,616,000.00</td>
</tr>
</tbody>
</table>
The low bidder, C.S. McCrossan Construction, Inc. has satisfactorily completed similar projects in Minnetonka.

**Estimated Project Cost and Funding**

The total estimated construction cost, including engineering, administration, easement acquisition and contingency is $10,700,000. Based on the favorable bid, this is a reduction from the Jan. 24, 2018 estimated project cost of $11,960,000.

**Federal Grant and Cash Flow**

Originally, on April 11, 2016, city council approved $7,500,000 in city funds for the project, which were included in the 2016 and 2017 capital improvements program. Later in 2017, 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 will be available to the city for reimbursement beginning in 2021 or sooner if available. During plan preparation, staff identified additional improvements that should be added to the project due to the grant funds received and opportunities provided by the easements donated by private project partners. These improvements include structural storm sewer rehabilitation, additional retaining walls, and additional water main to provide reliability to a critical area of the water system and reduce the scope of similar type improvements under Plymouth Road in the future.

The federal grant for $4,504,000 essentially offsets the additional costs; however, since the federal funding may not be available for reimbursement until 2021, the city may need to cash flow the project during construction. With council approval of the project, staff will have the option to request a State Aid apportionment advance through MnDOT to cover project funding gaps if the federal funds are not yet available, which will be fully repaid by the federal grant funds when they become available. There is no cost to the city for this funding advance.

**Easements and Donations**

The city has had ongoing discussions with the four adjacent properties where easements are required for the project. Early in the process, several of the properties had shown interest in a public/private partnership and committed to donating easements to the city to show their support for the project. City staff has continued discussions with the properties and at this time Target, Ridgehaven/Byerlys and CSM Bonaventure have all donated easements for this project for a total private donation of easements with appraised values totaling $782,500. At this time, one small easement remains to be finalized for the project.

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<th>Budget Amount</th>
<th>Proposed Funding</th>
<th>Expense</th>
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<tbody>
<tr>
<td>Construction Costs</td>
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<tr>
<td>Contingency</td>
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<tr>
<td>Easements</td>
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<tr>
<td>Engineering Admin. Indirect</td>
<td>$1,750,000</td>
<td></td>
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<tr>
<td>Overhead Power Burial</td>
<td>$300,000</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td>$10,700,000</td>
</tr>
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</table>

**Ridgehaven Lane/Ridgedale Drive**

Municipal State Aid $2,000,000 $1,750,000
At this time, staff is requesting an amendment to the CIP to cover the changes in costs and other expenses related to street and utility work for this project. Fund balances in the street improvement, utility, and storm funds can support the additional costs.

Agreements

A Limited Use Permit is needed with MnDOT to allow for the construction of a trail along Plymouth Road within MnDOT’s right-of-way. The permit includes conditions for ownership, maintenance, and use of the trail. Agreements of this type typically require renewal every ten years. As a reference, the city also has a Limited Use Permit for the sidewalk within MnDOT’s right-of-way constructed with the Bren Road/Highway 169 interchange. The city attorney has reviewed the attached Limited Use Permit.

Schedule

The contractor is scheduled to begin construction shortly after the contract is awarded. Ridgedale Drive and Plymouth Road will remain open at all times, and access to all properties will be maintained throughout the duration of the project, however there will be congestion during this work. Roadway improvements are currently scheduled to be complete by late fall and fully open to traffic. Landscaping, streetlights, and final paving will be completed in the spring of 2019.

Recommendation

1) Award the contract for the Ridgedale Drive/Ridgehaven Lane Project No.16501 to C.S. McCrossan Construction, Inc. in the amount of $7,899,724.61 and amend the CIP.
2) Adopt the attached resolution authorizing a Municipal Federal Project Advance.
3) Adopt the attached resolution authorizing execution of a Limited Use Permit.
Submitted through:
   Geralyn Barone, City Manager
   Will Manchester, P.E., Director of Engineering

Originated by:
   Phil Olson, P.E., Assistant City Engineer
Resolution No. 2018-

Resolution authorizing an advance from the Municipal State Aid Fund

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

Section 1. Background.

1.01. The City of Minnetonka is planning to construct SP 2789-154 in the year 2018, which has been programmed by the Area Transportation Partnerships in the State Transportation Improvement Program or work plan for the year 2021.

1.02. The City of Minnetonka is prepared to proceed with the construction of said project through the use of an advance from the Municipal State Aid Street Fund to supplement the available funds in their State Aid Construction Account.

1.03. Repayment of the funds so advanced will be made from Federal funds no later than the year in which the Area Transportation Partnerships has programmed the project.

Section 2. Council Action.

2.01. The Commissioner of Transportation is hereby requested to approve this advance for financing SP 2789-154 of the City of Minnetonka in an amount up to $4,050,000 in accordance with Minnesota Rules 8820.1500, Subp. 10b, and to authorize repayments from their state aid account or from local funds within a requested and approved repayment schedule should said project fail to receive Federal funds for any reason.

2.02. The Mayor and City Manager are hereby authorized to execute the advance from the Municipal State Aid Fund.

Adopted by the City Council of the City of Minnetonka, Minnesota, on March 19, 2018.

______________________________
Brad Wiersum, 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 March 19, 2018.

______________________________
David E. Maeda, City Clerk
Resolution No. 2018-

Resolution authorizing execution of a limited use permit with the Minnesota Department of Transportation for a pedestrian trail in the right-of-way of I-394

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

Section 1. Background.

1.01. The City of Minnetonka has approved a plan to construct a pedestrian trail in the right-of-way of I-394 to promote the orderly and safe crossing of the roadway.

1.02. The Minnesota Department of Transportation requires a Limited Use Permit for the construction and utilization of the trail.

1.03. The City of Minnetonka hereby enters into a Limited Use Permit with the State of Minnesota, Department of Transportation.

1.04. The City of Minnetonka shall construct, operate, and maintain the trail in accordance with the Limited Use Permit granted by the Minnesota Department of Transportation.

Section 2. Council Action.

2.01. The Mayor and City Manager are hereby authorized to execute the Limited Use Permit with the Minnesota Department of Transportation.

Adopted by the City Council of the City of Minnetonka, Minnesota, on March 19, 2018.

Brad Wiersum, 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 March 19, 2018.

_________________________________
David E. Maeda, City Clerk
Ridgehaven Lane/Ridgedale Drive & Plymouth Road Improvements

Improvement Area

This map is for illustrative purposes only.
STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION

LIMITED USE PERMIT

C.S. 2789 (T.H. 394)
County of Hennepin
LUP # 2789-0193
Permittee: City of Minnetonka
Terminates: 12/05/2027

In accordance with Minnesota Statutes Section 161.434, the State of Minnesota, through its
Commissioner of Transportation, ("MnDOT"), hereby grants a Limited Use Permit (the "LUP") to City
of Minnetonka, ("Permittee"), to use the area within the right of way of Trunk Highway No. 394 as
shown in red on Exhibit "A", (the “Area”) attached hereto and incorporated herein by reference. This
Limited Use Permit is executed by the Permittee pursuant to resolution, a certified copy of which is
attached hereto as Exhibit B.

Non-Motorized Recreational Trail

The Permittee's use of the Area is limited to only the constructing, maintaining and operating a
nonmotorized recreational trail ("Facility") and the use thereof may be further limited by 23 C.F.R. 652
also published as the Federal-Aid Policy Guide.

In addition, the following special provisions shall apply:

SPECIAL PROVISIONS

1. TERM. This LUP terminates at 11:59PM on 12/05/2027 ("Expiration Date") subject to the right
of cancellation by MnDOT, with or without cause, by giving the Permittee ninety (90) days
written notice of such cancellation. This LUP will not be renewed except as provided below.

Provided this LUP has not expired or terminated, MnDOT may renew this LUP for a period of up
to ten (10) years, provided Permittee delivers to MnDOT, not later than ninety (90) days prior to
the Expiration Date, a written request to extend the term. Any extension of the LUP term will be
under the same terms and conditions in this LUP, provided:

(a) At the time of renewal, MnDOT will review the Facility and Area to ensure the Facility and
Area are compatible with the safe and efficient operation of the highway and the Facility
and Area are in good condition and repair. If, in MnDOT’s sole determination,
modifications and repairs to the Facility and Area are needed, Permittee will perform such work as outlined in writing in an amendment of this LUP; and

(b) Permittee will provide to MnDOT a certified copy of the resolution from the applicable governmental body authorizing the Permittee’s use of the Facility and Area for the additional term.

If Permittee’s written request to extend the term is not timely given, the LUP will expire on the Expiration Date.

Permittee hereby voluntarily releases and waives any and all claims and causes of action for damages, costs, expenses, losses, fees and compensation arising from or related to any cancellation or termination of this LUP by MnDOT. Permittee agrees that it will not make or assert any claims for damages, costs, expenses, losses, fees and compensation based upon the existence, cancellation or termination of the LUP. Permittee agrees not to sue or institute any legal action against MnDOT based upon any of the claims released in this paragraph.

2. REMOVAL. Upon the Expiration Date or earlier termination, at the Permittee’s sole cost and expense Permittee will:

(a) Remove the Facility and restore the Area to a condition satisfactory to the MnDOT District Engineer; and

(b) Surrender possession of the Area to MnDOT.

If, without MnDOT’s written consent, Permittee continues to occupy the Area after the Expiration Date or earlier termination, Permittee will remain subject to all conditions, provisions, and obligations of this LUP, and further, Permittee will pay all costs and expenses, including attorney’s fees, in any action brought by MnDOT to remove the Facility and the Permittee from the Area.

3. CONSTRUCTION. The construction, maintenance, and supervision of the Facility shall be at no cost or expense to MnDOT.

Before construction of any kind, the plans for such construction shall be approved in writing by the MnDOT’s District Engineer. Approval in writing from MnDOT District Engineer shall be required for any changes from the approved plan.

The Permittee will construct the Facility at the location shown in the attached Exhibit "A", and in accordance with MnDOT-approved plans and specifications. Further, Permittee will construct the Facility using construction procedures compatible with the safe and efficient operation of the highway.

Upon completion of the construction of the Facility, the Permittee shall restore all disturbed slopes and ditches in such manner that drainage, erosion control and aesthetics are perpetuated.
The Permittee shall preserve and protect all utilities located on the lands covered by this LUP at no expense to MnDOT and it shall be the responsibility of the Permittee to call the Gopher State One Call System at 1-800-252-1166 at least 48 hours prior to performing any excavation.

Any crossings of the Facility over the trunk highway shall be perpendicular to the centerline of the highway and shall provide and ensure reasonable and adequate stopping sight distance.

4. MAINTENANCE. Any and all maintenance of the Facility shall be provided by the Permittee at its sole cost and expense, including, but not limited to, plowing and removal of snow and installation and removal of regulatory signs. No signs shall be placed on any MnDOT or other governmental agency sign post within the Area. MnDOT will not mark obstacles for users on trunk highway right of way.

5. USE. Other than as identified and approved by MnDOT, no permanent structures or no advertising devices in any manner, form or size shall be allowed on the Area. No commercial activities shall be allowed to operate upon the Area.

Any use permitted by this LUP shall remain subordinate to the right of MnDOT to use the property for highway and transportation purposes. This LUP does not grant any interest whatsoever in land, nor does it establish a permanent park, recreation area or wildlife or waterfowl refuge Facility that would become subject to Section 4 (f) of the Federal-Aid Highway Act of 1968, nor does this permit establish a Bikeway or Pedestrian way which would require replacement pursuant to Minnesota Statutes Section 160.264. No rights to relocation benefits are established by this LUP.

This LUP is non-exclusive and is granted subject to the rights of others, including, but not limited to public utilities which may occupy the Area.

6. APPLICABLE LAWS. This LUP does not release the Permittee from any liability or obligation imposed by federal law, Minnesota Statutes, local ordinances, or other agency regulations relating thereto and any necessary permits relating thereto shall be applied for and obtained by the Permittee.

Permittee at its sole cost and expense, agrees to comply with, and provide and maintain the Area, Facilities in compliance with all applicable laws, rules, ordinances and regulations issued by any federal, state or local political subdivision having jurisdiction and authority in connection with said Area including the Americans with Disabilities Act (“ADA”). If the Area and Facilities are not in compliance with the ADA or other applicable laws MnDOT may enter the Area and perform such obligation without liability to Permittee for any loss or damage to Permittee thereby incurred, and Permittee shall reimburse MnDOT for the cost thereof, plus 10% of such cost for overhead and supervision within 30 days of receipt of MnDOT’s invoice.
7. CIVIL RIGHTS. The Permittee for itself, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event improvements are constructed, maintained, or otherwise operated on the Property described in this Limited Use Permit for a purpose for which a MnDOT activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Permittee will maintain and operate such improvements and services in compliance with all requirements imposed by the Acts and Regulations relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation, Federal Highway Administration, (as may be amended) such that no person on the grounds of race, color, national origin, sex, age, disability, income-level, or limited English proficiency will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said improvements.

8. SAFETY. MnDOT shall retain the right to limit and/or restrict any activity, including the parking of vehicles and assemblage of Facility users, on the highway right of way over which this LUP is granted, so as to maintain the safety of both the motoring public and Facility users.

9. ASSIGNMENT. No assignment of this LUP is allowed.

10. IN WRITING. Except for those which are set forth in this LUP, no representations, warranties, or agreements have been made by MnDOT or Permittee to one another with respect to this LUP.

11. ENVIRONMENTAL. The Permittee shall not dispose of any materials regulated by any governmental or regulatory agency onto the ground, or into any body of water, or into any container on the State’s right of way. In the event of spillage of regulated materials, the Permittee shall notify in writing MnDOT’s District Engineer and shall provide for cleanup of the spilled material and of materials contaminated by the spillage in accordance with all applicable federal, state and local laws and regulations, at the sole expense of the Permittee.

12. MECHANIC’S LIENS. The Permittee (for itself, its contractors, subcontractors, its materialmen, and all other persons acting for, through or under it or any of them), covenants that no laborers', mechanics', or materialmen's liens or other liens or claims of any kind whatsoever shall be filed or maintained by it or by any subcontractor, materialmen or other person or persons acting for, through or under it or any of them against the work and/or against said lands, for or on account of any work done or materials furnished by it or any of them under any agreement or any amendment or supplement thereto.

13. NOTICES. All notices which may be given, by either party to the other, will be deemed to have been fully given when served personally on MnDOT or Permittee or when made in writing addressed as follows: to Permittee at: and to MnDOT at:

Mayor
Minnetonka City Hall

State of Minnesota
Department of Transportation
14600 Minnetonka Blvd    Metro District Right of Way
Minnetonka, MN 55345-1502   1500 W. County Road B2
Roseville, MN 55113

The address to which notices are mailed may be changed by written notice given by either party to the other.

14. INDEMNITY. Permittee shall defend, indemnify, hold harmless and release the State of Minnesota, its Commissioner of Transportation and employees and its successors and assigns, from and against:
   (a) all claims, demands, and causes of action for injury to or death of persons or loss of or damage to property (including Permittee's property) occurring on the Facility or connected with Permittee's use and occupancy of the Area, regardless of whether such injury, death, loss or damage is caused in part by the negligence of State of Minnesota or is deemed to be the responsibility of State of Minnesota because of its failure to supervise, inspect or control the operations of Permittee or otherwise discover or prevent actions or operations of Permittee giving rise to liability to any person.
   (b) claims arising or resulting from the temporary or permanent termination of Facility user rights on any portion of highway right of way over which this LUP is granted;
   (c) claims resulting from temporary or permanent changes in drainage patterns resulting in flood damages;
   (d) any laborers', mechanics', or materialmens' liens or other liens or claims of any kind whatsoever filed or maintained for or on account of any work done or materials furnished; and
   (e) any damages, testing costs and clean-up costs arising from spillage of regulated materials attributable to the construction, maintenance or operation of the Facility.
MINNESOTA DEPARTMENT
OF TRANSPORTATION

RECOMMENDED FOR APPROVAL

By: ______________________
    District Engineer

Date ______________________

CITY OF MINNETONKA

By: ______________________
    Its

And ______________________
    Its

APPROVED BY:

COMMISSIONER OF TRANSPORTATION

By: ______________________
    Acting Director, Office of Land Management

Date ______________________

The Commissioner of Transportation
by the execution of this permit
certifies that this permit is
necessary in the public interest
and that the use intended is for
public purposes.
EXHIBIT A REALMS LUP # 2789-0193

LEGEND

- GUTTER OUT
- EXISTING STORM SEWER
- EXISTING CATCH BASIN
- EXISTING MANHOLE
- PROPOSED STORM SEWER
- PROPOSED CATCH BASIN
- PROPOSED MANHOLE
- DRAINAGE FLOW ARROW
- INTERSECTION POINT NUMBER

NOTES:
① PEDESTRIAN CURB RAMP
② 10' CURB TRANSITION

GENERAL NOTES:
OFFSETS, ELEVATIONS AND RADIUS LENGTHS ARE TO BE REVIEWED ON SITE AND USED FOR AS PLAUSIBLE. FOR ADDITIONAL INSTRUCTIONS, SEE DRAINAGE PLANS AND SUPPLEMENTAL PLANS.

CITY OF MINNETONKA
RIDGEHAVEN LANE

SHEET 26 OF
Brief Description: Resolution appointing election judges for the April 10, 2018 Ward 3 Special Election

Recommended Action: Adopt the resolution

Background

The city council is being asked to consider a resolution appointing election judges for the April 10, 2018 Ward 3 Special Election to fill the vacant council seat.

Council is asked to approve the election judges listed in the resolution. There are six polling locations in the ward. The city allows election judges to serve the full day or part of the day. In general there will be four to five election judges working at any time in the polling places.

In accordance with the approved 2018 budget, election judges will be paid $10.75/hour, assistant lead judges will be paid $11.25/hour and lead judges will receive $11.75/hour.

Recommendation

Staff recommends that the city council adopt a resolution appointing the election judges for the April 10, 2018 Special Election.

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

Originated by:
  David Maeda, City Clerk
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<thead>
<tr>
<th>Name</th>
<th>Last Name</th>
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<td>Rita</td>
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Resolution No. 2018-

Resolution appointing election judges for the April 10, 2018 Ward 3 Special Election

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

Section 1. Background.

1.01. The Ward 3 councilmember seat is vacant. The city council has called for a special election on April 10, 2018 to fill the vacancy.

1.02. Voting will occur at the six precincts in Ward 3. Election judges will serve at the polling places and assist with absentee ballot processing.

Section 2. Council Action.

2.01. The City Council hereby authorizes the city clerk to use the attached list of election judges.

2.02 The City Council also appoints all members appointed to the Hennepin County Absentee Ballot Board as authorized under M.S. 204B.21, subd 2 under the direction of the county election manager to serve as members of the Minnetonka Absentee Ballot Board.

2.03 The City Council also authorizes the city clerk to make emergency appointments of election judges to fill last-minute vacancies.

Adopted by the City Council of the City of Minnetonka, Minnesota, on March 19, 2018.

Brad Wiersum, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

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

__________________________
David E. Maeda, City Clerk
City Council Agenda Item #10B  
Meeting of March 19, 2018

Brief Description  
Resolution regarding a fire sprinkler retrofit at 5445 Eden Prairie Rd. for Copper Cow Restaurant

Recommendation  
1) Adopt the resolution  
2) Approve the Petition and Waiver Agreement for Installation of Fire Protection Improvements

City council policy 5.2 allows the cost of certain fire sprinkler installations to be specially assessed. The policy facilitates situations where fire sprinklers must be retrofitted to existing buildings, and the policy has been used previously to benefit several buildings in the city.

The city has received a petition from Chris Bjorling of Copper Estates LLC dba The Copper Cow, the owner of the building at 5445 Eden Prairie Rd, for a fire sprinkler retrofit. The building will be remodeled for the tenant improvements, and the building will be equipped with an approved fire sprinkler system to meet current building code standards. As a result, the building owner, Chris Bjorling, has petitioned for the cost of the sprinkler to be specially assessed. The fire department has reviewed all plans and will conduct the required inspections for the fire sprinkler installation, the cost of which is estimated at $42,350. This represents the full cost of the new fire sprinkler installation and related work required at the building.

The enclosed resolution initiates the procedural steps necessary to set up the retrofit as a special assessment project. It is proposed that the assessment be spread over a period of 10 years. Interim carrying costs will be added to the principal amount of the assessment prior to the actual levy. A resolution levying the special assessment would be presented to the council on August 27, 2018 and the first installment of the special assessment would be due in 2019. The interest rate on the assessment is set at the time it is levied by the council. The interim interest rate to be charged will be 3.87% and the final special assessment rate will be determined in the fall of 2018 at the time the city files the assessment with Hennepin County. The final special assessment rate is determined by the AAA Bond interest rate plus two percentage points. There is also a separate agreement with the owner documenting the request, the assessment, and general acceptance of the terms.

Recommendation

Staff recommends the city council adopt the enclosed resolution. Staff also recommends the council approve the Petition and Waiver Agreement for Installation of Fire Protection Improvements with the property owner and business. The agreement approval may be amended with no substantive changes, by the city manager or city attorney. Upgrading the building with a fire sprinkler retrofit, for fire protection, advances the city’s public safety interests.

Submitted through:  
Geralyn Barone, City Manager  
Julie Wischnack, AICP, Community Development Director
Originated by:
   Alisha Gray, Economic Development and Housing Manager
   Rob Hanson, Economic Development Coordinator

Attachments
Location Map
Council Policy 5.2 – Special Assessment of Fire Sprinkler Installations
Petition from Chris Bjorling
Draft Petition and Waiver Agreement
Fire Sprinkler Retrofit

3311722110005
5445 Eden Prairie Road

DECLARATION:
This drawing is not a legally recorded plat or accurate survey. It is intended to be only an approximate representation of information from various government offices and other sources. It should not be used for a purpose that requires exact measurement or precision. People using this drawing do so at their own risk.

The City of Minnetonka is not responsible for any inaccuracies contained in the drawing. The City of Minnetonka provides no warranty, express or implied, about the correctness of the information.
Policy Number 5.2
Special Assessment of Fire Sprinkler Installations

Purpose of Policy: This policy establishes guidelines in regard to petitions for the special assessment of fire sprinkler installations for existing buildings.

Introduction
Minnesota law gives cities the authority to specially assess the cost of installing fire sprinkler systems for existing buildings, subject to certain procedural requirements.

The city council, as a matter of policy, finds it to be in the interest of public safety and the protection of property to encourage the installation of fire sprinkler systems in existing buildings in the city.

Criteria
The city council will consider petitions for the special assessment of the cost of installing fire sprinkler systems in existing buildings, subject to the following criteria:

- The petition must meet the requirements of M.S. Chapter 429, as they apply to fire sprinkler systems, and include the submission of plans and specifications and a cost estimate for city approval.

- The owner is responsible for contracting for the actual installation of the fire sprinkler system. However, the city has the final right to disapprove of any contractor selected by the owner.

- The amount to be specially assessed for the project cannot exceed the amount of the construction estimate, plus any city administrative costs and interest charges. The petitioner is responsible for any construction costs exceeding the amount of the construction estimate.

- The petitioner must waive all rights to a public hearing and any appeal of the special assessment adopted by the city council.

- No payment will be made by the city for any installation until the work is completed and finally approved by the city and the assessment adopted.

- No special assessment will be made for a period of more than 10 years, except as otherwise determined by the council.

- If the petitioner requests the abandonment of the special assessment project, all city costs incurred will be reimbursed by the petitioner.

- Unless warranted by special circumstances, all petitions for the special assessment of the project must be received and acted upon by the city council prior to the start of
any fire sprinkler installation.

Consideration of any petition made under this policy is subject to a determination by the city council, in its sole discretion, that sufficient city funds are available for the project. City staff will periodically advise the council with regard to the availability of appropriate funds.

Adopted by Resolution No. 86-8180
Meeting of September 15, 1986

Amended by Resolution No. 2003-077
Council Meeting of August 25, 2003
March 5th, 2018

Minnetonka City Council
CC: Planning Commission
City of Minnetonka
14600 Minnetonka Blvd.
Minnetonka, MN 55345

RE: Petition for Minnetonka Fire Sprinkler Retro-fit Program
For: The Copper Cow – 5445 Eden Prairie Rd., Minnetonka

Dear City Council,

1. This letter serves as The Copper Cow’s petition to participate in the Minnetonka Fire Sprinkler Retro-fit Program improvement to the above property

2. The Copper Cow hereby waives the right to a public hearing on the project and the appeal of the special assessment

3. We request that the special assessment be spread over a period of 10 years at the interest rate prevailing at the time of the project. We understand that the City of Minnetonka will add an administration charge of 5% of the cost.

4. Enclosed is a cost estimate and proposal for the work to be completed from three separate contractors.

5. Based on the bids received, we are selecting Valley Rich Co., Inc. for the water line hookup work totaling $26,550 and Service Fire Protection, Inc. for the sprinkler install totaling $15,800. Combined, the total cost to retrofit the building with a sprinkler system is $42,350.

6. We understand that no work may start prior to City Council approval of the project and that when the work has been completed, and inspected by the Fire Department, the City will issue payment directly to the contractor.

I have read and understand the Council Policy 1-25, dated September 15, 1986, and by signing this letter confirm that I am authorized to make this petition on behalf of The Copper Cow.

If you have any questions or comments, please feel free to call me (608-381-5151) or email me at chris.bjorling@gmail.com at anytime.

Sincerely,

Chris Bjorling
Owner, The Copper Cow

Enclosures: water line hookup and sprinkler system contractor bids
PETITION AND WAIVER AGREEMENT FOR
INSTALLATION OF FIRE PROTECTION IMPROVEMENTS

This Petition and Waiver Agreement for Installation of Fire Protection Improvements ("Agreement") is entered into as of___________________, 2018, by the CITY OF MINNETONKA, a Minnesota municipal corporation ("City"), 14600 Minnetonka Boulevard, Minnetonka, Minnesota 55345 and COPPER ESTATES, LLC, a Minnesota limited liability company ("Petitioner").

Recitals

A. Petitioner is the fee owner of certain property located at 5445 Eden Prairie Road in Minnetonka, Hennepin County, Minnesota, legally described on the attached Exhibit A (the "Property").

B. The Property is improved with a commercial structure designed for use as a restaurant. Petitioner has undertaken a project to update and remodel the structure for a new restaurant use. The proposed project requires the installation of fire protection system improvements (the “Improvements”).

C. Minnesota Statutes, section 492.031, subdivision 3 allows a city to pay for privately-owned and privately-installed fire protection system improvements and to assess the cost of the fire protection system improvements against the benefitted property.

D. The Petitioner has retained Valley Rich Co., Inc. for the water line hookup work and Service Fire Protection, Inc. as its contractor for the sprinkler install. The plans and specifications for the Improvements are attached as Exhibit B. The detailed estimate of cost for the Improvements is shown in the attached Exhibit C and totals $42,350.00

Agreement Terms

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. The above recitals are incorporated into and made part of this Agreement.
2. Petitioner hereby petitions the City to finance the cost of the Improvements as permitted by Minn. Stat. § 429.031 and to assess the cost of the Improvements against the Property, as provided in this Agreement.

2. City acknowledges that it has reviewed and approved the attached plans and specifications and cost estimate for the Improvements.

3. Petitioner represents and warrants that it is the owner of the Property, that it has full legal power and authority to encumber the Property as provided in this Agreement, and that as of the date of execution, the Property is not subject to any liens, interests or encumbrances, except as set forth on the attached Exhibit C. The entities listed in Exhibit D must consent to this Agreement.

4. City agrees to pay for the Improvements as follows, but in no case shall the total amount paid by the City exceed the estimated cost of $42,350.00

   a. After a building permit has been issued for the installation of the Improvements, and within 10 business days after Petitioner makes a written request to the City __________________, the City will pay 25 percent of the estimated cost ($6,637.50) to Valley Rich Co., Inc. and ($3,950.00) to Service Fire Protection, Inc.

   b. After Petitioner notifies the City that the installation of the Improvements has been completed, the City will cause its building inspector to inspect the Improvements. If the installation meets all required city and state building codes, and within 10 days after Petitioner provides City with a final invoice for the installation of the Improvements, the City will pay to Valley Rich Co., Inc. ($19,912.50), and Service Fire Protection, Inc. ($11,850.00), the amount of the final invoice or 75%, whichever is less.

   c. The City is authorized to pay the bills as presented to it, provided that the total amount does not exceed $42,350.00. Petitioner acknowledges that the City has no responsibility to resolve disputes between Petitioner and its contractor regarding the performance of the work. Nothing in this Agreement is intended to enhance the City’s duty with respect to enforcement of the building code; Petitioner recognizes that the City’s performance of building code inspections is a public duty and not a personal duty toward the Petitioner or its customers.

5. The City may levy an assessment against the Property for the total amount paid under paragraph 4 above and may certify the assessment to the Hennepin County Auditor for collection with real property taxes. The assessment shall be payable in 10 equal installments and shall accrue interest at a rate determined at the time of the special assessment hearing, not to exceed 6.00 percent per annum.

6. Petitioner waives all procedural requirements provided in Minn. Stat. Sections 429.031 and 429.061, including notice of hearing and hearing, and any other right to notice and hearing, on the Improvements and the special assessments levied to finance the Improvements. Petitioner specifically requests that the Improvements be constructed and special assessments levied against the Property without hearings.
7. Petitioner waives the right to appeal the levy of the special assessments in accordance with this Agreement pursuant to Minn. Stat. Section 429.081, or reapportionment upon land division pursuant to Minn. Stat., Section 429.071, Subd. 3, or any other right to appeal, and further specifically agrees with respect to the special assessments against the Property or reapportionment that:

   a. The Petitioner waives any requirements of Minn. Stat., Chapter 429 with which the City does not comply;

   b. The increase in fair market value of the Property resulting from installation of the Improvements will be at least equal to $42,350.00 and that the increase in fair market value is a special benefit to the Property; and

   c. the installation of the Improvements is for the sole benefit of the Property.

8. Petitioner agrees to reimburse the City for all costs incurred by the City in the enforcement of this Agreement, or any portion thereof, including court costs and reasonable engineering and attorneys’ fees, regardless of whether the City is defending an action or affirmatively enforcing its rights pursuant to this Agreement.

9. The covenants, waivers and agreements contained in this Agreement bind the successors and assigns of the Petitioner and run with the Property and bind all successors in interest. It is the intent of the parties that this Agreement be in a form that is recordable among the land records of Hennepin County, Minnesota; and they agree to make any changes in this Agreement that may be necessary to effect the recording and filing of this Agreement against the title of the Property.
Dated: _______________

CITY OF MINNETONKA

By ___________________________

Brad Wiersum, Mayor

By ___________________________

Geralyn Barone, City Manager

STATE OF MINNESOTA ]
COUNTY OF HENNEPIN ] ss.

This instrument was subscribed and sworn to before me this ______________ day of ______________ ________, 2018, by Brad Wiersum, the mayor of the City of Minnetonka, a Minnesota municipal corporation, on behalf of the corporation.

________________________________________
Notary Public

STATE OF MINNESOTA ]
COUNTY OF HENNEPIN ] ss.

This instrument was subscribed and sworn to before me this ______________ day of ______________ ________, 2018, by Geralyn Barone, the city manager of the City of Minnetonka, a Minnesota municipal corporation, on behalf of the corporation.

________________________________________
Notary Public
COPPER ESTATES, LLC

Dated: ____________  By ____________________________

Its Manager

STATE OF MINNESOTA  ] ss.
COUNTY OF HENNEPIN  ] ss.

This instrument was subscribed and sworn to before me this ___ day of _____________, 2018, by ____________________________, the manager of Copper Estates, LLC, a Minnesota limited liability company, on behalf of the company.

________________________________
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

City of Minnetonka
Legal Department (CAH)
14600 Minnetonka Boulevard
Minnetonka, MN  55345
952-939-8200
Exhibit A

Legal Description of Property

That part of the abandoned right of way of Minneapolis, St. Paul & Suburban Railway Company, Section 33, Township 117 North, Range 22, lying East of the East line of Eden Prairie Road and West of a line drawn at right angles to center line of said right of way from a point in said center line distant 260 feet Northeasterly along center line of said right of way from its intersection with the East line of said Eden Prairie Road, as said right of way appears upon the plat of Glen Lake Park.
Exhibit B

Plans and Specifications

[attach plans and specs]
Exhibit C

Cost Estimate

[attach cost estimate]
Exhibit D

List of Encumbrances

[list encumbrances here and get consent form from each]
Resolution No. 2018-

Resolution receiving a petition and waiver of rights to a public hearing, ordering the improvement, and declaring the cost to be assessed for the construction of a fire sprinkler system retrofit and related improvements to serve the building at 5445 Eden Prairie Rd

BE IT RESOLVED by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background

1.01. The city council has previously adopted a council policy regarding the special assessment of fire sprinkler systems pursuant to M.S. 429.021.

1.02. Copper Estates LLC dba The Copper Cow is the owner of the property at 5445 Eden Prairie Rd, legally described as follows:

That part of the abandoned right of way of Minneapolis, St. Paul & Suburban Railway Company, Section 33, Township 117 North, Range 22, lying East of the East line of Eden Prairie Road and West of a line drawn at right angles to center line of said right of way from a point in said center line distant 260 feet Northeasterly along center line of said right of way from its intersection with the East line of said Eden Prairie Road, as said right of way appears upon the plat of Glen Lake Park.

1.03. The city, on March 5, 2018, received a petition and a waiver of the right to a public hearing from the owner of the above-described property for the construction of certain fire sprinkler and related improvements.

1.04. Such improvements are to be constructed, and subsequently inspected by the city.

Section 2. Approval and Authorization

2.01. The improvement is hereby ordered as requested.

2.02. The estimated cost of the improvement to be specially assessed is $42,350.

2.03. The city clerk shall calculate the assessment roll, showing the proper amount to be specially assessed for such improvement against the assessable property, without regard to cash valuation as provided by law, and shall file a copy of such proposed assessment in the office of the city clerk for public inspection.

2.04. The clerk shall, upon completion of such proposed assessment, notify the council thereof.
Adopted by the city council of the City of Minnetonka, Minnesota, on March 19, 2018.

____________________________________
Brad Wiersum, 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 March 19, 2018.

____________________________________
David E. Maeda, City Clerk
Council Agenda Item #10C
Meeting of March 19, 2018

Brief Description  Ordinance repealing and replacing City Code 300.34, Telecommunication Facilities

Recommendation  Adopt the ordinance

Background

To address growing demand for wireless communication services, telecommunications providers have turned to construction of small cell wireless networks. These networks are comprised of small facilities generally installed on existing utility poles or light poles, or on new similarly-sized structures erected specifically for the wireless technology. Small cell facilities have short ranges and, therefore, must be more densely located than traditional monopole structures or antennas on water towers.

To expedite the construction of small cell wireless networks, telecommunication providers pursued legislation in 2017 that would have granted far-reaching rights for providers to install small wireless facilities in public right-of-way and on publicly-owned property. Cities strongly opposed this legislation. Ultimately, the Minnesota legislature passed a bill that preserves some city authority to regulate small wireless facilities, but that authority is subject to limitations.

Proposed Ordinance

The right-of-way ordinance was recently amended to reflect state statute. The telecommunications ordinance must in turn be amended to reflect the right-of-way ordinance update. The city’s telecommunication ordinance was originally drafted in 1997 and has undergone a series of changes over the succeeding years. Rather than simply adding language to the existing ordinance, planning staff took this opportunity to review the telecommunication ordinance in its entirety.

Staff found that few substantive changes are necessary to reflect the updated right-of-way ordinance. However, the organization of the existing ordinance is confusing. As such, staff proposes repealing the existing ordinance and replacing it with a new ordinance. The primary differences between the existing ordinance and proposed ordinance are:

- **Renumbering.** In 2016, the city council approved Phase I of the sign ordinance update. As part of that update, city staff proposed a full reorganization/renumbering of the zoning ordinance. The intent of the reorganization/renumbering is to provide a more user-friendly and visually appealing ordinance. Staff suggests continuing the reorganization/renumbering with the updated Telecommunications Facilities Ordinance.

- **Definitions.** Updated definitions are proposed to provide more clarity and reflect language within the ordinance.

- **Permit Application Procedure.** As proposed, the review deadline for administrative permits is increased to correspond with state statute.
• **Organization of Standards.** The proposed ordinance clearly groups regulations into two categories: (1) regulations applying to facilities located outside of public right-of-way; and (2) regulations applying to facilities located within right-of-way.

• **General Standard.** One new general standard is proposed, requiring that service providers be identified for proposed facilities. The intent of this standard is to prevent speculative installation of facilities.

• **Specific Standards.** As proposed, the allowable size of ground-mounted equipment is increased to correspond with state statute.

The ordinance was introduced to the council on Feb. 5, 2018.

**Planning Commission Hearing and Recommendation**

The planning commission considered the proposed ordinance on March 1, 2018. The staff report from that meeting is attached. At the planning commission meeting, a public hearing was opened to take comment. No comments were received.

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

**Staff Recommendation**

Staff recommends the city council adopt the ordinance repealing and replacing City Code 300.34, Telecommunication Facilities

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  
March 1, 2018

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<th>Brief Description</th>
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<td>Recommendation</td>
<td>Recommend the city council adopt the ordinance</td>
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**Background**

To address growing demand for wireless communication services, telecommunications providers have turned to construction of small cell wireless networks. These networks are comprised of small facilities generally installed on existing utility poles or light poles, or on new similarly-sized structures erected specifically for the wireless technology. Small cell facilities have short ranges and, therefore, must be more densely located than traditional monopole structures or antennas on water towers.

To expedite the construction of small cell wireless networks, telecommunication providers pursued legislation in 2017 that would have granted far-reaching rights for providers to install small wireless facilities in public right-of-way and on publicly-owned property. Cities strongly opposed this legislation. Ultimately, the Minnesota legislature passed a bill that preserves some city authority to regulate small wireless facilities, but that authority is subject to limitations.

**Proposed Ordinance**

The city’s right-of-way ordinance must be amended to reflect state statute. The amended ordinance, which is not in the purview of the planning commission, will be considered by the city council on Feb. 26. The telecommunications ordinance, with is the purview of the planning commission, must in turn be amended to reflect the right-of-way ordinance update. The city’s telecommunication ordinance was originally drafted in 1997 and has undergone a series of changes over the succeeding years. Rather than simply adding language to the existing ordinance, planning staff took this opportunity to review the telecommunication ordinance in its entirety.

Staff found that few substantive changes are necessary to reflect the updated right-of-way ordinance. However, the organization of the existing ordinance is confusing. As such, staff proposes repealing the existing ordinance and replacing it with a new ordinance. The primary differences between the existing ordinance and proposed ordinance are:

- **Renumbering.** In 2016, the city council approved Phase I of the sign ordinance update. As part of that update, city staff proposed a full reorganization/renumbering of the zoning ordinance. The intent of the reorganization/renumbering is to provide a more user-friendly and visually appealing ordinance. Staff suggests continuing the reorganization/renumbering with the updated Telecommunications Facilities Ordinance.

- **Definitions.** Updated definitions are proposed to provide more clarity and reflect language within the ordinance.
• **Permit Application Procedure.** As proposed, the review deadline for administrative permits is increased to correspond with state statute.

• **Organization of Standards.** The proposed ordinance clearly groups regulations into two categories: (1) regulations applying to facilities located outside of public right-of-way; and (2) regulations applying to facilities located within right-of-way.

• **General Standard.** One new general standard is proposed, requiring that service providers be identified for proposed facilities. The intent of this standard is to prevent speculative installation of facilities.

• **Specific Standards.** As proposed, the allowable size of ground-mounted equipment is increased to correspond with state statute.

**Staff Recommendation**

Recommend the city council adopt the ordinance repealing and replacing City Code 300.34, Telecommunication Facilities

Originator: Susan Thomas, AICP, Assistant City Planner
Through: Loren Gordon, AICP, City Planner
Hanson asked if the business could have reserved parking spaces for its patrons. Mr. Amundson stated that he has not yet explored that option. He said that would be a possibility.

Powers stated that the proposal would increase the vitality of the area dramatically. He liked the presentation and the quality of the product.

**O’Connell moved, second by Powers, to recommend that the city council adopt the resolution approving a conditional use permit with variances for a fast-food restaurant at 17603 Minnetonka Blvd.**

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

This item is tentatively scheduled to be reviewed by the city council at its meeting on March 19, 2018.

**D. Ordinance repealing and replacing City Code 300.34 Telecommunication Facilities.**

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

Thomas reported. She recommended adoption of the ordinance.

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

**Sewall moved, second by Schack, to recommend that the city council adopt the ordinance repealing and replacing City Code 300.34 Telecommunication Facilities.**

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

This item is tentatively scheduled to be reviewed by the city council at its meeting on March 19, 2018.

9. **Other Business**

A. **Concept plan review for Morrie’s Ford at 13400 Wayzata Blvd. and 13205 Southridge Road.**

This item was removed from the agenda at the applicant’s request.

10. **Elections**
Ordinance No. 2018-

An Ordinance amending the city’s telecommunication regulations;
Repealing section 300.34 of the Minnetonka City code
and adding a new section 310.03

The City of Minnetonka Ordains:

Section 1. Section 300.34 of the Minnetonka City Code, a copy of which is attached as Exhibit A, is repealed.

Section 2. The Minnetonka City Code is amended by adding a new section 310.03, in the form of the attached Exhibit B.

Section 3. This ordinance is effective on the date of its adoption.

Adopted by the city council of the City of Minnetonka, Minnesota on _________________, 2018.

Action on this Ordinance:

Date of introduction: Feb. 5, 2018
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 ________________________, 2018.

David E. Maeda, City Clerk
Exhibit A

Ordinance to be Repealed

SECTION 310.03    TELECOMMUNICATION FACILITIES REGULATIONS

1. Purpose and Intent.

The purpose of this section is to establish predictable and balanced regulations for the siting and screening of wireless telecommunication equipment in order to accommodate the growth of wireless communication systems within the city while protecting the public against any adverse impacts on the city’s aesthetic resources and the public welfare. This section recognizes that these wireless communication systems provide a valuable service to the public but that they are not a public utility. This section creates two categories of support structures for antennas. The first category consists of existing towers, water towers, and high density residential and non-residential buildings, which the ordinance favors in order to minimize the number of freestanding towers needed to serve the community. The second category consists of all other support structures. The structures in this second category are all classified as freestanding telecommunications towers even if they are intended to replace existing light poles, utility poles, or similar structures. Freestanding towers are subject to increased standards to minimize their visual impact. One such standard is that towers must use state-of-the-art stealth design techniques to disguise the towers and soften their views. A telecommunications company that does not currently use stealth technology will need to develop this capability in order to place freestanding towers in this city. This ordinance does not accept the lowest common denominator and challenges the telecommunications companies to improve their technology. This ordinance allows minimal use of the public right-of-way for telecommunication antennas because that space should be reserved for public utilities and should be free of safety hazards. In addition, telecommunications facilities located in the right-of-way have the potential of being very visible to the traveling public. In order to locate in a public right-of-way, telecommunications companies must use improved technology to reduce the size and visibility of their facilities.

2. Definitions.

For the purposes of this section, the terms below have the meaning given to them, unless the context clearly indicates a different meaning:

a)  “Accessory equipment” means the wires, cables, and other equipment or facilities that are used with antennas.

b)  “Antenna” means a device used for transmitting or receiving telecommunication, television or radio signals that is used for personal wireless telecommunication service or any other purpose, except a device used for the private enjoyment of those on the premises where it is located, such as amateur radio antennas and antennas receiving television signals for viewing on site. “Antenna” also does not include a lightning rod.

c)  “Antenna support structure” means an existing structure that is a telecommunications tower, high density residential or non-residential building, water tower, or
electric transmission tower carrying over 200 kilo volts of electricity, that can be used for the location of antennas without increasing the mass of the existing structure.

d) “Engineer” means an engineer licensed by the state of Minnesota, or an engineer acceptable to the city if licensing is not available.

e) “Stealth design” means state-of-the-art design techniques used to blend the object into the surrounding environment and to minimize the visual impact as much as reasonably possible. Examples of stealth design techniques include eliminating all horizontal projections; architecturally screening roof-mounted antennas and accessory equipment; integrating telecommunications facilities into architectural elements; nestling telecommunications facilities into the surrounding landscape so that the topography or vegetation reduces their view; using the location that would result in the least amount of visibility to the public, minimizing the size and appearance of the telecommunications facilities; and designing telecommunications towers to appear other than as towers, such as light poles, power poles, flag poles, and trees.

f) “Telecommunications facilities” means antennas, accessory equipment, and telecommunications towers.

g) “Telecommunications tower” or “tower” means a free-standing, self-supporting lattice, guyed, or monopole structure constructed from grade intended to support antennas, except towers used for amateur radio operations.

3. Administrative Approval.

a) The city planner may grant administrative approval of the following telecommunication facilities:

1) Telecommunications facilities located on electric transmission towers carrying over 200 kilo volts of electricity.

2) Telecommunication facilities located on an antenna support structure that has already been approved by a conditional use permit as the location for a telecommunication facility, if the proposed facility does not involve a variance and is not accompanied by any other matter requiring consideration by the planning commission or city council.

3) A one-time 15-foot extension of an existing monopole telecommunications structure or one-time replacement of an existing monopole by a tower no greater than 15-feet taller than the existing monopole may be administratively approved if the proposed facility does not involve a variance and is not accompanied by any other matter requiring consideration by the planning commission and city council; and

4) Telecommunication facilities that are attached to an existing public utility structure within a right-of-way if:

a. the telecommunication facility does not extend above the top of the existing utility structure and the height of the existing utility structure is not increased to accommodate the telecommunication facility;
b. any replacement utility structure does not exceed the height of the existing utility structure, including the telecommunication facility, and does not exceed the diameter of the existing utility structure by more than 50 percent;

c. the telecommunication facility is no larger than three cubic feet and has no individual surface larger than four square feet;

d. the telecommunication facility uses stealth design as much as possible, but in no event extends outward from the utility structure beyond two and one-half feet or three feet for an antenna that is one half inch in diameter or less;

e. there is no ground mounted equipment;

f. there is no interference with public safety communications or with the original use of the public utility structure; and

g. the telecommunication facility must be removed and relocated when the road authority requires the removal and relocation of the public utility structure.

b) Administrative review and approval is subject to the following:

1) Submittal of a complete site and building plan review application, accompanied by a registered land survey, complete site plan, building elevations, and antenna elevations and be signed by a registered architect, civil engineer, landscape architect or other appropriate design professional.

2) Submittal of an analysis prepared by a radio or electrical engineer demonstrating that the proposed location of the antennas is necessary to meet the coverage and capacity needs of the applicant's system. The applicant must also pay the reasonable expenses of a radio or electrical engineer retained by the city, at its option, to review this analysis; and

3) Submittal of any necessary easements and easement exhibits, which have been prepared by an attorney knowledgeable in the area of real estate and which are subject to the city attorney's approval.

c) The city planner will render a decision within 30 days and serve a copy of the decision upon the applicant by mail.

d) Any person aggrieved by a decision of the city planner may appeal the decision to the planning commission in the manner specified in section 300.04 of this ordinance.


Telecommunications facilities that are not eligible for administrative approval under subdivision 3 are permitted only as a conditional use in all zoning districts and must be in compliance with the provisions of this section.

a) Conditional use telecommunication facilities are subject to the review procedures outlined in section 300.06 of this ordinance.
b) Conditional use telecommunications facilities are subject to the following standards:

1) Residential and commercial zoning districts.

   a. Telecommunication facilities may be located only on public or institutional property: in R-1 and R-2 residential districts and on property guided for low-density residential in the Planned I-394 District subject the standards listed in subparagraphs b through e which follow.

   b. An applicant must provide an analysis prepared by a radio or electrical engineer demonstrating that the proposed location of the antennas is necessary to meet the coverage and capacity needs of its system and that there is no existing antenna support structure that could adequately serve the area if antennas were placed on it. The applicant must also pay the reasonable expenses of a radio or electrical engineer retained by the city, at its option, to review this analysis;

   c. A telecommunications facility must use as many stealth design techniques as reasonably possible. Economic considerations alone are not justification for failing to provide stealth design techniques. The city council may require that a different location be used if it would result in less public visibility, is available, and would meet the applicant’s reasonable capacity and coverage needs; and

   d. A telecommunications tower and antennas, including attachments other than lighting rods, must not exceed 75 feet in height, measured from grade. The city council may increase this height to 90 feet if the increase in height would not have a significant impact on surrounding properties because of proximity, topography or screening by trees or buildings or would accommodate two or more users. The city council may waive this height standard for a tower used wholly or partially for essential public services, such as public safety.

   e. Telecommunications facilities may be located in public right-of-way of a major collector or arterial roadway as defined in the comprehensive plan, if they meet all of the following requirements:

      1. The facility is not located within a special area designated subdivision 7;
      2. The facility is not located adjacent to residentially zoned property unless the applicant demonstrates by providing a study prepared by a radio or electrical engineer demonstrating that the proposed location of the antennas is necessary to meet the coverage and capacity needs of its system and no other location is feasible in a non-residential zone;
      3. The facility must use as many stealth design techniques as reasonably possible. In particular, the antennas must be designed to minimize their size and appearance. Economic considerations alone are not justification for failing to provide stealth design techniques; and
      4. The facility must also comply with the requirements in subdivision 6(k) below.
2) Industrial districts.

   a. Antennas may be located in industrial districts on an antenna support structure, a public utility facility, or a telecommunications tower and may be on any right-of-way. Antennas on a right-of-way must also comply with the requirements in subdivision 5(k) below.

   b. In industrial districts, a telecommunications tower, including attachments other than lighting rods, may not exceed 150 feet in height, measured from grade. The city council may allow towers up to 199 feet high if the applicant can demonstrate that off-site views of the tower will be minimized by the topography of the site and surrounding area, the location of the tower, the tower design, the surrounding tree cover and structures, or the use of screening. The city council may waive this height standard for a tower used wholly or partially for essential public services, such as public safety.

   c. No part of a tower in an industrial district may have a horizontal area of more than 500 square feet.

   d. An applicant must provide an analysis prepared by a radio or electrical engineer demonstrating that the proposed location of the antennas is necessary to meet the coverage and capacity needs of its system and that there is no existing antenna support structure that could adequately serve the area if antennas were placed on it. The applicant must also pay the reasonable expenses of a radio or electrical engineer retained by the city, at its option, to review this analysis.

   e. A telecommunications facility must use as many stealth design techniques as reasonably possible. Economic considerations alone are not justification for failing to provide stealth design techniques. The city council may require that a different location be used if it would result in less public visibility, is available, and would meet the applicant's reasonable capacity and coverage needs.

5. General Standards.

The following standards apply to all telecommunications facilities.

   a) Vertical projection on antenna support structures. Antennas mounted on an antenna support structure must not extend more than 15 feet above the height of the structure to which they are attached. Wall or facade-mounted antennas may not extend above the cornice line and must be constructed of a material or color that matches the exterior of the building.

   b) Horizontal projection. Antennas must not project out from the side of the antenna support structure or tower, unless it is physically impossible to locate the antennas within the structure or tower, in which case they must not project out by more than three feet by more than three feet.

   c) Setbacks. A tower adjacent to a R-1, R-2, or R-3 zoning district must meet the building setback that is established for the district where it is to be located, but only from the residential zone. This setback is not required for a tower in a right-of-way. The city may waive this setback requirement if necessary to implement stealth design techniques or if the
residentially zoned property is public or institutional property. An accessory equipment cabinet that is greater than 120 square feet in size must be at least ten feet from all property lines.

d) The height of an antenna and tower must be the minimum necessary to meet the applicant’s coverage and capacity needs, as verified by an electrical engineer or other appropriate professional. The city council may waive this requirement if additional height is appropriate for co-location opportunities.

e) Exterior surfaces. Towers and antennas must be painted a non-contrasting color consistent with the surrounding area such as: blue, gray, brown, or silver, or have a galvanized finish to reduce visual impact. Metal towers must be constructed of, or treated with, corrosion-resistant material

f) Ground-mounted equipment. Ground-mounted accessory equipment or buildings must be architecturally designed to blend in with the surrounding environment, including the principal structure, or must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood. No more than one accessory building is permitted for each tower. Additional space needed for the co-location of antennas must be added to an existing accessory building in a manner to make it appear as one building. Design of the building or equipment cabinet, screening and landscaping are subject to a site plan review under section 300.27 of this code.

g) Construction. Telecommunications facilities must be in compliance with all building and electrical code requirements. A tower must be designed and certified by an engineer to be structurally sound and in conformance with the building code. Structural design, mounting and installation of the telecommunications facilities must be in compliance with the manufacturer’s specifications.

h) Co-location opportunity. If a new tower over 60 feet in height is to be constructed:

1) the tower must be designed to accommodate both the applicant’s antennas and antennas for at least one additional comparable user;

2) the tower must be designed to accept antennas mounted at additional heights;

3) the applicant, the tower owner, the landowner, and their successors must allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use, must submit a dispute over the potential terms and conditions to binding arbitration, and must sign the conditional use permit agreeing to these requirements. The city council may waive these co-location requirements if necessary to implement stealth design.

i) External messages. No advertising message or identification sign larger than two square feet may be affixed to the telecommunications facilities.
j) Lighting. Telecommunications facilities may not be artificially illuminated unless required by law or by a governmental agency to protect the public’s health and safety or unless necessary to facilitate service to ground-mounted equipment.

k) Rights-of-way. All telecommunication facilities in a public right-of-way must comply with the following:

1) Telecommunications facilities located within a right-of-way must not negatively impact the public health, safety and welfare, interfere with the safety and convenience of ordinary travel over the right-of-way, or otherwise negatively impact the right-of-way or its users. In determining compliance with this standard, the city may consider one or more of the following factors:

   a. the extent to which right-of-way space where the permit is sought is available, including the placement of the ground equipment;
   b. the potential demands for the particular space in the right-of-way;
   c. the availability of other locations in a right-of-way that would have less public impact;
   d. the extent to which the placement of the telecommunications facilities minimizes impacts on adjacent property; and
   e. the applicability of ordinances or other regulations of the right-of-way that affect location of equipment in the right-of-way;

2) The facility, including attachments other than lighting rods, may not exceed 60 feet in height measured from grade in residential and commercial zones, or 75 feet in industrial zones. The city council may waive this height standard for a facility used wholly or partially for essential public services, such as public safety;

3) The support structure for the antennas cannot exceed the diameter of the closest public utility pole by more than 50 percent, but in no event may exceed 18 inches in diameter;

4) Antennas and other components must not project out from the side of the support structure by more than two feet in residential and commercial districts or three feet in industrial districts;

5) The support structure for the antennas must match the materials and color of the closest public utility structures in the right-of-way, if required by the city planner;

6) Ground mounted equipment will be allowed only if:

   a. the equipment will not disrupt traffic or pedestrian circulation;
   b. the equipment will not create a safety hazard;
c. the location of the equipment minimizes impacts on adjacent property; and
d. the equipment will not adversely impact the health, safety, or welfare of the community.

7) Ground mounted equipment must be:
   a. set back a minimum of 10 feet from the existing or planned edge of the pavement;
   b. separated from a sidewalk or trail by a minimum of 3 feet;
   c. set back a minimum of 50 feet from the nearest intersection right-of-way line;
   d. set back a minimum of 50 feet from the nearest principal residential structure;
   e. separated from the nearest ground mounted telecommunication facilities in a right-of-way by at least 330 feet;
   f. no larger than 3 feet in height above grade and 27 cubic feet in size in residential districts;
   g. no larger than 5 feet in height above grade and 81 cubic feet in size in non-residential districts; and
   h. screened by vegetative or other screening compatible with the surrounding area if deemed necessary by the city planner;

8) The antennas cannot interfere with public safety communications;

9) The telecommunication facility must be removed and relocated when the road authority requires the removal and relocation of public utility structures; and

10) Telecommunications facilities within a right-of-way must receive a right-of-way permit from the appropriate road authority.

l) On-site employees. There must be no employees on the site on a permanent basis. Occasional or temporary repair and service activities are allowed.

m) Landowner authorization. When applicable, the applicant must provide written authorization from the property owner. The property owner must sign the conditional use permit agreeing to the permit conditions, agreeing to remove the telecommunication facilities when they are unused, obsolete, or become hazardous, and agreeing to the city’s right to assess removal costs under paragraph (n) below.

n) Removal. Obsolete telecommunications facilities must be removed within 90 days after cessation of their use at the site, unless an exemption is granted by the city council. Unused telecommunications facilities and all related equipment must be removed within one
year after cessation of operation at the site, unless an exemption is granted by the city council. Telecommunications facilities and related equipment that have become hazardous must be removed or made not hazardous within 30 days after written notice to the current owner and to any separate landowner, unless an exemption is granted by the city council. Notice may be made to the address listed in the application, unless another one has subsequently been provided, and to the taxpayer of the property listed in the Hennepin county tax records. Telecommunications facilities and all related equipment that are not removed within this time limit are declared to be public nuisances and may be removed by the city. The city may assess its costs of removal against the property.

   o) Historic Places. No telecommunication tower may be located with 400 feet of the boundary of any property that contains a facility or structure listed on the national register of historic places. Antennas may be located in this restricted area only if they are hidden from public view.

6. Special Area Requirements.

   a) The special areas of Minnetonka Mills, Glen Lake Station and Minnetonka Boulevard/County Road 101 are recognized within the comprehensive plan as unique neighborhood commercial nodes. They are planned to have improved street appeal including pedestrian walkways with landscaped boulevards and street lights, buried utilities, and coordinated signs and facade improvements. Accordingly, there is a presumption that telecommunication facilities are prohibited in these areas. An applicant may overcome this presumption by submitting an analysis prepared by a radio or electrical engineer showing that no other available location allowed under this ordinance would meet its reasonable coverage and capacity needs. The applicant must pay the reasonable expenses of a radio or electrical engineer retained by the city, at its option, to review this analysis.

   b) If telecommunications facilities are permitted in these special areas under paragraph (a) above, then the installation of telecommunications facilities in these special areas must meet the following additional standards:

      1) Ground-mounted accessory equipment must be placed within a principal building. If space is not available in the principal building, an accessory building may be used if it meets the applicable district standards and is constructed of building materials similar to the principal building; and

      2) Telecommunications facilities cannot be within the right-of-way or within any front yards. The city council may waive one or both of these additional standards if the proposal would provide public benefit, such as improving the current aesthetics of the site.
SECTION 310.03   TELECOMMUNICATION FACILITIES REGULATIONS

1.   Purpose and Findings

   a)   Purpose. The purpose of this section is to establish predictable and balanced regulations for telecommunication facilities and systems in order to accommodate such within the city, while protecting the community against any adverse impacts to the public welfare or aesthetic resources.

   b)   Findings. The City of Minnetonka finds the following:

      1)   Wireless telecommunication systems provide a valuable service to the public. However, telecommunications facilities and systems are not a public utility nor part of the public infrastructure system.

      2)   To promote and preserve the public health, safety, welfare, and aesthetics of the community, the location, design, construction, and modification of telecommunication facilities and systems must be regulated.

      3)   To minimize the visual impact of telecommunication facilities:

             a.   installation of facilities on existing support structures is favored over installation of new, freestanding telecommunication towers;

             b.   new telecommunication towers must be designed to accommodate more than one telecommunication provider and must incorporate stealth design techniques; and

      4)   To minimize safety hazards and visual impacts, and to ensure continued and adequate space for public utilities, public right-of-way should be minimally used for telecommunication facilities.

   c)   Severability. Every section, subdivision, clause or phrase of this section 310.03 is declared separable from every other section, subdivision, clause or phrase. If any such part is held to be invalid by competent authority, no other part shall be invalidated by such action or decision.

2.   Definitions

For the purpose of this ordinance, the terms below have the meaning given to them, unless the context clearly indicates a different meaning:

   a)   “Accessory Equipment” – wires, cables, generators, or other equipment or apparatus associated with an antenna and necessary for telecommunication transmission.
b) “Antenna” – any device used for the transmission or reception of wireless radio television, or electromagnetic waves for cellular, internet service, personal communication service, enhanced specialized mobilized radio service, or television purposes.

c) “Engineer” – an engineer licensed by the state of Minnesota, or an engineer acceptable to the city if licensing is not available.

d) “Small Wireless Facility” – a wireless facility that meets both of the following qualifications:

1) Each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and

2) All other wireless equipment associated with the small wireless facility is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed

e) “Stealth Design” – design intended to minimize visual impact of an object on its surroundings. Examples of stealth telecommunication design include: eliminating horizontal projections; screening with other architectural elements; nestling into surrounding landscape such that natural topography or vegetation reduces views; locating in areas that would result in the least amount of visibility to the public; minimizing size; and designing a telecommunications facility to appear as something other than a telecommunications facility.

f) “Support Structure” – an existing structure on which antenna can be mounted without increasing the mass of the existing structure. Examples of support structures include: telecommunication tower, building, water tower, electrical transmission tower.

g) “Telecommunication Facility” – antennas, associated equipment, and support structures.

h) “Tower” – a freestanding, self-supported structure constructed from grade for the purpose of supporting one or more antenna.

3. Citation; Administration and Enforcement.

a) Citation. This section 310.03 may be cited as the Minnetonka Telecommunications Ordinance.

b) Administration and Enforcement. Administration and enforcement of this section 310.03 is governed by section 300.03.

4. Permits; Procedures and Variances.

a) Administrative Permits. The city planner or their designee may administratively approve permits for the following telecommunication facilities, provided the facilities do not
involves a variance or any other matter requiring consideration by the planning commission or city council:

1) Telecommunication facilities located on electric transmission towers carrying over 200 kilo volts of electricity.

2) Telecommunication facilities located on a telecommunication support structure for which a conditional use permit has already been approved.

3) A one-time 15-foot extension of an existing telecommunication tower or one-time replacement of a telecommunication tower by a tower no greater than 15 feet taller than the original, existing tower up to a maximum height of 90 feet.

4) Telecommunication facilities located on public utility structures within public rights-of-way, if the facility:
   a. Does not extend above the top of the existing utility structure by more than 10 feet;
   b. Is a replacement utility structure that does not exceed 50 feet in height or the height of the existing utility structure, whichever is greater, and does not exceed the diameter of the existing utility structure by more than 50 percent; and
   c. Includes no component larger than six cubic feet in size.

5) Small wireless facilities located on new support structures within public rights-of-way, if the facility is an office, commercial, or industrial zoning district.

b) Conditional Use Permits. Any telecommunication facility that is not eligible for an administrative permit may be allowed only by conditional use permit.

c) Permit Application Procedure.

1) Applications for both administrative and conditional use permits must be on the appropriate form provided by the city and must include all of the following, unless otherwise waived by city staff:
   • Name of the wireless telecommunication provider that will utilize the facility and provider’s consent to the application;
   • Registered land survey;
   • Site plan;
   • Any necessary easements and easement exhibits;
   • Support structure elevations;
   • Construction drawings signed by a registered architect, civil engineer, landscape architect or other appropriate design professional;
   • Coverage and capacity analysis prepared by a radio or electrical engineer that demonstrates that the location of the proposed facility is necessary to meet the coverage and capacity needs of the wireless telecommunication providers system; and
• Cash escrow to cover the reasonable expense of a radio or electrical engineer retained by the city, at its option, to review the coverage and capacity analysis and to conduct an interference study.

2) Administrative permit applications are subject to the review of the city planner or their designee, who will render a decision within time periods provided by Minnesota Statute 15.99 and Minnetonka City Code 1120, as applicable, and will serve a copy of that decision upon the applicant by mail. Any person aggrieved by the decision of the city planner, or their designee, may appeal the decision to the planning commission in the manner specified in section 300.04 of this ordinance.

3) Conditional use permit applications are subject to the review procedures outlined in section 300.06 of this ordinance.

4) A variance from the regulations in this ordinance requires a separate application, according to the procedures in section 300.07 of this code.

5. General Regulations

   a) All facilities. All telecommunication facilities, administratively or conditionally permitted, are subject to the following general regulations:

      1) Service Provider. A telecommunications service provider must be identified for the proposed telecommunication facility and must occupy the facility within twelve months of approval.

      2) Historic Places. No telecommunications facility may be located within 400 feet of the boundary of any property that contains a facility or structure listed on the national register of historic places.

      3) Location. Facilities must be located in an area that will meet the applicant’s reasonable coverage and capacity needs. However, the city may require that a different location be used if it would result in less public visibility, is available, and would continue to meet the applicant’s reasonable capacity and coverage needs.

      4) Collocation. New towers must be designed to accommodate more than one telecommunication provider at more than one height within the tower, unless it is physically impossible or impractical to do so at the tower’s proposed location. In addition, the applicant, tower owner, landlord, and their successors must agree in writing to: (1) meet reasonable terms and conditions for shared use; (2) submit a dispute over the potential terms and conditions to binding arbitration.

      5) Stealth Design. Facilities must use as many stealth design techniques as reasonably possible. Economic considerations alone are not justification for failing to provide stealth design techniques.

      6) Construction. Telecommunications facilities must be in compliance with all building and electrical code requirements. A tower must be designed and certified by an engineer to be structurally sound and in conformance with the building code. Structural design,
mounting and installation of the telecommunications facilities must be in compliance with the manufacturer's specifications.

7) Landowner authorization. When applicable, the applicant must provide written authorization from the property owner. The property owner must sign the approval document provided by the city agreeing to the permit conditions, agreeing to remove the telecommunication facilities when they are unused, obsolete, or become hazardous, and agreeing to the city’s right to assess removal costs under paragraph (l) below.

8) Removal. Obsolete telecommunications facilities must be removed within 90 days after cessation of their use at the site, unless an exemption is granted by the city council. Unused telecommunications facilities and all related equipment must be removed within one year after cessation of operation at the site, unless an exemption is granted by the city council. Telecommunications facilities and related equipment that have become hazardous must be removed or made not hazardous within 30 days after written notice to the current owner and to any separate landowner, unless an exemption is granted by the city council. Notice may be made to the address listed in the application, unless another one has subsequently been provided, and to the taxpayer of the property listed in the Hennepin County tax records. Telecommunications facilities and all related equipment that are not removed within this time limit are declared to be public nuisances and may be removed by the city. The city may assess its costs of removal against the property.

b) Facilities located within public right-of-way. In addition to the regulations outlined in the previous section, telecommunication facilities located within the public right-of-way are subject to the following general regulations:

1) Facilities are subject to the requirements of Section 1120, Right-of-Way Management. To the extent that the provisions of Section 1120 are more restrictive than this ordinance, the provisions of Section 1120 govern.

2) Facilities may not impact the public health, safety, or welfare, interfere with safety and convenience of ordinary travel over the right-of-way, or otherwise negatively impact the right-of-way or its users. In determining compliance with this standard, the city may consider one or more of the following factors:

a. The extent to which right-of-way space is available for the proposed facility, including accessory equipment.

b. The potential demand for the particular space in the right-of-way.

c. The availability of other locations in the right-of-way that would have less public impact.

d. The extent to which the facility placement minimizes impacts on adjacent property.

e. The applicability of ordinances or other regulations that may affect the location of the facility or accessory equipment.
3) Facilities must be removed when required by the road authority.

6. Specific Regulations

a) Facilities located outside of public right-of-way. All telecommunication facilities, administratively or conditionally permitted, are subject to the following specific regulations:

1) Location. Telecommunication facilities may be located within any zoning district. However, on properties guided low-density residential, facilities may only be located on public or institutional property.

2) Height. Maximum tower height, excluding lightning rods, is restricted based on the land use designation of property on which the tower is located:

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<thead>
<tr>
<th>Land Use Designation</th>
<th>Single-User Tower</th>
<th>Multiple-User Tower</th>
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<tbody>
<tr>
<td>Low and Medium Density Residential</td>
<td>60 feet</td>
<td>90 feet</td>
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<tr>
<td>High Density Residential</td>
<td>75 feet</td>
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<tr>
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<td>150 feet</td>
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<td>Institutional</td>
<td>60 feet</td>
<td>90 feet</td>
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The city council may increase height if the applicant can demonstrate that the increase would not have a significant impact on surrounding properties because of things like proximity, topography, or screening by trees or buildings. The council may likewise waive height restrictions for towers wholly or partially for essential public services, such as public safety.

3) Setbacks. Towers located adjacent to low or medium-density residential properties must meet the minimum setback requirements established for principal structures within the associated residential zoning district, but only from the property line abutting the residential district. The city council may waive the setback requirement if necessary to implement stealth design techniques. Accessory equipment must meet minimum setback requirements established for accessory structures within the zoning district.

4) Horizontal Projection. Antennas may not project out from an antenna support structure or tower, unless it is physically impossible to locate the antenna with the structure or tower, in which case they may not project out more than three feet.

5) Vertical Projection. Antennas mounted on an antenna support structure may not extend more than 15 feet above the structure to which they are attached. Wall or façade-mounted antennas may not extend above the cornice line and must be constructed of a material or color that matches the exterior of the building.
6) Accessory Equipment. Accessory equipment or buildings must be architecturally designed to blend in with the surrounding natural or built environment or must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood. No more than one accessory building is permitted for each tower. If additional space is needed to accommodate the co-location of antennas, the existing accessory building must be expanded or a new accessory building must be constructed adjacent and complementary to the existing building. Design of the building or equipment cabinet, screening and landscaping are subject to a site plan review under section 300.27 of this code.

7) Color. Antennas and towers must be painted a non-contrasting color consistent with the surrounding area such as: blue, gray, brown, or silver, or have a galvanized finish to reduce visual impact. Metal towers must be constructed of, or treated with, corrosion-resistant material.

8) Lighting. Telecommunications facilities may not be artificially illuminated unless required by law or by a governmental agency to protect the public’s health and safety or unless necessary to facilitate service to ground-mounted equipment.

b) Facilities located within public right-of-way. All telecommunication facilities, administratively or conditionally permitted, are subject to the following specific regulations:

1) Location.

   a. Within residential zoning districts, facilities are only permitted within the rights-of-way of collector or arterial streets as defined in the Comprehensive Guide Plan. However, in no case are facilities permitted within certain village centers as designated in Subdivision 3 of this section.

   b. Facilities are not permitted adjacent to residentially zoned property unless an applicant demonstrates, by providing a study prepared by a radio or electrical engineer, that the proposed location is necessary to reasonably meet the coverage and capacity needs of its system and no other location is feasible in a non-residential area.

2) Height. Maximum height, including attachments other than lightning rods, is restricted based on the land use designation of property adjacent to the proposed facility:

<table>
<thead>
<tr>
<th>Adjacent Land Use Designation</th>
<th>Maximum Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>60 feet</td>
</tr>
<tr>
<td>Office, Commercial</td>
<td>60 feet</td>
</tr>
<tr>
<td>Industrial</td>
<td>75 feet</td>
</tr>
<tr>
<td>Institutional</td>
<td>60 feet</td>
</tr>
</tbody>
</table>

The council may waive height restrictions for facilities wholly or partially for essential public services, such as public safety.
3) Width. The support structure or tower cannot exceed the width of the closest public utility pole by more than 50 percent, but in no case may it exceed 18 inches in diameter.

4) Horizontal Projection. Antennas may not project out from a support structure or tower, unless it is physically impossible to locate the antenna with the structure or tower, in which case they may not project out more than two feet.

5) Vertical Projection. Antennas mounted on an antenna support structure may not extend more than 10 feet above the structure to which they are attached.

6) Facility Separation. Telecommunication facilities must be separated by at least 330 feet.

7) Ground mounted accessory equipment.

a. Equipment will be allowed only if it will not adversely impact public health, safety, or welfare of the community. In determining compliance with this standard, the city many consider one or more of the following factors:

1. Whether the equipment will disrupt vehicle traffic or pedestrian circulation.

2. Whether the equipment location and screening minimizes impact on adjacent properties.

b. Equipment must not exceed the following size limits:

<table>
<thead>
<tr>
<th>Adjacent Land Use Designation</th>
<th>Maximum Height</th>
<th>Maximum Volume</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>3 feet</td>
<td>28 cubic feet</td>
</tr>
<tr>
<td>Non-Residential</td>
<td>5 feet</td>
<td>81 cubic feet</td>
</tr>
</tbody>
</table>

c. Equipment must meet the follow setbacks requirements.

<table>
<thead>
<tr>
<th>Minimum Setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing or planned edge of roadway pavement</td>
</tr>
<tr>
<td>Existing or planned edge of sidewalk or trail</td>
</tr>
<tr>
<td>Nearest intersection right-of-way line</td>
</tr>
<tr>
<td>Nearest principal residential structure</td>
</tr>
</tbody>
</table>

d. Equipment must be screened by vegetative or other screening compatible with the surrounding area, as required by the city.
8) Color. The support structure or tower must match the materials and colors of the closest public utility structures located within the right-of-way, or as required by the city.

9) Lighting. Telecommunications facilities may not be artificially illuminated unless required by law or by a governmental agency to protect the public’s health and safety or unless necessary to facilitate service to ground-mounted equipment.

c) Facilities located within certain village centers. All telecommunication facilities, administratively or conditionally permitted, are subject to the following specific regulations:

1) The Glen Lake Station and Minnetonka Boulevard/County Road 101 Community Village Centers, and the Minnetonka Mills Area Special Purpose Village Center are recognized within the Comprehensive Guide Plan as unique commercial nodes. These village centers represent the earliest developed commercial areas in the city. They have existing and anticipated pedestrian designs unique within Minnetonka, typified by sidewalks, trails, landscaped boulevards, street lights, and buried utilities. Accordingly, there is a presumption that telecommunication facilities are prohibited in these areas. An applicant may overcome this presumption by submitting an analysis prepared by a radio or electrical engineer showing that no other available location allowed under this ordinance would meet is reasonable coverage and capacity needs.

2) If telecommunication facilities are permitted in these special village centers under paragraph (a) above, then the installation of the facilities must meet the following additional standards:

   a. Accessory equipment must be located within a principal building. If space is not available in the principal building, an accessory building may be used. The accessory building must meet the construction standard of the applicable zoning district and must complement the principal structure design and materials.

   b. Telecommunication facilities may not be located within public right-of-way or within any front yard. The council may waive one or both of these restrictions if the proposal would provide a public benefit, such as improving the existing site aesthetics.

7. Exceptions

This ordinance does not apply to any facility or device that is used for the private enjoyment of those on the premises where it is located. Examples include: amateur radio antennas and antennas receiving television signals for viewing on site. Such facilities or devices are considered accessory uses and are regulated as such in each zoning district.
Brief Description  Resolution approving an Interim Use Permit for Garden City, a seasonal flower market, at 11400 Highway 7.

Recommendation  Adopt the resolution approving the request.

Background

In 2007, the city approved a conditional use permit for Linder’s Greenhouses, Inc. (Linder’s) to operate a temporary floral market within the parking lot of the Country Village Shopping Center. The floral market operated annually for roughly three months, April through July. In 2007, transient sales were conditionally-permitted uses within the B-2, limited business zoning district.

In 2012, the city adopted its first interim use ordinance. Under the ordinance, transient sales became interim uses within the B-2 zoning district.

In 2013, Linder’s ceased operation at Country Village Shopping Center and the conditional use permit previously approved for the site expired.

Proposal

The applicant, Camilo Reyes, is proposing to operate a seasonal floral market in the same location as the previously approved Linder’s market. The market would operate 8 a.m. to 8 p.m., March 15 to Sept. 30. The total market area – including the 1,800 square foot greenhouse structure and associated outdoor sales area – would occupy roughly 5,200 square feet of the existing parking lot. The proposal requires an interim use permit.

Planning Commission Hearing

The planning commission considered the proposal on March 1, 2018. The staff report from that meeting and various plans and documents describing the proposal are attached. Staff recommended approval of the permit noting:

- The proposed floral market would meet all of the interim use permit standards outlined in city code for transient sales.
- The proposal would reflect what occurred on the shopping center site between 2007 and 2013.

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

Planning Commission Recommendation

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

Since the commission meeting, staff has amended a condition of approval. In order to give some flexibility to respond to any future parking conditions on the site, the condition regulating the location of the garden center has been amended as follows:

The floral market must be generally located on the eastern edge of the Country Village Shopping Center. However, city staff may administratively approve a change in the location within the parking lot, so long as the square footage of the area occupied does not increase.

Staff Recommendation

Staff recommends the city council adopt the resolution approving an interim use permit for a seasonal flower market at 11400 Highway 7.

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
March 1, 2018

Brief Description
Interim use permit for Garden City, a seasonal flower market, at 11400 Highway 7.

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

Background
In 2007, the city approved a conditional use permit for Linder’s Greenhouses, Inc. (Linder’s) to operate a temporary floral market within the parking lot of the Country Village Shopping Center. The floral market operated annually for roughly three months, April through July. In 2007, transient sales were considered conditionally permitted uses within the B-2, limited business zoning district.

By ordinance, a conditional use permit expires if normal operation of the use discontinues for 12 or more months. As such, the conditional use permit has since expired as Linder’s ceased operation of their greenhouse in 2013.

In 2012, the city adopted its first interim use ordinance. By ordinance, an interim use is a specific use that is allowed for a specific period of time. Under current ordinance, transient sales are considered interim uses within the B-2 zoning district.

Proposal
The applicant, Camilo Reyes, is proposing to operate a seasonal floral market in the same location as the previously approved Linder’s market. The market would operate 8 a.m. until 8 p.m. from Mar. 15 to Sept. 31.

The total market area – including the 1,800 square foot greenhouse structure and associated outdoor sales area - would occupy roughly 5,200 square feet of the existing parking lot. The market area would be fenced to separate it from the existing parking lot.

Staff Analysis
Staff finds the applicant’s proposal to be reasonable as:

• The proposed floral market would meet all of the interim use permit standards outlined in city code for transient sales.

• While the proposed floral market would occupy parking stalls within the existing parking lot, staff does not anticipate any on-site parking issues.

• The proposal would be no different than what occurred on site from 2007 to 2013.
Staff Recommendation

Recommend that the city council adopt the resolution approving an interim use permit for Garden City at 11400 Highway 7.

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

Project No. 90014.18a

Property 11400 Hwy 7

Applicant Camilo Reyes, on behalf of Garden City

Surrounding Land Uses
- Northerly: Office and residential, zoned R-1, R-3 and PUD, guided for office, low and medium residential densities
- Easterly: Commercial, zoned B-2, and guided for service commercial
- Southerly: City of Hopkins
- Westerly: Residential, zoned R-2 and guided for low density

Planning
- Guide Plan designation: Commercial
- Zoning: B-2

Transient Sales
The ordinance defines transient sales as the use of a structure or lot for the temporary sales of goods, wares or merchandise. Transient sales do not include the sale of food products of a farm or garden occupied and cultivated by the seller.

Parking
By ordinance, the neighborhood shopping center would require a total of 495 parking stalls. The proposed floral market would occupy 32 of the site’s 465 existing parking stalls. This would result in a parking deficit of 62 parking stalls.

However, an approved site plan from 1991 indicates that by restriping and reconfiguring some of the parking, the site has in excess of 500 parking stalls. Given this, and coupled with the lack of parking complaints on the site, staff does not anticipate any parking issues on the site.

<table>
<thead>
<tr>
<th></th>
<th>Gross floor area</th>
<th>Required parking spaces</th>
<th>Existing parking spaces</th>
<th>Total parking spaces including proof of parking</th>
<th>Occupied by floral market</th>
</tr>
</thead>
<tbody>
<tr>
<td>Country Village Shopping Center</td>
<td>110,060 sf</td>
<td>495 stalls</td>
<td>465 stalls</td>
<td>589</td>
<td>32</td>
</tr>
</tbody>
</table>

IUP Standards
The proposal would meet the interim use permit standards as outlined in City Code §300.18 Subd 7 for transient sales:

1) must be located in a suitable off-street location and shall not extend into adjacent right-of-way or other public property;

Finding: The floral market will be located within the existing County Village Shopping Center parking lot and would not extend into any adjacent right-of-way or other public property.
2) must not interrupt vehicular circulation on the site or obstruct parking spaces needed by permanent business established on the site;

Finding: The floral market would be located to avoid any dead-ends within the parking lot to ensure that the vehicular circulation of the site is not disrupted. While the floral market would utilize existing parking spaces, it would not obstruct parking spaces required for the permanent businesses.

3) must have written authorization from property owner;

Finding: The property owner has signed and consented to the application.

4) business operator must secure all applicable licenses and approvals from the city, Hennepin County or other appropriate jurisdictions;

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

5) sight visibility clearances at street intersections and access points must be provided in accordance with section 300.15, subd. 9(e) of this ordinance or as determined by the city to protect public safety;

Finding: Generally, the proposed location is reasonable. However, as a condition of approval, the applicant must ensure that sight lines at corners remain unobstructed.

6) no portion of the use may take place within 100 feet of any developed property zoned for residential use;

Finding: The floral market would not be located within 100 feet of any residential properties.

7) signs are subject to the following:

   a. no more than four signs are allowed, which do not exceed 32 square feet in aggregate;

   b. incidental product or pricing signs must be placed directly next to the appropriate product;

   c. product advertising is permitted, but must be included in the maximum allowed sign area;

   d. the signs must have a professional appearance and must be securely mounted or erected in a safe location; and
e. these limitations apply to all signs associated with the use, including those affixed to vehicles;

Finding: As a condition of approval, the applicant would be required to apply for a temporary sign permit each year. Any proposed signage would need to meet the ordinance requirements.

8) any display of items must be limited to representative samples and be arranged in as compact a manner as reasonably practicable;

Finding: Staff finds that the proposal would meet this condition. However, this has been included as a condition of approval.

9) the interim use permit will be issued in the name of the person requesting the permit and will be for the purpose of selling a particular item or range of items at a specific location. Any change in the person, location or items sold will render the permit invalid; and

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

10) violation of the above standards or other conditions placed upon the interim use permit will result an immediate revocation of the interim use permit;

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

Pyramid of Discretion

Voting Requirement The planning commission will make a recommendation to the city council. A recommendation for approval requires an affirmative vote of a simple majority, as does the council’s approval.

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 request.

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

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

**Neighborhood Comments**
The city sent notices to 116 area property owners and received no comments to date.

**Deadline for Decision**
June 1, 2018
Location Map
Project: Garden City
Address: 11400 Hwy 7

This map is for illustrative purposes only.

Subject Property
My name is Camilo Reyes I am a former Linder’s Greenhouses Operations Manager in the Flower Mart Division for fourteen years. After Linder’s went out of business in 2013 I got the opportunity to open my own Company, Garden City, LLC. Linder’s used to have a flower mart at Country Village Shopping Center in Minnetonka from 2007 – 2013. I would like to propose is provide the same operations as Linder’s did in the past. Following is a description of my operations.

Garden City LLC is a company that set up and operated temporary Garden Centers around the Metro area. I am enclosing some photos and information about our garden centers. We have been doing Flower Marts for 4 Years in the Twin Cities area. The response we have had from our customers and nearby businesses has been excellent. Our concept in marketing and presentation has received numerous compliments from customers and others within the garden center industry.

Having a Garden City Flower Mart at this location generates a lot of excellent visual attraction which brings color to the center in the spring when shoppers are eager to get going on their gardens. Getting customers into shopping centers is of prime importance to all businesses. Having first quality garden products available for your customers shows that you care to provide them with a convenience near to where they shop.

ABOUT GARDEN CITY:
Garden City is a 4 year old business and has been selling high quality flower and vegetable plants. We buy and sell Annuals, nursery stock, perennials, and specialty items,

During the last three years we have developed our "Flower Marts" and have placed them throughout the Twin Cities. In 2017 we operated at 6 different cities. City of Roseville, City Of Moundsview, City Of Golden Valley, City of White Bear Lake, City Of St Anthony, and City Of Burnsville. During our season we sell all types of annuals, perennials, hanging baskets and other products for use in the home garden. Because we are well known as a quality flower carrier, many gardeners seek us out to supply their planting needs. Locating in areas around the cities enables us to serve our customers better. It is also an opportunity for neighboring business owners to provide their customers with quality flower and vegetable plants conveniently nearby. Our customers have given us a tremendous welcome and look forward to our returning each spring.

We carrier a quality bedding plants as well as other seasonal products for sale. We take great pride in our "Flower Marts" and are proud to display our name on them and carefully sign them to identify ourselves. The photos show our "Flower Marts" at various locations for you to see how we look. We are very proud of our reputation and do everything possible to be the best in this market.
THE MARKET:
We feel this location may be an excellent place to locate a Garden City "Flower Mart". This could be an opportunity to serve our customers in your community with a nearby convenient shopping location where they can buy quality plant materials from a local Twin Cities growers. We are experienced in this kind of operation and feel that we are doing an excellent service for our customers and our surrounding communities.

LOCATION:
The area needed is typically 104 ft. by 50 ft. (about 5200 sq. ft.). This size includes the garden center itself and the patio areas connected to the Flower Mart. We will locate in a place that is some distance from the front of the other businesses and out of the main stream of traffic, both pedestrian and vehicular. We want to give the Flower Mart visibility to the public without obstructing the visibility of the other neighboring businesses, and at the same time have good visibility in order to attract customers into the lot.

TRAFFIC:
With regard for vehicle traffic, the "Flower Mart" is placed in the selected location in order to keep any traffic disruption to a minimum. The patio areas at the front, side and back serve to protect the "Flower Mart" from vehicles and let the drivers see around the garden center. The patio fence is about 4 ft. high and surrounds the "Flower Mart" on three sides. This design has been used at our "Flower Marts" for several years and we have yet to have had a problem with vehicle movement. We feel that this is a safe way to deal with vehicles. Placed in this manner, vehicles cannot park adjacent to the "Flower Mart". The circulation of vehicles in the parking lot will not be adversely affected by the "Flower Mart" due to its location in the lot.

PARKING:
We have designed the "Flower Mart" as we did because we feel that this is the most professional design and uses the available space to its maximum potential. Garden City has operated "Flower Marts" successfully for 4 Years in communities surrounding the Twin Cities. It has been our experience that the traffic and parking in the lots shared by the "Flower Mart" is not affected considerably due to the sharing of customers with our property owner. We bring in many customers but they are easily handled by the size of the lots we occupy. We do not want to create a congestive atmosphere for our customers or neighboring businesses. Our flower mart will use 32 of the 513 parking spaces that the property have in the South East Corner of the property.

The "Flower Mart" generates business activity which varies during the business day with the most activity occurring in late afternoon and evening. There is also business activity occurring on the weekends with the most on Saturdays. Having done this type of operation for 4 years, it would be safe to say that the average amount in the "Flower Mart" at any one time is about five to six customers. The maximum amount of customers may be up to ten. There are certainly times when special sales occur that higher levels of activity may occur, but we have never seen so much that a problem has occurred in relation to the amount of cars or pedestrian traffic.

THE "FLOWER MART":
The typical "Flower Mart" itself is 84 ft long and 21 ft wide and 12 ft high. There are patio/display areas in the front, side and rear of the "Flower Mart". The entire size is about 100 ft by 50 ft with total of 5000 sq feet. See the attached drawing. The size and configuration can be adjusted somewhat in order to meet the available space.

The "Flower Mart" itself is a high quality greenhouse structure which sits on the pavement and is held down with an internal system which uses water for ballast. It is a commercially made unit, which is manufactured by a Minnesota company (Poly-Tex, located in Castle Rock, MN). It is a very good looking structure which we have used for many years.

ADVERTISING:
Garden City has established an extensive advertising program, which includes. The Garden City name is synonymous with quality, selection, and service. We also use radio, brochures, and other mailings and 16,000 email list to convey our message. We also use social media were we reach about 120,000 to 160,000 costumers per week were this location will be mention. We make extensive efforts to bring in customers so we can be successful as well as all other merchants in the shopping center.

SIGNAGE:
The signage for a typical "Flower Mart" is shown on the drawing. This is what we believe to be an excellent signage plan. We have tried to design the appearance and signing of our stores to be not only eye catching but professional looking as well. We are very conscious of how we look and do business. We would comply with the current sign requirements of the City.

UTILITIES:
Our only utility requirements are reasonable access to water for the plants and 110 volt electricity (on 24 hours) which runs the cash register and other small items in the "Flower Mart".

This power typically comes from a light pole in the lot nearest the "Flower Mart. We have no lighting permanently installed in the "Flower Mart". Garden City takes away all discarded material and unnecessary items. We strive to maintain a clean and professional appearance.

Water is the other utility we need. This is needed to care for the plant material at the "Flower Mart". The source of the water is not specifically identified at this point. Hopefully a source can be located nearby or from the underground watering system. We only need the equivalent of a standard gardening hose to water the plant material.

THE SPRING SELLING SEASON:
The selling season to be from April 15 thru September 15 (weather dependent). We typically begin preparations to set up all of the Garden City "Flower Marts" in the middle of March. We request the necessary time to build the "Flower Mart" before the season begins. We first deliver the necessary equipment to the location and then begin setting-up the "Flower Mart" when the weather is permisible. The "Flower Mart" is taken down and totally removed on the closing day of the season. We totally clean and sweep the location in the parking lot so that once we are gone there is no evidence of our having been there.
OUR HOURS:
Our hours are 8:00 AM until 8:00 PM weekdays and 8:00 AM until 8:00 PM on most weekends. We typically have two to three employees during weekdays and three to four during weekends. We are open seven days a week during the season. The "Flower Mart" is closely supervised by myself and Store Managers who keep it stocked and operating cleanly and efficiently. We make every attempt to employ persons from the community.

I have tried to provide all of the information about Garden City to answer your questions. We typically pay a fee to the owner for the season. I have attached a typical License Agreement. Garden City has used this form for most of our locations and it can be modified to suit both of us.

If you have any other questions or concerns you can reach me at any time on my cellular telephone 612-36-2084. Or by email at camilo@gardencitymn.com

Sincerely,

Camilo Reyes
Owner
Exhibit A

Legal Description

That part of the North ½ of the Northeast ¼ of section 23, Township 117 Range 22 West, lying Northeasterly of the right-of-way of the Minneapolis and St. Louis Railroad, and South of the center line of the line of the old Minnetonka Mills Road, known as Highway #71 and West of a line parallel with the 990.000 feet West of the east line of the Northeast ¼ of the Northeast ¼ of said section 23, except that the part thereof, with lies Northwesterly of the line and its Northeasterly extension, said line described as commencing at the point of intersection of Highway No. 71 and the Easterly right-of-way line of Minneapolis and St. Louis Railroad; thence Southeasterly along said center line a distance of 655.00 feet to the point of beginning of the line to be described; thence Southwesterly to a point on the Easterly right-of-way line of the Minneapolis and St. Louis Railroad, distant 730.00 feet Southeasterly as measured along said right-of-way line from the point of beginning and said line there terminating.

That part of the East 990 feet by parallel lines, of the Northeast ¼ of the Northeast ¼ of section 23, Township 117 North, Range 22 West, lying North of the Northerly line of State Highway #7 as the same is now laid out and constructed, and lying Northeasterly of the Northeasterly line of the Minneapolis and St. Louis Railroad right-of-way, and Southerly of the center line of the old Minnetonka Mills Road, now known as Highway #71, except the East 395 feet thereof.

Country Village Shopping Center Minnetonka, Minnesota 55305
<table>
<thead>
<tr>
<th>Tenant</th>
<th>Yardi Address</th>
<th>Post Office Address</th>
<th>Square Feet</th>
<th>% Of Center</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aerial</td>
<td>11400 Highway 7, Suite #347</td>
<td>11351 Highway 7</td>
<td>2,575</td>
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</tr>
<tr>
<td>Banfield</td>
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<td>11400 Highway 7, Suite #305</td>
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<td>Dr. Gianforte (Expansion)</td>
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<td>Dr. Gianforte</td>
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<tr>
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<td>768</td>
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<tr>
<td>Lunds</td>
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<td>Music Go Round</td>
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<tr>
<td>Papa Johns</td>
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</tr>
<tr>
<td>Play It Again Sports</td>
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<tr>
<td>Salons By JC</td>
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<td>The Frameworks</td>
<td>11400 Highway 7, Suite #309</td>
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<tr>
<td>Zounds Hearing Aid</td>
<td>11400 Highway 7, Suite #303</td>
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<tr>
<td>Vacant - Suite 301</td>
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<tr>
<td>Vacant - Suite 325</td>
<td>11400 Highway 7, Suite #325</td>
<td>11325 Highway 7</td>
<td>15,000</td>
<td>13.63%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>114,060</strong></td>
<td></td>
<td><strong>100.00%</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Total Leased**

<table>
<thead>
<tr>
<th>Tenant</th>
<th>Yardi Address</th>
<th>Post Office Address</th>
<th>Square Feet</th>
<th>% Of Center</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Vacant - Suite 325</strong></td>
<td>11400 Highway 7, Suite #325</td>
<td>11325 Highway 7</td>
<td><strong>82,350</strong></td>
<td><strong>80.27%</strong></td>
</tr>
</tbody>
</table>
Great Clips

3.8 ★★★★ • 32 reviews

Hair Salon
Flower Mart
Country Village

Front Patio
Minnetonka - Country Village
Floor Plan with Displays

3T: Three-tiered bench
A: Angled bench
G: Green
SB: Sm. Blue
LB: Lg. Blue
M: Mulch
Photos of other locations
• Adopted a resolution approving a conditional use permit with variances and an expansion permit for outdoor seating at The Copper Cow restaurant on 5445 Eden Prairie Road.
• Adopted a resolution approving items for iFly at 12415 Wayzata Boulevard.
• Adopted a resolution approving amendments to the design criteria for the Ridgedale restaurant properties at 12415 Wayzata Blvd.

Gordon reported that the 14 outreach events to discuss the comprehensive guide plan with residents have been completed. The next steering committee meeting will be March 21, 2018 which will discuss parks, trails and open space.

The next planning commission meeting will also be March 15, 2018.

Gordon welcomed new planning commissioner Alex Hanson.

6. Report from Planning Commission Members

Powers attended a meeting that discussed creating a park in the Ridgedale Shopping Center area. He said that the meeting went well and it laid the groundwork for parks moving forward in Minnetonka.

7. Public Hearings: Consent Agenda: None

8. Public Hearings

A. Interim use permit for Garden City, a seasonal flower market, at 11400 Hwy. 7.

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.

Camilo Reyes Ogando, applicant, stated that Cauley did a good job explaining the proposal. He was available to answer questions.

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

Hanson moved, second by Powers, to recommend that the city council adopt the resolution approving an interim use permit for Garden City at 11400 Highway 7.

Sewall, Hanson, O’Connell, Powers, Schack, and Kirk voted yes. Knight was absent. Motion carried.
This item is tentatively scheduled to be reviewed by the city council at its meeting on March 19, 2018.

**B. A conditional use permit with a parking variance for Eden Prairie Islamic Community Center at 5640 Smetana Dr.**

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.

Mohamed Ibrahim, board member of the Eden Prairie Islamic Community Center, applicant, stated that things are going well and the use is expanding into the second building. There have been no parking issues. The parking lot has never been full.

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

Chair Kirk asked staff to comment on a letter received from a resident. Cauley stated that the city’s nuisance ordinance does not address light from headlights. Planning staff will visit the site and measure the light that the building emits to see if exceeds ordinance limits. Cauley spoke with the resident who wrote the letter and they discussed how after Xcel Energy upgraded street lights with LED bulbs, the intensity of those lights increased.

_Schack moved, second by Powers, to recommend that the city council approve the attached conditional use permit approving a banquet facility with a parking variance and the attached resolution amending and replacing Resolution 2016-054 for a conditional use permit with a parking variance for Eden Prairie Islamic Community Center at 5620 Smetana Drive._

_Sewall, Hanson, O’Connell, Powers, Schack, and Kirk voted yes. Knight was absent. Motion carried._

This item is tentatively scheduled to be reviewed by the city council at its meeting on March 19, 2018.

**C. Conditional use permit, with variances, for a fast-food restaurant at 17603 Minnetonka Blvd.**

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

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

Schack asked how much tenant turnover has occurred since the parking study was completed in 2005. Ingvalson answered that it is difficult to track tenants. The building is
Resolution No. 2018-

Resolution approving an interim use permit for Camilo Reyes to operate a seasonal floral market at 11400 Highway 7

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

Section 1. Background.

1.01 Camilo Reyes, on behalf of Garden City, has requested an interim use permit to operate a seasonal floral market within the Country Village parking lot.

1.02 The property is located at 11400 Hwy 7. It is legally described as:

Tract A, Registered Land Survey No. 1591, Hennepin County, Minnesota.

1.03 In 2007, the city council approved a conditional use permit to allow a temporary floral market for Linder’s Greenhouses, Inc. However, the approved conditional use permit has since expired as the floral market ceased operation in 2013.

1.04 In 2012, the city adopted its first interim use ordinance. Under the current ordinance, transient sales are considered interim uses.

1.05 On March 1, 2018, 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 §300.18 Subd.7 outlines the following standards that must be met for granting an interim use permit:

1. must be located in a suitable off-street location and shall not extend into adjacent right-of-way or other public property;

2. must not interrupt vehicular circulation on the site or obstruct parking spaces needed by permanent business established on the site;

3. must have written authorization from property owner;
4. business operator must secure all applicable licenses and approvals from the city, Hennepin County or other appropriate jurisdictions;

5. sight visibility clearances at street intersections and access points must be provided in accordance with section 300.15, subd. 9(e) of this ordinance or as determined by the city to protect public safety;

6. no portion of the use may take place within 100 feet of any developed property zoned for residential use;

7. signs are subject to the following:
   a. no more than four signs are allowed, which do not exceed 32 square feet in aggregate;
   b. incidental product or pricing signs must be placed directly next to the appropriate product;
   c. product advertising is permitted, but must be included in the maximum allowed sign area;
   d. the signs must have a professional appearance and must be securely mounted or erected in a safe location; and
   e. these limitations apply to all signs associated with the use, including those affixed to vehicles;

8. any display of items must be limited to representative samples and be arranged in as compact a manner as reasonably practicable;

9. the interim use permit will be issued in the name of the person requesting the permit and will be for the purpose of selling a particular item or range of items at a specific location. Any change in the person, location or items sold will render the permit invalid; and

10. violation of the above standards or other conditions placed upon the interim use permit will result in immediate revocation of the interim use permit;

Section 3. Findings.

3.01 The proposal meet the specific interim use permit standards outlined in City Code §300.18 Subd.7:

1. The floral market will be located within the existing Country Village Shopping Center parking lot and would not extend into any adjacent right-of-way or other public property.

2. The floral market would be located to avoid any dead-ends within the
parking lot to ensure that the vehicular circulation of the site is not disrupted. While the floral market would utilize existing parking spaces within the property, it would not obstruct parking spaces required for the permanent businesses onsite.

3. The property owner has signed and consented to the application.

4. Generally, the proposed location is reasonable. However, as a condition of this resolution, the applicant must ensure that sight lines at corners remain unobstructed.

5. The floral market would not be located within 100 feet of any residential properties.

6. As conditions of this resolution:
   a) The business operator is responsible for securing all necessary permits and licenses.
   b) The applicant must apply for a temporary sign permit each year. Any proposed signage would need to meet the ordinance requirements.
   c) Display of items must be limited to representative samples and be arranged in as compact a manner as reasonably practicable.
   d) The interim use permit is issued in the name of the person requesting the permit and will be for the purpose of selling a particular item at a specific location.

Section 4. City Council Action.

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

1. This resolution must be recorded with Hennepin County.

2. The floral market must be generally located on the eastern edge of the Country Village Shopping Center. However, city staff may administratively approve a change in the location within the parking lot, so long as the square footage of the area occupied does not increase.

3. The market may be operated annually from March 15 through Sept. 30 on a daily basis from 8 a.m.–8 p.m.

4. The floral market must display items such that existing sight lines at intersections are not obstructed. Items must be displayed in the most compact manner reasonably practicable.
5. The approval does not approve any signs. A sign permit application must be submitted for staff review and approval.

6. The business operator is responsible for obtaining all necessary licenses and approvals from the city, Hennepin County or any other appropriate jurisdictions.

7. Any change in the proprietor, operator, location or items sold at the floral market will render this permit void.

8. Due to the size of the structure, a fire protection permit is required.

9. Any water supplied from city services must be protected with proper backflow protection device.

10. The site must be cleaned of all merchandise, equipment and debris within three days of the last day of operation.

11. No portable sanitation facilities are allowed on site.

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

13. The city council may revoke the interim use permit if any future traffic, parking or public safety issues arise as a result of the floral market’s operation.

14. Violation of any of the above standards would result in an immediate revocation of the interim use permit.

Adopted by the City Council of the City of Minnetonka, Minnesota, on March 19, 2018.

________________________________________________________________________

Brad Wiersum, 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 March 19, 2018.  

David E. Maeda, City Clerk
City Council Agenda Item #10E  
Meeting of March 19, 2018

Brief Description: Resolutions requesting the sale of certain tax-forfeited lands to the City of Minnetonka, pursuant to Minn. Stat. § 281.01, subd. 1a(c)

Recommended Action: Adopt the resolutions

Background

Hennepin County manages tax-forfeited lands within the county, on behalf of the State of Minnesota. The county recently notified the city that three parcels of tax-forfeited land are available for purchase at their estimated fair market value. Two parcels are being sold for a combined price of $156.04, and a third parcel is being sold for $180.70. Location maps for the properties are provided.

The two parcels that are being sold for $156.04 are surrounded by city-owned property, lie within the wetlands adjacent to Minnehaha Creek, and are undevelopable. Due to the minimal value and the proximity to the creek, staff recommends that the city purchase the property for open space preservation.

The third parcel being sold is located next to the cul-de-sac on Merriam Road, near Highway 7. The public works and engineering staff believe the property could be used for roadway and storm water drainage or ponding when the local streets are reconstructed in the future.

Some council members may recall that the city ordinarily does not pay the state for tax-forfeited parcels. In general, the state wants to return tax-forfeited properties to the tax rolls unless they are needed for a public purpose. Before land is scheduled for public auction, however, Minnesota Statutes, section 282.01 gives local government subdivisions the opportunity to acquire tax-forfeited parcels in one of three ways:

- **Acquisition under subdivision 1a(e).** The city can obtain the land for free, but subject to a restriction on the use of the property. This is the typical way that the city has acquired tax-forfeited land. Under this option, the state conveys the land to the city subject to a restriction that the land must be used for a specific public purpose designated in the tax-forfeiture laws. If it is not used for the specified purpose, the city must reconvey the land to the state. Under law changes that occurred within the past several years, the restriction expires 30 years after the state provides the deed, at which point the city owns the land free of the restriction. However, as part of the legislation that established the 30-year period for the restriction, the legislature also reduced the number of public purposes for which the land could be conveyed. Prior to the legislation, open space preservation and storm water drainage were both public uses for which the state would convey land at no cost to the city. Neither of those uses qualifies under the law today.

- **Acquisition under subdivision 1a(c).** The city can pay fair market value for the property, and acquire it for any public purpose for which it has the legal authority to acquire property.
• Acquisition under subdivision 1a(d). With county approval, the city can pay less than fair market value, if the property will be used to correct blight or implement affordable housing. This provision is not applicable to these parcels.

The first two parcels are not suitable for any of the “free” public purposes (e.g., roadway or active park). The third parcel could be acquired for free for future road, but not for storm drainage and ponding. City staff recommends that the city acquire the parcels for fair market value. Funding will come from the Community Investment Fund (Minnehaha Creek Corridor funds) for the first two parcels and from the storm water fund for the third parcel. A separate resolution is provided for each set of properties.

Recommendation

Adopt the resolutions.

Submitted through:
Geralyn Barone, City Manager
Brian Wagstrom, Public Works Director
Will Manchester, City Engineer
Merrill King, Finance Director

Originated by:
Corrine Heine, City Attorney
Subject Properties

13-117-22-312-0177
13-117-22-312-0176

This map is for illustrative purposes only.
Subject Property
23-117-22-32-0011

This map is for illustrative purposes only.
Resolution No. 2018-

Resolution requesting the sale of certain tax-forfeited land
to the City of Minnetonka, pursuant to Minn. Stat. § 282.01, subd. 1a(c)

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

Section 1. Background.

1.01. Hennepin County has notified the city that two parcels of tax-forfeited land, both classified as non-conservation lands, are available for purchase.

1.02. The tax-forfeited lands (the “Properties”) are identified as follows:

   PID 13-117-22-12-0176
   Lot 33, Block 10, Lyons Second Addition

   PID 13-117-22-12-0177
   Lot 34, Block 10, Lyons Second Addition

1.03. Each of the Properties is approximately 6,000 square feet in area. The Properties are vacant, undevelopable lands located near Minnehaha Creek and are immediately adjacent to other city-owned property.

1.04. The city is authorized by its charter and state law to acquire land for any public purpose, including the preservation of open space.

1.05. The county has determined that the fair market value of the Properties is $154.06.

Section 2. Council Action.

2.01. The City Council requests that the Hennepin County Board of Commissions approve the sale of the following tax-forfeited lands to the City of Minnetonka for fair market value of $154.06, pursuant to Minn. Stat. § 282.01, subd. 1a(c):

   PID 13-117-22-12-0176
   PID 13-117-22-12-0177

The designated public purpose for the acquisition of the Properties is preservation of open space.

2.02. The city clerk is directed to provide a certified copy of this resolution to Hennepin County and is authorized to take further actions as necessary to implement this resolution.

Adopted by the City Council of the City of Minnetonka, Minnesota, on March 19, 2018.

________________________________________
Brad Wiersum, Mayor
Attest:

David E. Maeda, City Clerk

**Action on this resolution:**

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

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

________________________________________
David E. Maeda, City Clerk
Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. Hennepin County has notified the city that a parcel tax-forfeited land, classified as non-conservation land, is available for purchase.

1.02. The tax-forfeited land (the “Property”) is identified as follows:

    PID 23-117-22-32-0011  
    Lot 9, Brenlyn Park Second Division

1.03. The Property is approximately 4,140 square feet in area and undevelopable. It is located adjacent to State Trunk Highway 7 right of way and the cul-de-sac of Merriam Road. The public works director and city engineer have determined that the Property could be used for storm water drainage or ponding at such future time that the city reconstructs local streets.

1.04. The city is authorized by its charter and state law to acquire land for any public purpose, including storm water drainage purposes.

1.05. The county has determined that the fair market value of the Properties is $180.70.

Section 2. Council Action.

2.01. The City Council requests that the Hennepin County Board of Commissions approve the sale of the following tax-forfeited land to the City of Minnetonka for fair market value of $180.70, pursuant to Minn. Stat. § 282.01, subd. 1a(c):

    PID 23-117-22-32-0011

The designated public purpose for the acquisition of the Properties is storm water drainage.

2.02. The city clerk is directed to provide a certified copy of this resolution to Hennepin County and is authorized to take further actions as necessary to implement this resolution.

Adopted by the City Council of the City of Minnetonka, Minnesota, on March 19, 2018.

Brad Wiersum, Mayor

Attest:
David E. Maeda, City Clerk

**Action on this resolution:**

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

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

David E. Maeda, City Clerk
Brief Description     Order for liquor license stipulation
Recommendation     Approve the order

Background

The city council has an adopted schedule of presumptive penalties to be applied when certain liquor violations occur. Under the presumptive penalties schedule, liquor licensees are subject to a fine, or a fine plus a license suspension, only after the conclusion of criminal proceedings brought by the legal department. A form stipulating the penalty is sent to the licensee, who may agree to the penalty or request an administrative hearing before the city council. When the licensee agrees to the penalty, it must be brought back and acknowledged through issuance of an order by the city council.

The following establishment is in violation of selling intoxicating liquor to a person who was under 21 years of age and has agreed to the penalty:

- Tonka Bottle Shop

Presumptive penalties are defined in city council policy 6.2 and are based on the type of liquor license, number of violations over a three year period, and participation in the Best Practices Program. As the council is aware, the city offers the Best Practice Program. The program’s purpose is to encourage liquor license holders to voluntarily undertake practices and provide additional training that will help avoid sales to underage buyers. Stipulation forms were sent to the licensee. The licensee has returned the stipulations form agreeing to the penalty listed below:

<table>
<thead>
<tr>
<th>Establishment &amp; Type of License</th>
<th>Licensee</th>
<th>Date of Violation</th>
<th>Offense</th>
<th>Fine</th>
<th>Participant in Best Practices Program</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tonka Bottle Shop</td>
<td>Timothy D. Bevins</td>
<td>July 17, 2017</td>
<td>1st Violation</td>
<td>$750</td>
<td>No</td>
</tr>
</tbody>
</table>

Recommendation

Staff recommends the city council adopt a motion issuing the enclosed Findings of Fact, Conclusion, and Orders for Tonka Bottle Shop.

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

Originated by:
Kathy Leervig, Community Development Coordinator
Exhibit A

Presumptive Penalties

The following are the presumptive penalties for the offenses listed.

Revocation on the first violation for the following types of offenses:

- Commission of a felony related to the licensed activity
- Sale of alcoholic beverages while license is under suspension

The following chart applies to these violations, to be counted over a three-year period:

- Sale to underage person
- Sale after/before hours
- Consumption after hours
- Illegal gambling, prostitution, adult entertainment on premises
- Sale to obviously intoxicated person
- Sale of liquor that is not permitted by the license

<table>
<thead>
<tr>
<th>License Type</th>
<th>1st Violation</th>
<th>2nd Violation</th>
<th>3rd Violation</th>
<th>4th Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-sale, full</td>
<td>$500 + 1 day suspension</td>
<td>$1000 + 3 days suspension</td>
<td>$2000 + 10 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>Off-sale, full</td>
<td>$750</td>
<td>$1500 + 1 day suspension</td>
<td>$2000 + 6 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>On-sale, 3.2 &amp; beer/wine</td>
<td>$350 + 1 day suspension</td>
<td>$700 + 3 days suspension</td>
<td>$1500 + 10 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>Off-sale, 3.2</td>
<td>$250 + 1 day suspension</td>
<td>$500 + 3 days suspension</td>
<td>$1000 + 10 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>On-sale, taproom or Off-sale, brewery (growlers)</td>
<td>$350 + 1 day suspension</td>
<td>$700 + 3 days suspension</td>
<td>$1500 + 10 days suspension</td>
<td>Revocation</td>
</tr>
</tbody>
</table>
For establishments in the Best Practices Program:

<table>
<thead>
<tr>
<th>License Type</th>
<th>1st Violation</th>
<th>2nd Violation</th>
<th>3rd Violation</th>
<th>4th Violation</th>
<th>5th Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-sale, full</td>
<td>$500</td>
<td>$500 + 1 day suspension</td>
<td>$1000 + 3 days suspension</td>
<td>$2000 + 10 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>Off-sale, full</td>
<td>$350</td>
<td>$750</td>
<td>$1500 + 1 day suspension</td>
<td>$2000 + 6 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>On-sale, 3.2 &amp; beer/wine</td>
<td>$350</td>
<td>$350 + 1 day suspension</td>
<td>$700 + 3 days suspension</td>
<td>$1500 + 10 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>Off-sale, 3.2</td>
<td>$250</td>
<td>$250 + 1 day suspension</td>
<td>$500 + 3 days suspension</td>
<td>$1000 + 6 days suspension</td>
<td>Revocation</td>
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<tr>
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<td>$350</td>
<td>$350 + 1 day suspension</td>
<td>$700 + 3 days suspension</td>
<td>$1500 + 10 days suspension</td>
<td>Revocation</td>
</tr>
</tbody>
</table>
In the Matter of:

The Liquor License of
Timothy D. Bevins
(dba Tonka Bottle Shop)

Pursuant to a Stipulation executed by Julie Wischnack, Community Development Director for the city of Minnetonka, and Timothy D. Bevins, owner of Tonka Bottle Shop, the city council makes the following:

**FINDINGS OF FACT**

1. The licensee captioned above holds an Off-sale liquor license issued by the city council on December 4, 2017, and conducts its licensed activity at 17616 Minnetonka Blvd. within the city.

2. Pursuant to Minn. Stat. § 340A.503, Subd. 2(1) and Minnetonka City Code §600.75(1), no person may sell liquor to a minor, who is under the age of 21.

3. On July 17, 2017, Peter Donahue, a person employed by the above-captioned licensee, sold intoxicating liquor to a person who was under 21 years old.
CONCLUSION

1. The liquor licensee sold an alcoholic beverage to an underage person on July 17, 2017, in violation of Minn. Stat. § 340A.503, Subd. 2(1) and Minnetonka City Code §600.75(1).

ORDER

IT IS HEREBY ORDERED, pursuant to Minn. Stat. §340A.415 and Minnetonka City Code §600.080 and Council Policy 6.2, that the licensee captioned above is subject to the following sanctions:

(1) a $750 civil penalty.

By order of the city council of the City of Minnetonka, Minnesota, March 19, 2018.

__________________________________________
Brad Wiersum, Mayor

ATTEST:

__________________________________________
David E. Maeda, City Clerk

ACTION ON THIS ORDER:

Motion for issuance:
Seconded by:
Voted in favor of:
Voted against:
Absent:
Abstained:
Order issued.
I certify that the above is an accurate copy of the Findings of Fact, Conclusion, and Order issued by the City Council of the City of Minnetonka, Minnesota, at an authorized meeting held on March 19, 2018.

_________________________________

David E. Maeda, City Clerk
City Council Agenda Item #11A
Meeting of March 19, 2018

Brief Description
Items concerning Eden Prairie Islamic Community Center at 5620 and 5640 Smetana Dr.:

1) Resolution amending and replacing Resolution No. 2016-064 for a conditional use permit, with a parking variance, at 5620 Smetana Dr.

2) Resolution approving a conditional use permit, with a parking variance, for a banquet facility at 5640 Smetana Dr.

Recommendation
Adopt the resolutions approving the request.

Background
Eden Prairie Islamic Community (EPIC) owns the properties at 5620 and 5640 Smetana Dr. In 2016 the organization proposed to operate a community center with the easterly, 5620 Smetana Rd., building. At full build-out, the center would be occupied by a variety of uses, including: worship space, coffee shop, offices, licensed daycare, classrooms, and a banquet facility.

EPIC proposed to continue to lease the westerly, 5640 Smetana Rd., building as office space.

The city council approved the necessary conditional use permit for the uses within the easterly building. Approval included a parking variance. The city found that the parking lot on the westerly property could serve as “overflow” parking for the community uses on the easterly property.

Proposal
EPIC has now submitted a proposal to relocate the approved banquet facility from the easterly building to the westerly building. While interior remodeling would be required to accommodate the area, no exterior changes to the building or property are proposed at this time. The previously approved banquet space would be converted to office space. The proposal requires a conditional use permit for the westerly building and an amendment to the existing conditional use permit for the easterly building.
Planning Commission Hearing

The planning commission considered the proposal on March 1, 2018. The staff report from that meeting and various plans and documents describing the proposal are attached. Staff recommended approval, noting:

- The proposal would not change the uses previously approved for the combined site, it would simply relocate them.
- Staff does not anticipate that the proposal would have any impact on parking demand. The police department has confirmed that there have been no parking complaints for either property since EPIC occupied the properties.

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

Planning Commission Recommendation

On a 6-0 vote, the commission recommended that the city council adopt the resolutions approving a conditional use permit and amending an existing conditional use permit. Meeting minutes are attached.

Since the Planning Commission Meeting

Planning staff visited the 5620 Smetana Dr. site in response to a lighting complaint. Staff found that illumination levels are well under ordinance allowed maximums.

Staff Recommendation

Staff recommends the city council adopt the following:

1) Resolution amending and replacing Resolution No. 2016-064 for a conditional use permit, with a parking variance, for Eden Prairie Islamic Community Center at 5620 Smetana Dr.

2) Resolution approving a conditional use permit, with a parking variance, for a banquet facility at 5640 Smetana Dr.

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
Mar. 1, 2018

Brief Description
A conditional use permit, with a parking variance, for Eden Prairie Islamic Community Center at 5640 Smetana Drive

Recommendation
Recommend the city council approve the request.

Background
In 2016, the city council approved a conditional use permit for Eden Prairie Islamic Community Center (EPIC) to operate a community center within the existing building at 5620 Smetana Drive (eastern property). While the uses would be phased in over time, it was anticipated that at full-build out the community center would include a variety of uses including a banquet facility on the upper floor.

As a standalone property, the property at 5620 Smetana Drive would have had roughly half of the required parking stalls for a multi-use building. However, EPIC also purchased the adjacent property to the west - 5640 Smetana Drive – with the intention of continuing the office use of the building.

Ultimately, in addition to the conditional use permit, a parking variance was approved. The variance was supported by the finding that the western property could serve as “overflow” parking for the community center on the eastern property.

Since the approval, EPIC has operated within the eastern building and has been marketing the western building to office users.

Proposal
To address the changing needs of the organization, EPIC has recently submitted a proposal to “relocate” the approved banquet facility from the upper floor of the eastern building to the first floor of the western building. As currently proposed, the roughly 6,000 square foot banquet facility would be used for memorial services and other gathering events.

While the first floor of the western building would be remodeled to accommodate the proposal, no exterior changes to either building or properties are proposed at this time. The space previously approved for the banquet facility in the eastern building would be used by office users.
Staff Analysis

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

1. **Is the use generally reasonable?**

   Yes. While the proposal would result in a very slight increase in banquet facility space for the two properties, it would be generally consistent with the previously approved facility. Additionally, while the B-2 zoning district does not contain any provisions for gathering spaces, the ordinance does allow – as conditionally permitted uses – public buildings and “other uses similar to those permitted within this section, as determined by the city.”

   The city has on several occasions – including in 2016 for the eastern property – reviewed gathering spaces under this “other uses similar to” provision finding that these types of uses operate similar to public buildings in which large groups of people gather at a specified time for a specified purpose.

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

2. **Is the parking variance reasonable?**

   Yes. For multi-use buildings, the city’s parking ordinance calculates minimum parking requirements based on the individual uses of the building. Generally, when determining whether a property would meet minimum parking requirements, staff only reviews the parking stalls available on-site. However, in 2016, city staff evaluated the parking needs of the entire, two-property site.

   The following table is intended to summarize the parking needs of the 2016 proposal. Changes to the table as a result of the current proposal are also noted:

<table>
<thead>
<tr>
<th>Building Use</th>
<th>Parking requirement</th>
<th>Minimum number of stalls required by ordinance</th>
</tr>
</thead>
<tbody>
<tr>
<td>5620 SMETANA DRIVE (eastern property)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Worship space</td>
<td>1 space for every 2.5 seats</td>
<td>160 spaces</td>
</tr>
<tr>
<td>Coffees shop</td>
<td>1 space for every 60 sf</td>
<td>22 spaces</td>
</tr>
<tr>
<td>Day care</td>
<td>1 space for every 6 children</td>
<td>9 spaces</td>
</tr>
<tr>
<td>Office space</td>
<td>1 space for every 250 sf</td>
<td>32-60 spaces</td>
</tr>
<tr>
<td>School</td>
<td>1 space for every 3 students</td>
<td>33 spaces</td>
</tr>
<tr>
<td><strong>Banquet facility</strong></td>
<td><strong>1 space for every 3 seats</strong></td>
<td><strong>100 spaces</strong></td>
</tr>
<tr>
<td><strong>Total required</strong></td>
<td></td>
<td><strong>356-284 spaces</strong></td>
</tr>
</tbody>
</table>
Consistent with 2016, the subject property would be considered “under-parked” by literal interpretation of the code. However, staff finds that the proposed parking variance is reasonable as:

- The proposal would not result in an intensification of the properties and would be generally consistent with the previous approval for EPIC.

- An in-depth review of the peak parking demands of the site occurred during the 2016 review. As currently proposed, the building users would continue to be complimentary and would experience peak parking demands at varied times.

- The highest parking demand which occurs on Fridays between the hours of 1:00 p.m.-2:00 p.m. could still be accommodated on site.

- The city’s police department has confirmed that there have been no parking complaints for either property since EPIC began operation in 2016.

**Summary Comments**

Staff finds that the proposal would not intensify EPIC’s use of either property. Rather, EPIC is proposing to “swap” the office use of the western property and the banquet facility of the eastern property. To ensure that an intensification does not occur, staff is also recommending to replace previously approved Resolution No. 2016-064 to remove mention and conditions of approval of the banquet facility on the 5620 Smetana Drive property.

**Staff Recommendation**

Staff recommends the council:

1) Approve the attached conditional use permit approving a banquet facility, with a parking variance, for Eden Prairie Islamic Community Center at 5640 Smetana Drive.

2) Approve the attached resolution amending and replacing Resolution 2016-064, for a conditional use permit, with a parking variance, for Eden Prairie Islamic Community Center at 5620 Smetana Drive.

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

Project No. 93006.18a

Property 5640 Smetana Drive

Applicant Mohamed Ibrahim, on behalf of EPIC

Surrounding Land Uses Office buildings, zoned B-2 and guided for mixed use.

Planning

Guide Plan designation: mixed use
Zoning: B-2

Site Features The subject property is part of the BRENWOOD BUSINESS PARK. The entire business park is 13.5 acres in size and a total of four office buildings.

<table>
<thead>
<tr>
<th></th>
<th>5640 Smetana Dr (western property)</th>
<th>5620 Smetana Dr (eastern property)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot area</td>
<td>2.5 acres</td>
<td>2.4 acres</td>
</tr>
<tr>
<td>Building</td>
<td>3-story building</td>
<td>3-story building</td>
</tr>
<tr>
<td>Surface parking lot</td>
<td>167 stalls</td>
<td>164 stalls</td>
</tr>
<tr>
<td>Underground parking</td>
<td>30 stalls</td>
<td>30 stalls</td>
</tr>
</tbody>
</table>

Trip Generation Properties within the Opus Overlay District are allocated a maximum number of p.m. peak hour trips to avoid overloading the Bren Road and Highway 169 interchange. The allocated number is not the number of trips at the property driveway. Rather, it is the number of trips anticipated to use the interchange based on the property’s proximity to the interchange. A redevelopment of property within the overlay district that increased the amount of trips generated to the interchange above what is allocated is required to pay a trip generation fee. By ordinance, both the east and west properties are each allocated 33 trips.

During the 2016 review, staff anticipated that the banquet facility may be one of the higher trip generators but due to programming would likely not generate trips during the p.m. peak hour. To better understand potential trip generation, staff secured WSB & Associates to review the proposal.

The traffic study concluded that the eastern property would generate 36 p.m. peak hour trips, which is three more than is allocated by ordinance. However, the study concurred that the banquet facility would not generate any p.m. peak hour trips. While the proposed use would not generate any additional trips to the interchange, the previous approved site would have an increase of five p.m. peak hour trips.
trips as a result of the increased office use of the building. The following is intended to summarize the trip generation of the eastern building:

<table>
<thead>
<tr>
<th>Building Use</th>
<th>Units</th>
<th>Size</th>
<th>PM Peak Hour</th>
<th>Site Trip Generation</th>
<th>To TH 169 and I494 Interchange</th>
</tr>
</thead>
<tbody>
<tr>
<td>Worship space</td>
<td>People</td>
<td>10</td>
<td>2</td>
<td>20</td>
<td>10.4</td>
</tr>
<tr>
<td>Daycare</td>
<td>Children</td>
<td>50</td>
<td>0.63</td>
<td>31.5</td>
<td>16.4</td>
</tr>
<tr>
<td>Coffee shop</td>
<td>1000 sf</td>
<td>1.3</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Classroom</td>
<td>1000 sf</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Banquet facilities</td>
<td>4000 sf</td>
<td>7</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Office space</td>
<td>1000 sf</td>
<td>1218</td>
<td>1.49</td>
<td>47.926.8</td>
<td>9.314</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>3641</strong></td>
</tr>
</tbody>
</table>

In 2016, the city council agreed to require the trip generation fee at the time of a building permit for the day care. Staff finds it reasonable to not change this condition despite the increase in trip generation for office use.

**CUP Standards**

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

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

   **Finding:** A public building is a conditionally-permitted use within the B-2 district. The city has conditionally allowed gathering spaces as uses similar to a public building under the “other uses similar to” section of this ordinance.

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

   **Finding:** The site is located within the Opus area, which is guided for mixed use. The larger development includes industrial, commercial, office, and residential land uses.

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

   **Finding:** The proposal has been reviewed by the city’s building, engineering, planning, natural resource and fire staff. Staff has determined that it would not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements.
4. The use is consistent with the city's water resources management plan;

**Finding:** The proposal is consistent with the city's water resources management plan. No significant changes are proposed to the property at this time.

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

**Finding:** The majority of the performance standards outlined in the zoning ordinance are related to development and construction. The proposal is for the use of an existing building with minimal impacts to the site and exterior building. But for a parking variance to allow a reduction of parking, the proposal would meet the standards outlined.

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

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

### Specific CUP Standards and Site and Building Plan Standards

<table>
<thead>
<tr>
<th>Standards</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Consistency with the elements and objectives of the city's development guides, including the comprehensive guide plan and water resources management plan;</td>
<td><strong>Finding:</strong> The proposal has been reviewed by the city's building, engineering, planning, natural resources, and fire staff to ensure consistency with the city's development guides.</td>
</tr>
<tr>
<td>2. Consistency with this ordinance;</td>
<td><strong>Finding:</strong> But for a parking variance, the proposal would be consistent with the ordinance. Staff finds that the parking variance is reasonable, as the proposed uses are complementary and would experience varied peak parking demand times.</td>
</tr>
<tr>
<td>3. Preservation of the site in its natural state to the extent practicable by minimizing tree and soil removal and designing grade changes to be in keeping with the general appearance of neighboring developed or developing areas;</td>
<td><strong>Finding:</strong> No external modifications to the property are proposed at this time.</td>
</tr>
</tbody>
</table>

City Code §300.21 Subd. 3(m) requires that public buildings must meet site and building plan standards as outlined in City Code §300.27. As the applicant is also requesting site and building plan approval, staff has included the standards and findings for both below:
4. Creation of a harmonious relationship of buildings and open space with natural features and with existing and future buildings having a visual relationship to this development;

Finding: All proposed changes would be internal to the building. As such, the proposal would not change the site’s visual appearance.

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

Finding: The applicant is not proposing any site or exterior building improvements at this time. As such, there would be no negative impacts to existing open space on the property.

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

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

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

Finding: The proposal would be complementary to existing uses within the immediate area. Further, the proposal would not have any negative impact on adjacent or neighboring properties.
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 five members, due to the parking variance.

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 resolutions approving the request.

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

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

The city sent notices to 411 area property owners and received one comment. That comment is attached.

May 26, 2018
Location Map
Project: EPIC
Address: 5640 Smetana Dr
To: City of Minnetonka, Planning Department

Attached, please find a Conditional Use Permit Application for Building 5640 Smetana Drive, Minnetonka, MN.

GENERAL OVERVIEW/SUMMARY

Since the establishment of EPIC at building 5620 Smetana Drive, the needs of the organization have tremendously evolved. We are presently in need of a banquet hall to facilitate its community gatherings, occasions and other related events. Thus, the proposal to use the first floor lobby of the second building (5640 Smetana Drive) as a potential banquet hall will address the need of a bigger venue to hold several religious and social functions. Specifically, we intend to use the second building’s first floor as a banquet hall for memorial services, regular community gatherings, religious holiday gatherings, birthdays, weddings and other similar events and occasions. As it answers a common need for a bigger space for these mentioned community gatherings, it will positively create an additional financial stream to support our organization’s activities, projects and other undertakings.

We have attached the preliminary rendering of the banquet hall, and will be working with a licensed architect to submit a full-fledged drawing prior to the build out and implementation.

THE PLAN

We envision the banquet hall to have a kitchen with stainless steel tables to facilitate food organization and preparation for catered food, a commercial dishwasher, a fridge for keeping refreshments cold, a stove for keeping certain foods and sauces warm, and not intended for any cooking purposes.

We do not anticipate having a complete commercial kitchen which will require proper hoods, freezers coolers and other necessities to operate a commercially run kitchen. We, however, are planning to have a storage room for linens, tables, chairs, table clothes, decorations, utensils, dishes, shavers, cleaning material and the like as well.

The facility is envisioned to have one private room designated for the bride and groom’s change/preparation area, a customary staple space in the event of a wedding party. The banquet hall will become a rental space, and applicant-parties will be responsible for necessary arrangements for specially catered food sourced from commercially licensed food catering facilities and/or restaurants. If interested parties request us to handle the food service of their events, we will conduct similar arrangements with food catering companies who will deliver and serve the food orders within the facility. The operation of our banquet hall will be fully compliant with and strictly adherent to industry standards.

We thank the city of Minnetonka and the Planning Department in advance for its kind consideration in addressing our needs under this conditional use permit and for granting us the approval.

Respectfully yours,

Mohamed Ibrahim
Office Space For Lease

Brenwood III
5640 Smetana Drive
Minnetonka, MN 55343

ROB BRASS
952 897 7757
rob.brass@colliers.com

ERIK NORDSTROM
952 897 7885
erik.nordstrom@colliers.com

NEMAT JANETKHAN
952 944 9674
nemat@janetkhangroup.com

AMENITIES

› 37,901 square foot building
› Excellent access & visibility from Hwy 169
› Underground parking and ample surface parking
› Conference rooms
› Located near numerous restaurants, hotels and retail amenities
› Well-located, functional office space offered at below market rates
FOR LEASE > Brenwood III

Address: 5640 Smetana Dr, Minnetonka, MN 55343
Building Size: 37,901 square feet
Number of Floors: 3 stories
Year Built: 1981
Parking: 4/1,000 including underground parking
Availability: Now
Gross Rental Rates: $16.00

FLOOR PLAN

CONTACT US

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LEVEL ONE

BANQUET HALL
SEE ATTACHED DRAWING

NOT TO SCALE

DEMISES PLAN
14' x 38'  Kitchen
14' x 24'  Storage Room
14' x 12'  Groom Room
14' x 12'  Bride Room

Open Area
6141 sq.ft.

15' x 32'
Stage

101'
59'
Neighborhood feedback
Ashley,

I currently live in the Cloud 9 Sky Flats across the street from the current EPIC community center. I am very supportive of any type of church, temple, or mosque facility which promotes religious and spiritual community needs. My issue I bring to you has no bearing on the facility.

My concerns strictly relate to regarding lighting and traffic flow.

The issues I have with the current facility involve 3 areas of concern which I hope can be addressed at the upcoming Planning commission and City Council March 1st and 19th.

1. Headlights on cars using the facility generally shine very brightly onto our building. A request was made through my building management to EPIC a while ago to please shut off headlights as soon as you park when facing our building, and, for the most part the congregants have been very accommodating in doing so. However, this still remains a problem. I wish that there be some guidelines that all congregants know of in order to preclude this issue from occurring in the future.

2. 3 VERY bright LED security lights were installed at the facility. They shine directly onto our building, and make the evenings way too bright. I request that EPIC provide some covers over these lamps in order to help them shine more downward rather than outward. This simple request should be easily implemented.

3. There have been instances occurring last year during the warm months where I and others have personally seen people getting out of their cars in our front parking lot, putting a prayer carpet down in our parking area and praying. I know that this has occurred at least twice that I have personally seen. I request that EPIC agree that all congregants (and either non-congregants or expelled congregants) understand that this is not an acceptable practice on private property other than the EPIC center area across the street.

--

Regards and Thanks,

Jim Hattis
Resolution No. 2016-04 and 2016 meeting minutes
Resolution No. 2016-064

Resolution approving a conditional use permit, with a parking variance, for Eden Prairie Islamic Community Center (EPIC) at 5620 Smetana Drive

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

Section 1. Background.

1.01 Eden Prairie Islamic Community Center (EPIC) has requested a conditional use permit to operate a community center within an existing building.

1.02 The property is located at 5620 Smetana Drive.

It is legally described as:

Lot 2, Block 1, Brenwood Business Park

1.03 At full capacity the community center would include: (1) worship space; (2) a coffee shop to serve building users; (3) offices; (4) a licensed day care facility; (5) classroom facilities; and (6) a banquet facility.

1.04 The proposal requires a parking variance from 356 to 194 parking stalls.

1.05 City Code §300.18 Subd. 4(n) allows public buildings as conditional uses within the B-2 zoning district.

1.06 City Code §300.18 Subd. 4(t) other “uses similar to those permitted within this section, as determined by the city” as conditional uses within the B-2 zoning district.

1.07 The proposed community center would be similar to a public building, as it is a place where a group of people would gather at a specified time for a specific purpose.
1.08 On July 21, 2016, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit, with variance.

Section 2. Standards.

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

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

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

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

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

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

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

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

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

2.03 City Code §300.27, Subd. 5, outlines that the following must be considered in the evaluation of site and building plans:

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

2. Consistency with this ordinance;

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

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

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

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

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

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

Section 3. Findings.

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

1. A public building is a conditionally-permitted use within the B-2 district. The city has conditionally allowed day cares, school, and religious institutions as uses similar to a public building under the “other uses similar to” section of the ordinance.

2. The site is located within the Opus area, which is guided for mixed-use. The larger development includes industrial, commercial, office, and residential land uses.

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

4. The proposal is consistent with the city’s water resources management plan. No significant changes are proposed to the property at this time.

5. The majority of the performance standards outlined in the zoning ordinance are related to development and construction. The proposal is for the use of an existing building with minimal impacts to the site and exterior building. But for a parking variance to allow a reduction of parking, the proposal would meet the standards outlined.

6. Staff does not believe that the proposal would have an undue adverse impact on the public's health, safety or welfare.

3.02 The proposal would meet all but one of the specific conditional use permit standards outlined in City Code §300.21 Subd. 3(m) and site and building plan standards outlined in City Code §300.27, Subd. 5.
1. The proposal has been reviewed by the city's building, engineering, planning, natural resources, and fire staff to ensure consistency with the city's development guides.

2. But for a parking variance, the proposal would be consistent with the ordinance. Further, the parking variance is reasonable as the proposed uses are complementary and would experience varied peak parking demand times.

3. No external modifications to the property are proposed at this time.

4. All proposed changes are internal to the building. As such, the proposal would not change the site's visual appearance.

5. The applicant is not proposing any site or exterior building improvements at this time. As such, there would be no negative impacts to existing open space on the property.

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

7. The proposal would be complementary to existing uses within the immediate area. Further, the proposal would not have any negative impact on adjacent or neighboring properties.

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

1. The proposal meets the purpose and intent of the zoning ordinance. The intent of the parking ordinance is to ensure the development provides adequate parking to meet the parking demand. The proposed uses of the building are complementary and would have varied peak parking demand times throughout the day and week. Based on programming, the peak parking demand would occur between 1:00 and 2:00 p.m. on Fridays. At this time at full capacity, approximately 400 worshipers would utilize the worship space, the day care would be operating, and the offices would be occupied. By city code, 201 spaces would be required to accommodate these uses at this peak time. A total of 220 parking stalls would be available on site and on the adjacent property at 5640 Smetana Drive, which the applicant is also purchasing. As such, the required amount of parking could be accommodated.

2. The variance is consistent with the comprehensive plan that encourages mixed-use developments, which experience peak
parking demands at different times for the different uses in the development.

3. There are practical difficulties in complying with the ordinance:
   a) It is reasonable to provide flexible parking requirements based on the actual characteristics and programming of the proposed development.
   b) In the past, the city has found that day care, educational, and religious institutions have complementary uses. Based on the facility’s programming, the peak parking demand for the religious institution would occur on Fridays from 1:00 and 2:00 p.m. The peak parking demand for the school would occur on Saturday’s from 10:00 a.m. to 2:00 p.m. Further, the coffee shop is intended to serve existing users of the building and would likely not generate or require additional parking. While similar to other religious institutions within the city that have parking variances for varied uses and peak parking demand, this is not common to all other similarly zoned properties.
   c) The parking variance would not adversely affect the character of the surrounding neighborhood. The site would meet the anticipated peak parking demand on site. However, parking would also be available on the applicant’s adjacent property at 5640 Smetana Drive. While each property must be reviewed individually, the adjacent property would provide “overflow” parking in the off-peak office parking times if needed.

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 following, except as modified by the conditions below:

<table>
<thead>
<tr>
<th>Proposed Use</th>
<th>Amount of space</th>
<th>Max No. of Users</th>
</tr>
</thead>
<tbody>
<tr>
<td>Worship space</td>
<td>7,335 sf</td>
<td>400 people</td>
</tr>
<tr>
<td>Office Space</td>
<td>1815 sf</td>
<td>n/a</td>
</tr>
<tr>
<td>Facility</td>
<td>Size</td>
<td>Description</td>
</tr>
<tr>
<td>-------------------</td>
<td>----------</td>
<td>-----------------</td>
</tr>
<tr>
<td>Coffee shop</td>
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</tr>
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<td>LEVEL THREE</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Banquet facility</td>
<td>7,000 sf</td>
<td>300 people</td>
</tr>
</tbody>
</table>

2. This resolution must be recorded with Hennepin County.

3. Prior to release of a building permit for the day care, a trip generation fee in the amount of $20,370 is required. This fee is based on the findings of the traffic study by WSB & Associates, which finds that three additional trips will be generated to the Bren Road/Highway 169 interchange.

4. A shared parking agreement must be formalized between the properties at 5640 and 5620 Smetana Drive and filed with Hennepin County.

5. Kitchens — including kitchens in the banquet facility kitchen, coffee shop, day care and school — must meet all food code requirements.

6. Prior to certificate of occupancy, all applicable state, county, and city licenses/permits must be obtained and copies submitted to the city.

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

8. Sign permits are required for any exterior signs.

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

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 8, 2016.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on August 8, 2016.

David E. Maeda, City Clerk
10. The city council may reasonably add or revise conditions to address any future unforeseen problems.

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 8, 2016.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on August 8, 2016.

David E. Maeda, City Clerk
14. Other Business:

A. Conditional use permit, with parking variance, for Eden Prairie Islamic Community Center at 5620 Smetana Drive.

Gordon provided the staff report.

Schneider established ground rules for speakers to be respectful and comments to be relevant to the action being taken. Comments must be related to the proposed variance or conditional use permit being considered. Any reference to religion, race, or terrorism would be ruled out of order.
Wagner confirmed with Gordon that parking agreements would be filed with the county and on record with each property. If the use would change or grow, then the conditional use permit and parking would be reviewed.

Mohammad Ibrahim and Nemat Janetkhan introduced themselves, both board members of the Eden Prairie Islamic Community Center (EPIC), the applicant. Ibrahim stated that EPIC hopes to create a place of worship. They were available for questions.

The public hearing was opened.

The public hearing was closed.

Wagner suggested adding a condition to require that the conditional use permit be reviewed if the property owners would no longer be common. He was concerned with uses in the future having matching peak parking demand hours. Heine noted that a change in the use of the building would be the trigger rather than a change of the property owner.

Wiersum was comfortable with a change in the use being the trigger to require review of the conditional use permit which would include an evaluation of parking requirements. The conditions of approval are attached to the property.

Barone suggested changing the word “should” to “must” when the conditional use permit references that a parking agreement “should be formalized” and “should be filed.”

Wischnack added that “or parking” could be added to section 11 as follows: “... any change to the approved use or parking that results in a significant increase in traffic or parking would require a revised conditional use permit.” Wagner thought that would be helpful.

In response to Wagner’s question, Gordon clarified that the trip-generation ordinance is always in effect. An increase in the number of trips would trigger a review.

Wiersum asked when the trip-generation fee would be applied. Gordon answered that it would be applied when the daycare use would apply for a building permit.

Wagner moved, Wiersum seconded a motion to adopt resolution 2016-064 approving a conditional use permit, with a parking variance, for Eden Prairie Islamic Community Center (EPIC) at 5620 Smetana Drive with a
replacement of "should" to "must" in subsection 4 to reflect that the parking agreement must be formalized and must be filed and a modification of subsection 11 to add that any change to the approved use or parking would require a review of the conditional use permit. All voted "yes."
Motion carried.

Wagner noted that it would be beneficial for the city council to set aside some time to consider the optimum density level of the area.
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This item is tentatively scheduled to be reviewed by the city council at its meeting on March 19, 2018.

B. A conditional use permit with a parking variance for Eden Prairie Islamic Community Center at 5640 Smetana Dr.

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.

Mohamed Ibrahim, board member of the Eden Prairie Islamic Community Center, applicant, stated that things are going well and the use is expanding into the second building. There have been no parking issues. The parking lot has never been full.

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

Chair Kirk asked staff to comment on a letter received from a resident. Cauley stated that the city’s nuisance ordinance does not address light from headlights. Planning staff will visit the site and measure the light that the building emits to see if exceeds ordinance limits. Cauley spoke with the resident who wrote the letter and they discussed how after Xcel Energy upgraded street lights with LED bulbs, the intensity of those lights increased.

Schack moved, second by Powers, to recommend that the city council approve the attached conditional use permit approving a banquet facility with a parking variance and the attached resolution amending and replacing Resolution 2016-054 for a conditional use permit with a parking variance for Eden Prairie Islamic Community Center at 5620 Smetana Drive.

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

This item is tentatively scheduled to be reviewed by the city council at its meeting on March 19, 2018.

C. Conditional use permit, with variances, for a fast-food restaurant at 17603 Minnetonka Blvd.

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

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

Schack asked how much tenant turnover has occurred since the parking study was completed in 2005. Ingvalson answered that it is difficult to track tenants. The building is
Resolution No. 2018-

Resolution amending and replacing Resolution No. 2016-064:
A conditional use permit, with parking variance, for Eden Prairie Islamic Community Center (EPIC) at 5620 Smetana Drive

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

Section 1. Background.

1.01 On August 8, 2016, the city council approved a conditional use permit and a parking variance for Eden Prairie Islamic Community Center (EPIC).

1.02 The property is located at 5620 Smetana Drive. It is legally described as:

Lot 2, Block 1, Brenwood Business Park

1.03 At full capacity, the community center would include: (1) worship space; (2) a coffee shop to serve building users; (3) offices; (4) a licensed day care facility; (5) classroom facilities; and (6) a banquet facility.

1.04 The proposal requires a parking variance from 284 to 194 parking stalls.

1.05 City Code §300.18 Subd.4(n) allows public buildings as conditional uses within the B-2 zoning district.

1.06 City Code §300.18 Subd.4(t) allows other “uses similar to those permitted within this section, as determined by the city” as conditional uses within the B-2 zoning district.

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

Section 2. Standards.

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

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

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

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

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

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

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

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

2.03 City Code §300.27, Subd.5 outlines that the following must be considered in the evaluation of site and building plans:

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

2. Consistency with this ordinance;

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

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

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

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

   b) The amount and location of open space and landscaping;

   c) Materials, textures, colors and details of construction as an expression of the design concept and the compatibility of the
same with the adjacent and neighboring structures and uses; and

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

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

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

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

Section 3. Findings.

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

1. A public building is a conditionally-permitted use within the B-2 district. The city has conditionally allowed daycares, school, and religious institutions as uses similar to a public building under the “other uses similar to” section of the ordinance.

2. The site is located within the Opus area, which is guided for mixed-use. The larger development includes industrial, commercial, office, and residential land uses.

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

4. The proposal is consistent with the city’s water resources management
5. The majority of the performance standards outlined in the zoning ordinance are related to development and construction. The proposal is for the use of an existing building with minimal impacts to the site and exterior building. But for a parking variance to allow a reduction of parking, the proposal would meet the standards outlined.

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

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

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

2. But for a parking variance, the proposal would be consistent with the ordinance. Further, the parking variance is reasonable, as the proposed uses are complementary and would experience varied peak parking demand times.

3. No external modifications to the property are proposed at this time.

4. All proposed changes are internal to the building. As such, the proposal would not change the site’s visual appearance.

5. The applicant is not proposing any site or exterior building improvements at this time. As such, there would be no negative impacts to existing open space on the property.

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

7. The proposal would be complementary to existing uses within the immediate area. Further, the proposal would not have any negative impact on adjacent or neighboring properties.

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

1. The proposal meets the purpose and intent of the zoning ordinance. The intent of the parking ordinance is to ensure the development provides adequate parking to meet anticipated parking demand. The proposed uses of the building are complementary and would have varied peak parking demand times throughout the day and week. Based on programming, the peak parking demand would occur between 1–2 p.m.
on Fridays. At this time, at full capacity, approximately 400 worshipers would utilize the worship space, the daycare would be operating, and the offices would be occupied. By city code, 201 spaces would be required to accommodate these uses at this peak time. A total of 558 parking stalls would be available on site and on the adjacent property at 5640 Smetana Drive, which the applicant also owns. As such, the required amount of parking could be accommodated.

2. The variance is consistent with the comprehensive plan that encourages mixed-use developments, which experience peak parking demands at different times for the different uses in the development.

3. There are practical difficulties in complying with the ordinance:
   a) It is reasonable to provide flexible parking requirements based on the actual characteristics and programming of the proposed development.
   b) In the past, the city has found that day care, educational, and religious institutions have complementary uses. Based on the facility’s programming, the peak parking demand for the religious institution would occur on Fridays from 1–2 p.m. The peak parking demand for the school would occur on Saturday’s from 10 a.m. – 2 p.m. Further, the coffee shop is intended to serve existing users of the building and would likely not generate or require additional parking. While similar to other religious institutions within the city that have parking variances for varied uses and peak parking demand, this is not common to all other similarly zoned properties.
   c) The parking variance would not adversely affect the character of the surrounding neighborhood. The site would meet the anticipated peak parking demand. However, parking would also be available on the applicant’s adjacent property at 5640 Smetana Drive. While each property must be reviewed individually, the adjacent property could provide “overflow” parking in the off-peak office parking times.

Section 4. City Council Action.

4.01 The above-described conditional use permit is approved based on the findings outlined in Section 3 of this resolution. Approval is subject to the following conditions:

1. Subject to staff approval, the property must be developed and maintained in substantial conformance with the following, except as modified by the conditions below:
<table>
<thead>
<tr>
<th>Proposed Use</th>
<th>Amount of space</th>
<th>Max No. of Users</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LEVEL ONE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Worship space</td>
<td>7,335 sf</td>
<td>400 people</td>
</tr>
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<td>Office Space</td>
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</tr>
<tr>
<td>Coffee shop</td>
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</tr>
<tr>
<td><strong>LEVEL TWO</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office</td>
<td>6,055 sf</td>
<td>n/a</td>
</tr>
<tr>
<td>Daycare</td>
<td>2,000 sf</td>
<td>50 children</td>
</tr>
<tr>
<td>Classroom facilities</td>
<td>3,000 sf</td>
<td>100 children</td>
</tr>
<tr>
<td><strong>LEVEL THREE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office</td>
<td>10,000 sf</td>
<td>n/a</td>
</tr>
</tbody>
</table>

2. This resolution must be recorded with Hennepin County.

3. Prior to release of a building permit for the daycare, a trip generation fee in the amount of $54,320 is required. This fee is based on the findings of the traffic study by WSB & Associates, which finds that three additional trips will be generated to the Bren Road/Highway 169 interchange.

4. A shared parking agreement must be formalized between the properties at 5640 and 5620 Smetana Drive and filed with Hennepin County.

5. Kitchens – including kitchens in the coffee shop, daycare and school – must meet all food code requirements.

6. Prior to certificate of occupancy, all applicable state, county, and city licenses/permits must be obtained and copies submitted to the city.

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

8. Sign permits are required for any exterior signs.

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

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

11. Any change to the approved use that results in a significant increase in traffic, parking or a significant change in character would require a revised conditional use permit.
Adopted by the City Council of the City of Minnetonka, Minnesota, on March 19, 2018.

Brad Wiersum, 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 March 19, 2018.

David E. Maeda, City Clerk
Resolution No. 2018-

Resolution approving a conditional use permit, with a parking variance, for a banquet facility at 5640 Smetana Drive

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

Section 1. Background.

1.01 On August 8, 2016, the city council approved a conditional use permit, and parking variance, for Eden Prairie Islamic Community Center (EPIC) at 5620 Smetana Drive. The proposal included the following uses within the building:

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<td></td>
</tr>
<tr>
<td>Banquet Facility</td>
<td>7,000</td>
<td>300 people</td>
</tr>
</tbody>
</table>

1.02 In addition to the property at 5620 Smetana Drive, EPIC owns the property at 5640 Smetana Drive. The property is legally described as:

Lot 3, Block 1, Brenwood Business Park

1.03 EPIC has recently submitted a proposal to “relocate” the approved banquet facility from 5620 Smetana Drive to 5640 Smetana Drive. The previously approved banquet facility space would be used by office tenants.

1.04 The proposal requires a parking variance from 245 to 195 parking spaces.

1.05 City Code §300.18 Subd.4(n) allows public buildings as conditional uses within the B-2 zoning district.
1.06 City Code §300.18 Subd.4(t) other “uses similar to those permitted within this section, as determined by the city” as conditional uses within the B-2 zoning district.

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

1.08 On March 1, 2018, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit, with variance.

Section 2. Standards.

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

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

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

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

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

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

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

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

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

2.03 City Code §300.27, Subd.5, outlines that the following must be considered in the evaluation of site and building plans:

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

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

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

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

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

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

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

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

1. A public building is a conditionally-permitted use within the B-2 district. The city has conditionally allowed day cares, school, and religious institutions as uses similar to a public building under the “other uses similar to” section of the ordinance.

2. The site is located within the Opus area, which is guided for mixed-use. The larger development includes industrial, commercial, office, and residential land uses.

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

4. The proposal is consistent with the city’s water resources management plan. No significant changes are proposed to the property at this time.

5. The majority of the performance standards outlined in the zoning ordinance are related to development and construction. The proposal is for the use of an existing building with minimal impacts to the site and exterior building. But for a parking variance to allow a reduction of parking, the proposal would meet the standards outlined.

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

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

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

2. But for a parking variance, the proposal would be consistent with the ordinance. Further, the parking variance is reasonable as the proposed uses are complementary and would experience varied peak parking demand times.

3. No external modifications to the property are proposed at this time.

4. All proposed changes are internal to the building. As such, the proposal would not change the site’s visual appearance.
5. The applicant is not proposing any site or exterior building improvements at this time. As such, there would be no negative impacts to existing open space on the property.

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

7. The proposal would be complementary to existing uses within the immediate area. Further, the proposal would not have any negative impact on adjacent or neighboring properties.

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

1. The proposal meets the purpose and intent of the zoning ordinance. The intent of the parking ordinance is to ensure the development provides adequate parking to meet the parking demand. As part of the 2016 review, the city reviewed the available parking on both the 5620 and 5640 Smetana Drive properties. At that time, the city found that the uses of the two buildings would have varied and complementary peak parking times. The current proposal would not increase the intensity of the site; rather, it would “swap” uses within the buildings.

2. The variance is consistent with the comprehensive plan that encourages mixed-use developments, which experience peak parking demands at different times for the different uses in the development.

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

   a) It is reasonable to provide flexible parking requirements based on the actual characteristics and programming of the proposed development.

   b) In the past, the city has found that office, daycare, educational, and religious institutions have complementary uses. The two properties are able to accommodate the peak parking demands of the overall site.

   c) The parking variance would not adversely affect the character of the surrounding neighborhood. While each property must be reviewed individually, the adjacent property could provide “overflow” parking in the off-peak office parking times.

Section 4. City Council Action.

4.01 The above-described conditional use permit is approved based on the findings outlined in Section 3 of this resolution. Approval is subject to the following conditions:
1. This resolution must be recorded with Hennepin County.

2. Prior to occupancy, all applicable state, county and city licenses/permits must be obtained and copies submitted to the city.

3. The facility must comply with all requirements of the Minnesota state building, fire, food and health codes.

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

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

6. Any change to the approved use – including an increase total enrollment or total building area occupied – 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 March 19, 2018.

_______________________________________
Brad Wiersum, 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 March 19, 2018.

David E. Maeda, City Clerk
City Council Agenda Item #11B  
Meeting of March 19, 2018

**Brief Description**  Resolution approving a conditional use permit, with variances, for a fast food restaurant at 17603 Minnetonka Blvd.

**Recommendation**  Adopt the resolution approving the request.

**Background**

The subject property is located in the southwest corner of the Minnetonka Blvd./County Rd. 101 intersection. The site is improved with a 17,500 square-foot neighborhood shopping center. This existing structure was built in 1979. The property has a non-conforming parking lot due to the limited number of parking spaces.

**Proposed Building, Site, and Use**

The applicant proposes to run a fast food restaurant – Nautical Bowls – from the 1,100 square-foot tenant space previously occupied by Clean N’ Press. The interior of the building would be remodeled to accommodate the proposed restaurant, but no exterior changes have been proposed. Per the plan, the remodeled space would accommodate seating for 18 people. (See attached.)

Nautical Bowls would primarily serve acai bowls. These are dishes whose main ingredient is pureed acai berries with other ingredients (granola, bananas, blueberries, strawberries, coconut, etc.). The applicant has noted that there would be a minimum of two employees on-site at all times. Additionally, the restaurant would generally be open:

- Monday – Saturday: 8 a.m.–7 p.m.
- Sunday: 12 p.m.–7 p.m.

The applicant has indicated that she does not intend to apply for a liquor license.

**Proposal Requirements**

This proposal requires:

Conditional Use Permit for a Fast Food Restaurant: By city code, fast food restaurants are a conditionally permitted use within the B-2 zoning district. This proposal requires a conditional use permit (CUP) and the following variances:

- **Residential Setback Variance:** By CUP standard, fast food restaurants are not permitted within 100 feet of any residential parcel. The proposal requires a setback variance from 100 feet to 55 feet.

- **Parking Variance:** By CUP standard, restaurants must provide parking in compliance with the requirements of the parking ordinance. The proposal requires a parking variance from 186 spaces to 125 spaces.
Planning Commission Hearing

The planning commission considered the proposal on March 1, 2018. The staff report from that meeting and various plans and documents describing the proposal are attached. Staff recommended approval of the permit noting:

- The city conditionally permits fast food restaurants within the B-2 district and similar uses exist in the development.

- The proposed business would occupy an existing space and has not proposed any exterior changes. The existing building, fence, and vegetation would also screen the proposed fast food space from residential properties.

- A parking study was completed in 2005 by WSB and the Lindsay Group reevaluated parking in 2018. Both of these parking studies determined that the subject property and the property to the south could accommodate the additional parking demand of the new fast food restaurant.

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

Planning Commission Recommendation

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

Staff Recommendation

Staff recommends the city council adopt the resolution approving a conditional use permit, with variances, for a fast food restaurant at 17603 Minnetonka Boulevard.

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

Originator: Drew Ingvalson, Planner
MINNETONKA PLANNING COMMISSION
March 1, 2018

**Brief Description**
Conditional use permit, with variances, for a fast food restaurant at 17603 Minnetonka Blvd.

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

---

**Proposal**

The applicant, Rachel Amundson, is proposing to operate a fast food restaurant within one of the northern tenant spaces (space #17623) at 17603 Minnetonka Blvd. The proposal includes interior building changes, but no exterior building improvements are proposed at this time.

**Proposal Summary**

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

- **Existing Site Conditions**
  
  The subject property is located in the southwest corner of the Minnetonka Boulevard/County Road 101 intersection. The site is improved with a 17,500 square-foot neighborhood shopping center. This existing structure was built in 1979.

  The property has a non-conforming parking lot due to the limited number of parking spaces. (See Supporting Information.)

- **Proposed Building and Site**

  As proposed, the 1,100 square-foot restaurant would occupy a space previously occupied by Clean N’ Press, a dry cleaning store. The interior of the building would be remodeled to accommodate the proposed fast food restaurant, but no exterior changes have been proposed. Per the plan, the remodeled space would accommodate seating for 18 people. (See attached.)

- **Proposed Use**

  The proposed restaurant, Nautical Bowls, will primarily serve acai bowls. These are dishes whose main ingredient is pureed acai berries with other ingredients (granola, bananas, blue berries, strawberries, coconut, etc.). The applicant has noted that there would be a minimum of two employees on-site at all times. Additionally, the restaurant would generally be open:

  - Monday – Saturday: 8 a.m.–7 p.m.
  - Sunday: 12 p.m.–7 p.m.
The applicant has indicated that she does not intend to apply for a liquor license.

Proposal Requirements

This proposal requires:

Conditional Use Permit for a Fast Food Restaurant: By city code, fast food restaurants are a conditionally permitted use within the B-2 zoning district. This proposal requires a conditional use permit (CUP) and the following variances:

- Residential Setback Variance: By CUP standard, fast food restaurants are not permitted within 100 feet of any residential parcel. The proposal requires a setback variance from 100 feet to 55 feet.

- Parking Variance: By CUP standard, restaurants must provide parking in compliance with the requirements of the parking ordinance. The proposal requires a parking variance from 186 spaces to 125 spaces.

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 Nautical Bowls project and staff’s findings.

- **Is the proposed restaurant use appropriate?**

  Yes. The city conditionally permits fast food restaurants within the B-2 district. Furthermore, a fast food restaurant on the subject property would not be out of character for the development area. The subject property currently has a restaurant with a “to go option” (Mandarin Yang’s), a gas station convenience store (Holiday Gas), and the property to the south has a fast food restaurant (Caribou Coffee).

- **Is the residential setback variance reasonable?**

  Yes. The purpose of the 100-foot residential setback is to reduce the potential negative impacts of a fast food restaurant by creating larger separation between the residential homes and the fast food business. The subject proposal would be consistent with this intent as the business would be occupying an existing space and has not proposed any exterior changes. Furthermore, the space would be screened by the existing building, fence, and vegetation.

- **Can anticipated parking demands be accommodated?**

  Yes. A parking study was completed in 2005 by WSB and the Lindsay Group reevaluated parking in 2018. The studies looked at the two parcels owned by the Lindsay Group – 17603 Minnetonka Blvd. and 3432 County Road 101; the parcels have a shared parking agreement. Both of these parking studies determined that the subject property and the property to the south are over parked. The 2005 study determined that the two parcels only needed 106 total parking spaces between the two sites to meet the
parking demand (125 spaces are currently available). Additionally, the 2018 parking review showed that typically there is at least 50 percent of the parking spaces available, with the lowest parking availability for either site being 40 percent available during the reviewed times. (See Supporting Information and attached.)

**Staff Recommendation**

Recommend the city council adopt the resolution approving a conditional use permit, with variances, for a fast food restaurant at 17603 Minnetonka Boulevard.

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

Project No. 94014.18a
Property 17603 Minnetonka Blvd.
Applicant Rachel Amundson, owner of Nautical Bowls

Surrounding
Northerly: Tonka Bottle Shop and Flagship Bank, zoned B-2 and B-3, guided commercial
Easterly: Holiday Gas Station Pumps, zoned B-2, guided commercial.
Southerly: Multi-Tenant Commercial Building, zoned B-2, guided commercial.
Westerly: Single-Family Homes, zoned R-1, guided low-density.

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

Background Information
The subject property contains an approximately 17,500 square foot neighborhood shopping center that was originally constructed in 1979. Currently, the shopping center has nine tenant spaces, which include Anytime Fitness, Mandarin Yang, and Holiday Gas Station.

The existing parking lot has 81 parking spaces on various sides of the building; however, 132 parking spaces would be required by ordinance with this proposal.

Directly south of the property (3450 County Road 101) is an approximately 10,500 square foot multi-tenant building that was constructed in 2006. This building has four tenant spaces, which include Caribou, Lindsay Group, Verizon and Relief Plus Chiropractic.

The existing parking lot has 44 parking spaces that are located on the front and rear sides of the property; however, 54 spaces would be required by ordinance.

Additionally, the southern property has a shared parking agreement with the subject property. In total, the two properties would be required to have 186 parking spaces to meet ordinance; however, the combined sites only have 125 parking spaces.

History
In 2000, the property east of the subject property (owned by Holiday Gas Companies received:
• Conditional use permit to redesign the existing gas service area; and
• Site and building plan review approval to replace a canopy, gas pumps and remove an existing structure.

In 2005, the property directly south of the subject property received:
- A conditional use permit for a two story building with a fast food restaurant (Caribou Coffee);
- Site and building plan review approval;
- Setback variance from the right-of-way;
- Parking variance (with a shared property agreement with the subject property);
- Drive aisle width variance.

In 2006, the property directly south of the subject property received a conditional use permit for an outdoor eating area for a coffee shop (Caribou Coffee).

### 2005 Parking Study

A parking study was commissioned in 2005 for the property south of the subject property (3450 County Road 101), but also reviewed the subject property. At this time, per the applicant, the subject lease space was used by a coffee shop, which would have had similar parking demands as the proposed use. The parking study was requested to answer the following questions:

1. Would the project meet the code parking requirement by itself?
2. Would the project meet the code parking requirements if considered in combination with Minnehaven Square (the subject property)?
3. Would the number or parking spaces required by code necessary to meet the parking demand for this development?

The full parking study prepared by WSB and Associates is attached. The following is intended to summarize the study:

- The proposal at 3450 County Road 101 would not meet code required parking.
- If the project was considered in combination with the northern property (Minnehaven Square), the project would still not meet code parking requirements.
- Even though the subject properties did not meet city code parking requirements, the parking study determined that the proposed parking lots on the two properties could accommodate the predicted parking demand. Specifically, the study indicated that 106 total parking spaces would be needed between the two sites. As proposed, the two properties would have 125 total parking spaces. The two lots were considered combined as there is a cross parking agreement between the two sites; however, individual parcel parking needs are described below.
### Subject: Nautical Bowls, 17603 Minnetonka Blvd.

<table>
<thead>
<tr>
<th>Site</th>
<th>City Code Requirements</th>
<th>Parking Study Requirements</th>
<th>Approved Parking</th>
</tr>
</thead>
<tbody>
<tr>
<td>17603 Mtka Blvd</td>
<td>115</td>
<td>62</td>
<td>72</td>
</tr>
<tr>
<td>3432 Co. Rd. 101</td>
<td>54</td>
<td>44</td>
<td>44 (7 proof of parking)</td>
</tr>
<tr>
<td><strong>Combined</strong></td>
<td><strong>169</strong></td>
<td><strong>106</strong></td>
<td><strong>125</strong></td>
</tr>
</tbody>
</table>

(See attachments for complete parking study.)

### 2018 Parking Study

In January 2018, the Lindsay Group conducted a parking review of 17603 Minnetonka Blvd. and 3432 County Road 101 to determine the amount of parking spaces available during various times of the day from Friday, Jan. 26 to Wednesday, Jan. 31. The following is intended to summarize the review:

- The properties rarely have less than 50 percent of parking available.
- The lowest parking availability for the properties was at 6 p.m. when 40 percent of parking was available.
- The lowest parking availability for the southern property was at 2 p.m. when 54 percent of parking was available.

(See attachments for complete parking review table.)

### Parking Deficit

Due to a shared parking agreement between the subject parcel and the southerly adjacent parcel, all information will be based on parking for the combined sites.

The existing development requires 173 parking spaces, but only has 125 spaces. If approved, the development's parking demand would increase as the proposed use (fast food restaurant) has a higher parking demand than the previous tenant’s use (dry cleaner). Specifically, the new use would require 18 parking spaces while the previous use required only five spaces. This would increase the total parking demand for the development from 173 to 186 parking spaces. This increase in parking demand requires a variance from the city’s parking performance standards.

### CUP Standards

The proposal would meet all but one of the general CUP standards as outlined in City Code §300.21 Subd.2:

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

**Finding:** The proposed use is consistent with the ordinance. A fast food restaurant is a conditionally-permitted use within the B-2 district.
2. The use is consistent with the goals, policies and objectives of the comprehensive plan;

   **Finding:** The proposed use is consistent with the goals, policies, and objectives of the comprehensive guide plan.

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

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

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

   **Finding:** The proposal is consistent with the city’s water resources management plan. No additions are proposed to the property at this time.

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

   **Finding:** The majority of the performance standards outlined in the zoning ordinance are related to development and construction. The proposal is for the use of an existing building space with no additions. With the exception of the parking variance to allow a reduction of required parking, the proposal would meet the standards outlined.

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

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

The proposed restaurant would meet all but one of the specific conditional use permit standards for fast food restaurants as outlined in City Code §300.21 Subd.4(f):

1. Shall be located only on sites having direct access to minor arterial streets or service roads;

   **Finding:** The subject property has access to County Road 101, an arterial road.
2. Public address systems shall not be audible from any residential parcel:

**Finding:** The applicant has not proposed any public address systems.

3. Stacking for a minimum of six cars per aisle shall be provided within applicable parking lot setbacks;

**Finding:** The applicant has not proposed a drive-up or any changes to the existing parking lot.

4. Shall not be permitted when traffic studies indicate significant impacts on the levels of service as defined by the institute of traffic engineers of adjacent streets and intersections; and

**Finding:** Staff has reviewed the proposal and does not believe that it would significantly impact the level of service of adjacent streets or intersections.

5. Buildings shall be setback at least 100 feet and screened from any adjacent property designated in the comprehensive plan for residential use.

**Finding:** The subject lease space of the building would not meet the 100-foot setback from an adjacent property that is designated in the comprehensive plan for residential use. A variance is required from this condition.

**Variance Standards**

The proposal for reduced residential setbacks meets the variance standard outlined in City Code §300.07 Subd. 1(a). 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;

**Finding:** The intent of the ordinance, as it pertains to the 100-foot setback from residentially guided parcels, is to ensure adequate separation to reduce negative impact of fast food restaurants. Staff finds that this intent is met with the existing project, as the applicant has not proposed any changes to the existing building and the residential homes are screened from the fast food restaurant by:

   - The existing building;
   - An existing fence; and
   - Existing vegetation.

2. The variance is consistent with the comprehensive plan;
Finding: The proposed use is consistent with the goals, policies, and objectives of the comprehensive guide plan.

3. 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.

Finding: (1) Reasonableness and (2) Unique Characteristics. The subject property and existing building have unique characteristics. The existing lease space is currently located within the 100-foot residential setback and encroaches into the required 35-foot property line setback. In addition, the subject lease space is screened from the residential properties by the existing building, fence, and vegetation. The subject proposal is reasonable due to the existing non-conformity of the building and existing screening.

Finding: (3) Character of the Neighborhood. The repurposing of the existing commercial lease space, from a cleaners to a fast food restaurant, would not alter the general atmosphere of the area. The subject property currently has a restaurant with a “to go option” (Mandarin Yang’s), a gas station convenience store (Holiday Gas), and the property to the south has a fast food restaurant (Caribou Coffee).

The proposal for a parking variance meets the variance standard outlined in City Code §300.07 Subd. 1(a). 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;

Finding: The intent of the ordinance, as it pertains to parking requirements, is to ensure adequate parking is provided to meet anticipated parking demand. A parking study was completed in 2005 by WSB and the Lindsay Group reevaluated the site’s parking in 2018. Both of these parking studies determined that the subject parcel and adjacent parcel at 3432 County Road 101 are over parked and could accommodate the new fast food restaurant, thus meeting the intent of the ordinance.

2. The variance is consistent with the comprehensive plan;
Finding: The proposed use is consistent with the goals, policies, and objectives of the comprehensive guide plan.

3. 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.

Finding: (1) Reasonableness and (2) Unique Circumstance. The subject lot and southerly adjacent parcel have several different uses that complement each other because they have differing peak demand times. Due to these differing peak demands, the site has not experienced a parking deficit despite not meeting city code parking requirements. The 2005 parking study completed by WSB and the Lindsay Group reevaluation the site’s parking in 2018 both determined that the request for the parking variance is reasonable as it is expected that the parking demand for the site would be met.

Finding: (3) Character of the Neighborhood. The two parking studies completed for the subject site and southerly adjacent property have determined that the existing site should accommodate the additional parking demand of the fast food restaurant. Due to this information, the parking variance is not expected to alter the essential character of the neighborhood.

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.

Voting Requirement

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

Neighborhood Comments

The city sent notices to 94 area property owners and received one comment to date. (See attached).

Deadline for Decision

May 14, 2018
Location Map
Project: Nautical Bowls
Address: 17623 Minnetonka Blvd
<table>
<thead>
<tr>
<th>Minnehaven Square</th>
<th>Sq Ft</th>
<th>Spaces Needed per City Code</th>
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<tbody>
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</tr>
<tr>
<td>Anna Nails</td>
<td>600</td>
<td>5.0 minimum</td>
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<td>GQ Tailors</td>
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<td>Anytime Fitness</td>
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<td>Mandarin Yang</td>
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<td>Cigar Jones</td>
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<td>Nautical Bowl (proposed)</td>
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<table>
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<tbody>
<tr>
<td>Caribou</td>
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<td>Lindsay Group</td>
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| **Total Needed**     | 185.3 |
| **Total Available**  | 125   |
## MINNEHAVEN WEEKDAY VEHICLE COUNT - 81 Spaces Available

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<th>5:15 PM</th>
<th>6:00 PM</th>
<th>Average per Time Frame</th>
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<tbody>
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<td>Date</td>
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<td>70.8%</td>
</tr>
</tbody>
</table>

## 3450 COUNTY ROAD 101 / CARIBOU WEEKDAY VEHICLE COUNT - 48 Spaces Available

| Date   | F 1/26/18 | 18      | 13      | 13      | 13       | 18       | 19       | 19       | 20       | 18       | 19       | 14      | 14      | 14      | 14      | 14      | 14      | 14      | 14      | 14      | 14      | 14      | 14.5%               |
|        | M 1/29/18 | 23      | 14      | 9       | 13       | 17       | 20       | 18       | 14       | 14       | 19       | 16      | 14      | 14      | 14      | 14      | 14      | 14      | 14      | 14      | 14      | 14      | 14.5%               |
|        | T 1/30/18 | 22      | 19      | 21      | 21       | 25       | 20       | 19       | 16       | 21       | 21       | 21       | 21       | 21       | 21       | 21       | 21       | 21       | 21       | 21       | 21       | 21       | 19.7%              |
| Average| 5.5       | 13      | 16      | 14      | 16       | 18       | 18       | 19       | 16       | 21       | 21       | 21       | 21       | 21       | 21       | 21       | 21       | 21       | 21       | 21       | 21       | 21       | 16.3%              |
| Total Available| 48     | 48     | 48     | 48     | 48       | 48       | 48       | 48       | 48       | 48       | 48       | 48       | 48       | 48       | 48       | 48       | 48       | 48       | 48       | 48       | 48       | 48       | 48.4%              |
| Percentage Left| 88.5%  | 72.9%  | 66.7%  | 70.8%  | 61.5%    | 54.9%    | 66.0%    | 66.7%    | 62.5%    | 54.2%    | 56.3%    | 57.6%    | 61.8%    | 62.5%    | 66.6%    | 50.8%    | 50.8%    | 50.8%    | 50.8%    | 50.8%    | 50.8%    | 50.8%    | 50.8%              |

## MINNEHAVEN WEEKEND VEHICLE COUNT

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## 3450 COUNTY ROAD 101 / CARIBOU WEEKEND VEHICLE COUNT

| Date   | S 1/27/18 | 17      | 12      | 69.8%  |
| Average| 14.5     |         |         |        |
| Total Available| 48     |         |         |        |
| Percentage Left| 40.4%  |         |         |        |

## MINNEHAVEN WEEKEND VEHICLE COUNT

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<tbody>
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<tr>
<td>Average</td>
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<td>Total Available</td>
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<td>Percentage Left</td>
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Memorandum

Date: August 2, 2005
To: Mr. Geoff Olson, Planning Director
From: Tony Heppelmann
Re: Lindsay Group Development Parking Study (Minnetonka Blvd and CR 101)

The purpose of this study is to evaluate the number of parking spaces required for a proposed development by the Lindsay Group located south of Minnetonka Boulevard on the west side of CR 101. The proposed development is adjacent to the existing Minnehaven Square. The proposed development and Minnehaven Square will have a common circulation isle on the property line and will be able to share parking between the two developments. See Figure 1 for the project location. This parking study addresses three questions regarding this development.

1. Will the project meet the code parking requirements by itself?
2. Will the project meet the code parking requirements if considered in combination with the Minnehaven Square?
3. Is the number of parking spaces required by code necessary to meet the parking demand for this proposed development?

Figure 1. Project Location
1. **Proposed Development**

The proposed development will consist of a two-story building with a basement. The top level of the building will have 3,760 SF of office space. The ground floor will have 2,220 SF of retail space and 1,540 SF containing a restaurant/coffee shop. The basement will be 3,760 SF used for storage.

2. **Relationship to Existing Development**

The proposed development is located directly south of Minnehaven Square. Both developments are under the same ownership. The parking lot on the east side of the proposed development will have a common circulation isle with the south side of the parking lot for Minnehaven Square. Customers from Minnehaven Square and the proposed development can, and will, park in both lots. It is most likely that the west (back) lot behind the proposed development will be used by the office employees and the employees in both Minnehaven Square and the proposed development. This will allow for customers of the retail and restaurant development to park in the east lot (in front of the building) as well as in the existing parking lot at Minnehaven Square.

3. **Proposed Parking Supply**

The proposed development will add 41 new parking spaces. Twenty-four (24) parking spaces are on the west side of the site behind the proposed building and 13 parking spaces are located on the east side of the proposed building near the access to CR 101. Also, four (4) new parking spaces will be created on the south side of the existing Minnehaven Square parking lot when the existing curb and circulation isle are removed and a new circulation isle created on the proposed development site. Land for an additional seven (7) parking spaces has been reserved on the far west side of the site for Proof of Parking. This brings the total potential new parking spaces to 48. See Figure 2 for the site plan.

4. **City Ordinance Parking Requirements**

The City of Minnetonka “Code of Ordinances” provides parking requirements for various land use types. The proposed development could be classified as either a mixed use building or a neighborhood shopping center in the city code. Because office space is located on the second floor of the building it was determined that the mixed use building classification is the most appropriate for calculating the parking requirements for this project. Table 1 summarizes the applicable parking requirements from the “Code of Ordinances” and applies the requirements to the proposed land uses and floor areas. Based on the “Code of Ordinances” and assuming there is no shared parking, fifty-four (54) parking spaces are required. The proposed parking spaces will not meet the city parking code requirements if the building is considered by itself.

Because of the relationship of the proposed development to the existing Minnehaven Square the proposed development was considered with the Minnehaven Square to determine whether the combined site would meet the code requirements for parking. The existing Minnehaven Square is considered to be a Neighborhood Shopping Center. Table 2 summarizes the applicable parking requirements as applied to the existing neighborhood shopping center. The table shows that the existing Minnehaven Square requires 115 spaces based on the parking
code. There are currently 72 spaces provided on the site. Table 2 also shows the number of spaces that would be required if Minnehaven Square were classified as a mixed use building. The number of parking spaces required if treated as a mixed use building is less. This is because the parking required for shopping center is 4.5 spaces per 1,000 square feet while the parking requirement for a single retail use is 4.0 spaces per 1,000 square feet. The code is somewhat contradictory to actual experience in that typically the parking demand for a stand alone retail use is higher than for a mixed use where parking for different uses will peak at different times. Table 2 shows that, in either case, combining the proposed development and the existing Minnehaven Square will not achieve the code required parking, since neither by themselves meet the code requirements for parking.

5. Shared Parking Demand

The last question this study addresses is whether the number of parking spaces required by the code is necessary and whether the proposed parking is adequate to meet demand. The application of the City “Code of Ordinances” parking space rates for single-use developments may over estimate the number of parking spaces needed in a mixed-use development. Because the maximum parking demand occurs at different times for different land uses, the total peak demand for a mixed-use development is often less than the sum of the maximum parking demands for each of the individual uses. For example, a church and an office building may have a combined peak demand that is much less than the sum of the peak demand for each use, since they generate that demand at completely different times. Similarly, the parking demand for office, retail, and restaurant uses also peak at different times creating an opportunity to share some of the parking spaces.

The Urban Land Institute (ULI) has surveyed the hourly parking demand for a number of different land uses for weekdays and Saturdays, and based on the surveys, has determined the percentage of peak demand that occurs during each hour. The results of these surveys are summarized in a report titled “Shared Parking Demand”. Table 3 and Table 4 summarize the results for the land uses proposed in this development. These percentages were applied to the parking rates in the City Code for each land use in the proposed development and a combined peak demand was estimated for the proposed development by adding up the parking demand for each hour; see Table 5 and Table 6 respectively. The hour from 12:00 p.m. – 1:00 p.m. on a weekday was determined to be the peak for the proposed development with a demand of 44 parking spaces. The Saturday peak was in the hour from 5:00 p.m. to 6:00 p.m. with a demand of 30 parking spaces. Based on the estimated shared parking demand, the proposed development would have adequate parking with the proof of parking spaces.
Figure 2. Site Plan

7 Spaces
Proof of Parking

24 Spaces

13 Spaces

4 Spaces
The actual parking demand for the Minnehaven Square was surveyed to determine whether parking may be available for use by the proposed development. Minnehaven Square has 72 total parking spaces. Counts of vehicle occupied parking spaces were taken at different times of the day over a period of approximately one week. The results are shown in Table 7. The maximum number of vehicles parked in the Minnehaven Square lot during the times surveyed was 50 vehicles on Friday, July 8 at 4:45 p.m. The next highest demand was 44 vehicles on July 5 at 1:00 p.m. This time period correlates to the peak demand for shared parking for the proposed development. Based on the ULI surveys of seasonal variations in parking demand for different land uses, the maximum parking demand in July for retail use is 75% of the peak parking demand during the year. The restaurants and office space are at 100% of the peak demand during July. Therefore, the peak parking demand for the existing development obtained by factoring up the peak parking count is 62 parking spaces.

An estimate was made of the maximum shared parking demand for Minnehaven Square using the same methodology used for the proposed development. The hourly percentages from the ULI “Shared Parking” were applied to the City Code parking rates for each land use in the existing development, to find the combined peak-hour parking demand for the existing development. The analysis indicates the joint peak parking demand occurs from 12:00 p.m. to 1:00 p.m. on a weekday and is 87 parking spaces. These calculations are shown in Table 8. Given that the actual parking counts are much less than the calculated parking demand, the shared parking methodology seems to be a very conservative estimate of parking needs. Therefore, it is our conclusion that the code required parking spaces are not need for this development and that the number of parking spaces that are proposed should be sufficient for the development.

6. Conclusions

The proposed development will provide 41 new parking spaces for its tenants and customers, and seven (7) proof of parking spaces could be added on the west side of the site for a total of 48 new parking spaces. This is less than the 54 parking spaces required by City Code. However, a shared parking analysis for this site indicates that not all the parking spaces required by City Code are needed for this project. A shared parking demand analysis for the proposed development indicates that a maximum of 44 parking spaces would be needed for the proposed development, which is more than the 41 proposed but less than the 48 which could be provided with the proof of parking spaces. The existing development to the north which is under the same ownership has 72 total parking spaces available and an estimated maximum parking demand of 62 spaces based on actual parking counts of the site. This leaves ten (10) spaces available for use by either site. Based on the shared parking analysis and the existing parking counts for Minnehaven Square, it is our conclusion that the proposed 41 new parking spaces plus the seven (7) proof of parking spaces is adequate to meet the parking needs of the proposed development.
Table 1. Proposed Development Parking Requirements by
City of Minnetonka “Code of Ordinances”

<table>
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<tr>
<th>Development Floor Area</th>
<th>“Code of Ordinances” Parking Spaces per 1000 S.F. Mixed Use Development</th>
<th>Required Parking Spaces</th>
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Table 2. Minnehaven Square Parking Requirements by
City of Minnetonka “Code of Ordinances”

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<th>Shopping Center “Code of Ordinances” Parking Spaces per 1000 S.F.</th>
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Table 3. Weekday Hourly Parking Demand Ratios ¹
(Percentage of Peak Demand Occurring Each Hour)

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¹ Hourly Demand Parking Ratios from the Urban Land Institute (ULI) study of "Shared Parking"

Table 4. Saturday Hourly Parking Demand Ratios ¹
(Percentage of Peak Demand Occurring Each Hour)

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¹ Hourly Demand Parking Ratios from the Urban Land Institute (ULI) study of "Shared Parking"
Table 5. Weekday Hourly Parking Demand - Proposed Development

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Table 6. Saturday Hourly Parking Demand - Proposed Development

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### Table 7. Minnehaven Square Parking Lot Counts

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Vehicles Using Parking Lot</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Weekday</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7/8/2005</td>
<td>7:30 AM</td>
<td>13</td>
</tr>
<tr>
<td>7/8/2005</td>
<td>8:15 AM</td>
<td>22</td>
</tr>
<tr>
<td>7/11/2005</td>
<td>8:15 AM</td>
<td>21</td>
</tr>
<tr>
<td>7/7/2005</td>
<td>11:00 AM</td>
<td>36</td>
</tr>
<tr>
<td>7/5/2005</td>
<td>12:00 PM</td>
<td>43</td>
</tr>
<tr>
<td>7/5/2005</td>
<td>1:00 PM</td>
<td>44</td>
</tr>
<tr>
<td>7/11/2005</td>
<td>2:30 PM</td>
<td>37</td>
</tr>
<tr>
<td>7/8/2005</td>
<td>4:45 PM</td>
<td>50</td>
</tr>
<tr>
<td>7/7/2005</td>
<td>6:00 PM</td>
<td>28</td>
</tr>
<tr>
<td><strong>Saturday</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7/9/2005</td>
<td>11:20 AM</td>
<td>39</td>
</tr>
<tr>
<td>7/9/2005</td>
<td>3:00 PM</td>
<td>27</td>
</tr>
</tbody>
</table>
Table 8. Estimated Weekday Hourly Parking Demand - Existing Development³

<table>
<thead>
<tr>
<th>Minnehaven Square</th>
<th>Time of Day</th>
<th>7:00 AM</th>
<th>8:00 AM</th>
<th>9:00 AM</th>
<th>10:00 AM</th>
<th>11:00 AM</th>
<th>12:00 PM</th>
<th>1:00 PM</th>
<th>2:00 PM</th>
<th>3:00 PM</th>
<th>4:00 PM</th>
<th>5:00 PM</th>
<th>6:00 PM</th>
</tr>
</thead>
<tbody>
<tr>
<td>KSF</td>
<td>Office</td>
<td>1.00</td>
<td>0.3</td>
<td>0.7</td>
<td>1.6</td>
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<td>3.8</td>
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<td>3.3</td>
<td>3.0</td>
<td>3.1</td>
</tr>
<tr>
<td></td>
<td>Retail</td>
<td>13.50</td>
<td>4.1</td>
<td>9.5</td>
<td>21.6</td>
<td>35.1</td>
<td>44.6</td>
<td>50.0</td>
<td>51.3</td>
<td>50.0</td>
<td>48.6</td>
<td>44.6</td>
<td>40.5</td>
</tr>
<tr>
<td></td>
<td>Restaurant</td>
<td>3.00</td>
<td>1.1</td>
<td>2.3</td>
<td>4.5</td>
<td>9.0</td>
<td>13.5</td>
<td>22.5</td>
<td>31.6</td>
<td>27.1</td>
<td>27.1</td>
<td>22.5</td>
<td>31.6</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>5</strong></td>
<td><strong>12</strong></td>
<td><strong>28</strong></td>
<td><strong>47</strong></td>
<td><strong>61</strong></td>
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<td><strong>81</strong></td>
<td><strong>79</strong></td>
<td><strong>70</strong></td>
<td><strong>75</strong></td>
<td><strong>86</strong></td>
</tr>
</tbody>
</table>

³ Adjusted for seasonal variations in accordance with ULI Monthly Variations in Peak Parking Demand Ratios.

Table 9. Estimated Saturday Hourly Parking Demand - Existing Development³

<table>
<thead>
<tr>
<th>Minnehaven Square</th>
<th>Time of Day</th>
<th>7:00 AM</th>
<th>8:00 AM</th>
<th>9:00 AM</th>
<th>10:00 AM</th>
<th>11:00 AM</th>
<th>12:00 PM</th>
<th>1:00 PM</th>
<th>2:00 PM</th>
<th>3:00 PM</th>
<th>4:00 PM</th>
<th>5:00 PM</th>
<th>6:00 PM</th>
</tr>
</thead>
<tbody>
<tr>
<td>KSF</td>
<td>Office</td>
<td>1.00</td>
<td>0.1</td>
<td>0.4</td>
<td>1.4</td>
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<td>2.9</td>
<td>3.4</td>
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<td>4.0</td>
<td>4.0</td>
<td>3.6</td>
</tr>
<tr>
<td></td>
<td>Retail</td>
<td>13.50</td>
<td>1.4</td>
<td>5.4</td>
<td>18.9</td>
<td>16.2</td>
<td>24.3</td>
<td>39.2</td>
<td>45.9</td>
<td>51.3</td>
<td>54.0</td>
<td>54.0</td>
<td>48.6</td>
</tr>
<tr>
<td></td>
<td>Restaurant</td>
<td>3.00</td>
<td>1.1</td>
<td>1.1</td>
<td>2.3</td>
<td>3.4</td>
<td>4.5</td>
<td>13.5</td>
<td>20.3</td>
<td>20.3</td>
<td>20.3</td>
<td>20.3</td>
<td>27.1</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>3</strong></td>
<td><strong>7</strong></td>
<td><strong>23</strong></td>
<td><strong>21</strong></td>
<td><strong>31</strong></td>
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<td><strong>75</strong></td>
<td><strong>78</strong></td>
<td><strong>78</strong></td>
<td><strong>79</strong></td>
<td><strong>84</strong></td>
</tr>
</tbody>
</table>

³ Adjusted for seasonal variations in accordance with ULI Monthly Variations in Peak Parking Demand Ratios.
**Floor Plan:** Attached via PDF

**Written Statement:**

Nautical Bowls utilizing space 17623 Minnetonka Blvd in the Minnehaven Building Complex is reasonable and will certainly not effect the essential character of the neighborhood. We will actually be adding a healthy, fast, convenient meal option for the people of Minnetonka, in which we are confident they will look forward to, as this concept is scarce. Nautical Bowls will be making zero changes to the exterior of the building and it will remain the same, not effecting the neighborhood in any way. Parking is under control and sufficient for customers of all businesses within both the Minnehaven Square and the 3450 Building next door, as proven in supporting paragraphs and documents. We are passionate about this business and look forward to supporting the health and well being of the entire community.

**Describe why the proposed use is reasonable:**

Nautical Bowls utilizing this space to serve healthy, fresh Acai Bowls is reasonable because we are not making any exterior changes to the building and it will essentially be remaining the same. For 12 total years, beginning in 1998, this space was occupied by a coffee shop first named Coffee 101 and then Café de Lago following that.

Our business is also reasonable because we offer healthy, nourishing meals to the neighborhood of Minnetonka. Our bowls have incredible health benefits coming from the various ingredients, which are rich in antioxidants, vitamins, and natural energy. We are excited to educate our consumers on these benefits and see them meet their health goals.

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

Nautical Bowls will be taking over the space in an existing building and we are not making any changes to the structure of the building itself. It is unique because there were two coffee shops (which were in the same fast food restaurant category as us) for 12 years and both were loved by the surrounding community, with no complaints or issues.
**Describe why the variance would not alter the essential character of the neighborhood:**

Changing the space from a cleaner to an acai bowl store will not alter the essential character of the neighborhood because we are not making any changes to the exterior of the building, as addressed above. Historically, Nautical Bowls will bring back to the neighborhood a business similar to the coffee shop that was present throughout the 1990's through 2006.

We also will not have an issue with parking, because in 2005 The Lindsay Group had a parking survey done on both buildings (Minnehaven and the 3450/Caribou Coffee Building), where its conclusion states, “Based on the shared parking analysis and the existing parking counts for Minnehaven Square, it is our conclusion that the proposed 41 new parking spaces plus the seven (7) proof of parking spaces is adequate to meet the parking needs of the proposed development.” Since this study done in 2005, there has been even more additional parking added, bringing us to a total of 48 spaces in the 3450/Caribou Building and 81 spaces for the Minnehaven Complex. As these lots have a cross parking agreement, there are a total of 129 spaces.

The Lindsay group performed a parking study from Friday January 26th-Wednesday January 31st, which I have attached to this application. In our study, you will see, we took a parking count during every hour of the weekday, beginning at 7:30 AM and ending at 6:00 PM. We also did a weekend study, replicated from the 2005 study, at 11:00 AM and 3:00 PM. Our results show that the average percentage of parking spaces left available during the week at the Minnehaven complex does not go below 39.5%, with 6:00 PM being the busiest time. Our table clearly shows our peak hours and during those peak hours, parking is more than sufficient. The weekend counts were done at 11:00 AM and 3:00 PM, where the average percentage left available was 47.5%, also reflecting an abundance of parking.

The same parking counts were done for the 3450/Caribou Building. This lot’s peak hour was 2:00 PM, where there was still 54.2% of parking spots left available, the lowest percentage found. The weekend count shows an average of 69.8% parking spaces left available.

We did this parking study to prove that between the two building’s parking lots, there has never been a lack of parking. Every hour of the day shows that the Lindsay Group never comes
even close to an insufficient amount of parking. We are hopeful that this study and also the 2005 study will show the facts- there is ample parking available for Nautical Bowls to occupy the space at 17623 Minnetonka Blvd.

Supporting/Attached Documents:
- 2005 Parking Study, in favor of Lindsay Group, PDF is printed/attached separately
- 2018 Lindsay Group Parking Study Excel Attached
- Architect Floor Plan (PDF)
Floor Plan: Attached

Written Statement:

Nautical Bowls utilizing space 17623 Minnetonka Blvd in the Minnehaven Building Complex is reasonable and will certainly not effect the essential character of the neighborhood. We will actually be adding a healthy, fast, convenient meal option for the people of Minnetonka, in which we are confident they will look forward to, as this concept is scarce. Nautical Bowls will be making zero changes to the exterior of the building and it will remain the same, not effecting the neighborhood in any way. Parking is under control and sufficient for customers of all businesses within both the Minnehaven Square and the 3450 Building next door, as proven in supporting paragraphs and documents on the Variance Application. We are passionate about this business and look forward to supporting the health and well being of the entire community.

Attached Document:

- About Rachel, Bryant, and our business- Nautical Bowls
- Nautical Bowls Photos
We are Rachel and Bryant Amundson and we are a young, married couple with a wildfire for entrepreneurship. Since the day we started dating three years ago, we dreamed of owning a business together. We had visions for an acai bowl store but we thought that would be a few years down the road. Being the go-getters that we are, we decided, why wait?! We both have a passion for adventure and living healthy lifestyles. With that, we believe that fueling your body with the correct nutrients is essential to achieving the healthy life and body everyone wants. Because acai bowls are almost non-existent in Minnesota markets, we are excited to be one of the first to introduce this product. We both understand how it feels to crave a healthy, nutrient rich meal on-the-go with fresh ingredients you know and can pronounce (ok except Acai.. we know everyone struggles pronouncing that!) and the difficulty that comes along with that desire, as the truly healthy, fast, casual options are limited. We believe in our bowls and we are confident the Minnetonka market will love them. We have had nothing but amazing feedback thus far. We hope to provide a clean, nutrient rich meal for people to enjoy. We also aim to educate our consumers on why they want to eat an acai bowl. We plan to get involved in the community in any way we can. We will have a catering cart at various events, we’ll pass out discounts, and we will be present at as many events/gatherings as we can. We can’t wait to jump into this chapter of our lives and we are so excited to show Minnetonka what we’ve got!
To Whom It May Concern:

I reside at 3376 Breconwood Circle, and have for approximately 8 years. I work out at Anytime Fitness daily, get coffee at Caribou, routinely get my nails done at Anna's nails, and buy gas at the Minnehaven Mall as often as needed. I have a young daughter that is just about to get her driver's license, and we've had repeated discussions about the difficulty navigating that parking lot safely. It's truly one of the most difficult parking lots to navigate, due to heavy traffic moving in several directions. Regardless of the traffic studies submitted, I experience difficulty parking quite regularly. (It's true that the number of parking spaces seems adequate, but many of them are unusable at different times of the day because of traffic flow, and it is frustrating.)

Please do not approve the variance for the conditional use permit for Nautical Bowls.

Renée Wilson
REALTOR - Edina Realty

"No Surprises.....No Missed Opportunities"

Click here to download my mobile app: http://app.edinarealty.com/ReneeWilson

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**ALERT!** Edina Realty will never send you wiring information via email or request that you send us personal financial information by email. If you receive an email message like this concerning any transaction involving Edina Realty, do not respond to the email and immediately contact your agent via phone.
This item is tentatively scheduled to be reviewed by the city council at its meeting on March 19, 2018.

B. A conditional use permit with a parking variance for Eden Prairie Islamic Community Center at 5640 Smetana Dr.

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.

Mohamed Ibrahim, board member of the Eden Prairie Islamic Community Center, applicant, stated that things are going well and the use is expanding into the second building. There have been no parking issues. The parking lot has never been full.

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

Chair Kirk asked staff to comment on a letter received from a resident. Cauley stated that the city’s nuisance ordinance does not address light from headlights. Planning staff will visit the site and measure the light that the building emits to see if exceeds ordinance limits. Cauley spoke with the resident who wrote the letter and they discussed how after Xcel Energy upgraded street lights with LED bulbs, the intensity of those lights increased.

Schack moved, second by Powers, to recommend that the city council approve the attached conditional use permit approving a banquet facility with a parking variance and the attached resolution amending and replacing Resolution 2016-054 for a conditional use permit with a parking variance for Eden Prairie Islamic Community Center at 5620 Smetana Drive.

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

This item is tentatively scheduled to be reviewed by the city council at its meeting on March 19, 2018.

C. Conditional use permit, with variances, for a fast-food restaurant at 17603 Minnetonka Blvd.

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

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

Schack asked how much tenant turnover has occurred since the parking study was completed in 2005. Ingvalson answered that it is difficult to track tenants. The building is
the same size now as it was in 2005. Thomas provided that the primary change is the addition of Anytime Fitness. The remainder of the tenants are, generally, the same.

Chair Kirk asked for the difference in parking requirements between a dry cleaner and a fast-food restaurant. Thomas explained that a dry cleaner is considered a service use, so that has a requirement of one parking stall per every 250 square feet. A fast-food restaurant is required to have one parking stall for every 60 square feet.

O’Connell asked if there is a shared parking agreement currently in place. Ingvalson answered affirmatively. There is a parking agreement between the proposed site and the property to the south, the Caribou Building.

Bryant and Rachel Amundson, applicants, introduced themselves. Mr. Amundson stated that the report is accurate. The restaurant would be healthy, fast and casual. They would serve smoothies and healthy bowls. The parking lot has had no less than 40 percent of availability during peak times. Ms. Amundson agreed that the parking lot is a strange shape which makes navigating it sometimes difficult, but there is enough parking.

Schack asked if customers would typically stay and eat or take it to go. Ms. Amundson said that there would be tables, but the existing uses on the west coast have a lot of patrons take it to go.

O’Connell asked if the sign would be unique. Ms. Amundson said that they are working with the building owner to establish a uniform, updated look.

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

Powers asked if any complaints had been received for the shopping area. Ingvalson answered in the negative.

Chair Kirk confirmed with Ingvalson that the fence and cigar store provide a buffer to the residential area.

Sewall stated that the proposal is a different type of fast food restaurant. It would have no drive through and no speaker system. There would be adequate total parking, but navigating the parking lot to reach the site may be difficult. He supports staff’s recommendation.

Chair Kirk noted that employees could be requested to park further from the entrances to the businesses.

Schack said that the hours and type of use would be more low-key than other potential options. She encouraged the applicant to have a sign to remind customers that more parking is available in the back.

Chair Kirk was excited to see a healthy option for the spot.
Hanson asked if the business could have reserved parking spaces for its patrons. Mr. Amundson stated that he has not yet explored that option. He said that would be a possibility.

Powers stated that the proposal would increase the vitality of the area dramatically. He liked the presentation and the quality of the product.

*O’Connell moved, second by Powers, to recommend that the city council adopt the resolution approving a conditional use permit with variances for a fast-food restaurant at 17603 Minnetonka Blvd.*

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

This item is tentatively scheduled to be reviewed by the city council at its meeting on March 19, 2018.

D. Ordinance repealing and replacing City Code 300.34 Telecommunication Facilities.

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

Thomas reported. She recommended adoption of the ordinance.

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

*Sewall moved, second by Schack, to recommend that the city council adopt the ordinance repealing and replacing City Code 300.34 Telecommunication Facilities.*

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

This item is tentatively scheduled to be reviewed by the city council at its meeting on March 19, 2018.

9. Other Business

A. Concept plan review for Morrie’s Ford at 13400 Wayzata Blvd. and 13205 Southridge Road.

This item was removed from the agenda at the applicant’s request.

10. Elections
Resolution No. 2018-

Resolution approving a conditional use permit, with variances, for a fast food restaurant at 17603 Minnetonka Blvd.

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

Section 1. Background.

1.01 The applicant, Rachel Amundson, is proposing to operate a fast food restaurant within one of the northern tenant spaces at 17603 Minnetonka Blvd. The proposal includes interior building changes, but no exterior building improvements at this time.

1.02 The request requires a conditional use permit with the following variances:

1. Setback variance from residentially-guided properties from 100 feet to 55 feet; and

2.  Parking variance from 186 spaces to 125 spaces.

1.03 The property is located at 17603 Minnetonka Blvd. It is legally described in Exhibit A.

1.04 City Code §300.18 Subd. 4(f) allows fast food restaurants as conditional uses within the B-2 zoning district.

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

1.06 On March 1, 2018, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit, with variances.
Section 2. Standards  

2.01 City Code §300.21 Subd.2 lists the general conditional use permit standards. These standards are incorporated by this reference.

2.02 City Code §330.21 Subd.4(f) lists the specific conditional use permit standards for a fast food restaurant. These standards are incorporated by this reference.

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

Section 3. Findings  

3.01 The proposal would meet all but one of the general CUP standards as outlined in City Code §300.21 Subd.2:

1. The proposed use is consistent with the zoning ordinance. A fast food restaurant is a conditionally-permitted use within the B-2 district.

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

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

4. The proposal is consistent with the city’s water resources management plan. No additions are proposed to the property at this time.

5. The majority of the performance standards outlined in the zoning ordinance are related to development and construction. The proposal is for the use of an existing building with no additions. With the exception of the parking variance to allow a reduction of required parking, the proposal would meet the standards outlined.

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

3.02 The proposed restaurant would meet all but one of the specific conditional use permit standards for fast food restaurants as outlined in City Code §300.21 Subd.4(f):
1. The subject property has access to County Road 101, an arterial road.

2. No public address systems are proposed.

3. No drive-up or any changes to the existing parking lot are proposed.

4. The proposal is not anticipated to significantly impact the level of service of adjacent streets or intersections.

5. The subject lease space of the building would not meet the 100-foot setback from an adjacent property that is designated in the comprehensive plan for residential use. However, the subject lease space is screened from the adjacent residential property by the existing building, a fence, and vegetation.

3.03 The proposal for reduced residential setbacks meets the variance standard outlined in City Code §300.07 Subd. 1(a).

1. Intent of the Ordinance: The intent of the ordinance, as it pertains to the 100-foot setback from residentially guided parcels, is to ensure adequate separation in order to reduce negative impact of fast food restaurants. The proposal would meet this intent, as the applicant has not proposed any changes to the existing building and the residential homes are screened from the fast food restaurant by: (1) the existing building; (2) an existing fence; and (3) existing vegetation.

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

3. Practical Difficulties:

a) Reasonableness and Unique Characteristics. The subject property and existing building have unique characteristics. The existing lease space is currently located within the 100-foot residential setback and encroaches into the required 35-foot property line setback. In addition, the subject lease space is screened from the residential properties by the existing building, fence, and vegetation. The subject proposal is reasonable due to the existing non-conformity of the building and existing screening.

b) Character of the Neighborhood. The repurposing of the existing commercial lease space, from a cleaners to a fast food restaurant, would not alter the general atmosphere of the area. The subject property currently has a restaurant with a “to go option” (Mandarin Yang’s), a gas station convenience store (Holiday Gas), and the property to the south has a fast food restaurant (Caribou Coffee).

3.04 The proposal for parking variance meets the variance standard outlined in City Code §300.07 Subd. 1(a).
1. Intent of the Ordinance: The intent of the ordinance, as it pertains to parking requirements, is to ensure adequate parking is provided to meet anticipated parking demand. A parking study was completed in 2005 by WSB and the Lindsay Group reevaluated the site’s parking in 2018. Both of these parking studies determined that the subject parcel and adjacent parcel at 3432 County Road 101 are over parked and could accommodate the new fast food restaurant, thus meeting the intent of the ordinance.

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

3. Practical Difficulties:
   a) Reasonableness and Unique Circumstance. The subject lot and southerly adjacent parcel have several different uses that complement each other because they have differing peak demand times. Due to these differing peak demands, the site has not experienced a parking deficit despite not meeting city code parking requirements. A 2005 parking study completed by WSB and the Lindsay Group reevaluation the site’s parking in 2018 both determined that the request for the parking variance is reasonable as it is expected that the parking demand for the site would be met.
   b) Character of the Neighborhood. The two parking studies completed for the subject site and southerly adjacent property have determined that the existing site should accommodate the additional parking demand of the fast food restaurant. Due to this information, the parking variance is not expected to alter the essential character of the neighborhood.

Section 4. City Council Action

4.01 The above-described conditional use permit, with variances, is approved, based on the findings outlined in Section 3 of this resolution. Approval is 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 Jan. 31, 2018
   - Site plan date stamped Jan. 31, 2018
   - Floor plan date stamped Jan. 31, 2018

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 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, parking or a significant change in character would require a revised conditional use permit.

Adopted by the City Council of the City of Minnetonka, Minnesota, on March 19, 2018.

_______________________________________
Brad Wiersum, 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 March 19, 2018.

__________________________________
David E. Maeda, City Clerk
Exhibit A

The North 283 feet of the East Half of the Northeast Quarter of the Northeast Quarter of the Southeast Quarter of Section 18, Township 117, Range 22, except the North 183 feet of the East 158 feet thereof, according to the United States Government Survey thereof, and situate in Hennepin County, Minnesota.
City Council Agenda Item #13A
Meeting of March 19, 2018

Brief Description
Resolution vacating public right-of-way at 11706 Wayzata Blvd.

Recommendation
Hold the public hearing and adopt the resolution

Background
The property owners at 11706 Wayzata Blvd. have petitioned to vacate excess right-of-way adjacent to their property. The excess right-of-way limits the use of their property and future development potential.

This portion of right-of-way was dedicated on the plats of Marsh Run Two and Marsh Run Two 2nd Addition in 1982 and 1984, respectively. At that time, the Wayzata Blvd. frontage road curved north and an entrance/exit ramp for the eastbound highway, what is now I-394, was located just east of the property. When I-394 was constructed, the frontage road was realigned south and the ramp was eliminated. Therefore, this portion of right-of-way was no longer needed.

The right-of-way had been formerly controlled by MNDOT, however has been turned back to the city. As a note, a similar piece of excess right-of-way along I-394 was conveyed to CSM through the city from MNDOT in years past as a part of the development of the West Ridge Market site.

Staff Comment
There are city sanitary sewer lines as well as private utilities located within the proposed vacation area; therefore, a drainage and utility easement will be reserved over the entire area. The proposed vacation would not negatively impact these utilities.

Recommendation
Hold the public hearing and adopt the resolution vacating the right-of-way, but reserving a drainage and utility easement over the entire area of vacated right-of-way.

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

Originated by:
Sarah Krake, Right of Way / Property Coordinator
Resolution No. 2018-

Resolution vacating public right-of-way 11706 Wayzata Boulevard

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

Section 1. Background.

1.01 Judd Carpenter, as representative for Carpenter Land Company, LLC, has petitioned to vacate a portion of platted right-of-way located at 11706 Wayzata Boulevard.

1.02 The portion of easements to be vacated are legally described as follows:
That part of US Hwy No. 12 dedicated on the plat of MARSH RUN TWO, according to the plat thereof, Hennepin County, Minnesota, commencing at the southwest corner of Lot 1, Block 1, MARSH RUN TWO; thence north 89 degrees 45 minutes 05 seconds east along the south line of said Lot 1 a distance of 48.04 feet to the point of beginning “A” of the land to be described; thence north 75 degrees 45 minutes 46 seconds east along the southeasterly line of said Lot 1 a distance of 166.56 feet to the southeast corner of said Lot 1; thence south 00 degrees 43 minutes 37 seconds west a distance of 25.35 feet; thence south 84 degrees 28 minutes 14 seconds west along the northerly line of U.S. Hwy. No. 12 per Doc. No. 933433 a distance of 162.07 feet; thence south 89 degrees 45 minutes 05 seconds west a distance of 0.45 feet to the point of beginning.

AND that part of U.S. Hwy. No. 12 dedicated on the plat of MARSH RUN TWO 2nd ADDITION, according to the plat thereof, Hennepin County, Minnesota, commencing at the southwest corner of Lot 1, Block 1, MARSH RUN TWO; thence north 89 degrees 45 minutes 05 seconds east along the south line of said Lot 1 a distance of 48.04 feet; thence north 75 degrees 45 minutes 46 seconds east along the southeasterly line of said Lot 1 a distance of 166.56 feet to the southeast corner of said Lot 1; thence south 00 degrees 43 minutes 43 seconds east a distance of 27.48 feet; thence south 70 degrees 30 minutes 21 seconds west a distance of 96.33 feet; thence south 84 degrees 28 minutes 14 seconds west a distance of 8.77 feet; thence north
00 degrees 43 minutes 47 seconds west a distance of 25.35 feet to the point of beginning.

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

1.04 On March 19, 2018, the city council held a hearing on the request, at which time all persons for and against the granting of said request 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. The petitioner is the owner of the land abutting the subject right-of-way and is, therefore, a proper petitioner.

2. There is no anticipated public need for the excess public right-of-way easement proposed to be vacated and the vacation is not counter to public interest.

3. There are sanitary sewer lines and private utilities located within the area, therefore a public drainage and utility easement will be reserved over the entire vacated right-of-way.


4.01 The city council vacates the right of way easements as described in section 1.02, reserving a perpetual easement for drainage and utility purposes over the entire area of vacated right-of-way.

Adopted by the City Council of the City of Minnetonka, Minnesota, on March 19, 2018
Brad Wiersum, Mayor

Attest:

_________________________________
David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of: r
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 March 19, 2018.

_________________________________
David E. Maeda, City Clerk
Proposed Easement Vacation
11706 Wayzata Blvd.
The easement for right of way purposes to be vacated is described as follows:

That part of US Hwy. No. 12 dedicated on the plat of MARSH RUN TWO, according to the plat thereof, Hennepin County, Minnesota

Together with:

That part of US Hwy. No. 12 dedicated on the plat of MARSH RUN TWO 2ND ADDITION, according to the plat thereof, Hennepin County, Minnesota

Right of way proposed to be vacated; D&U easement will be reserved
City Council Agenda Item #13B  
Meeting of March 19, 2018

**Brief Description**  
Resolution approving vacation of a drainage and utility easement at 3533 and 3535 Orchard Lane

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

**Introduction**

In 1996, the city council approved the preliminary plat of ASPEN RIDGE. This plat created eight new single-family residential lots. In addition to the drainage and utility easements secured for driveway and utility access for Lots 6 and 7 (3533 and 3535 Orchard Lane), new drainage and utility easements were established along all new lot lines. Unfortunately, the obsolete drainage and utility easements around the previous lot perimeters were never vacated.

On February 26, 2018, the city council reviewed and approved a setback variance, floodplain alteration and a conditional use permit to allow the construction of a new home. The proposed home encroaches into one of the obsolete easements. The property owners are requesting these easements be vacated.

**Staff Comments**

The requested vacation is reasonable, as:

- There are no public utilities within the easement areas to be vacated.
- The existing easement areas are obsolete.
- New easements were dedicated within the ASPEN RIDGE plat approved by the city in 1996.

**Staff Recommendation**

Hold the public hearing and adopt the resolution vacating the easements on the properties at 3533 and 3535 Orchard Lane.

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: Kermisch Residence
Address: 3533 & 3535 Orchard Ln
KNOW ALL MEN BY THESE PRESENTS, that Harvey J. Lemanski and Elsa M. Lemanski, husband and wife, owners and proprietors of the following described property situate in the City of Minneapolis, County of Hennepin, State of Minnesota, to-wit:

Lot 13, Sec 12, City of Minneapolis, according to the plan of said lot as shown on the office of the Register of Titles in the City of Minneapolis, County of Hennepin, State of Minnesota, to-wit:

Lot 9, City of Minneapolis, more or less part of Section 12 and part of the following described lot: Comprising the northeast corner of said Lot 9, thence South 42 degrees 19 minutes 56 seconds East, thence South 42 degrees 19 minutes 56 seconds West, thence South 42 degrees 19 minutes 56 secondsNorth, thence North 42 degrees 19 minutes 56 seconds East to the beginning.

and Sheet T. Film, single, owner and proprietor of the following described property situate in the County of Hennepin, State of Minnesota, to-wit:

This part of Lot 9, City of Minneapolis, being North and West of the following described lot: Comprising the northeast corner of said Lot 9, thence South 42 degrees 19 minutes 56 seconds East, thence South 42 degrees 19 minutes 56 seconds West, thence South 42 degrees 19 minutes 56 secondsNorth, thence North 42 degrees 19 minutes 56 seconds East to the beginning.

This instrument was acknowledged before me the 27th day of January, 1958, by Wm. H. Nitsch, single, a Notary Public in and for the County of Hennepin, State of Minnesota, duly commissioned.

My Commission Expires:

By:

[Signature]

State of Minnesota
County of Hennepin
The foregoing instrument was acknowledged before me this 27th day of January, 1958, by Wm. H. Nitsch, single, Notary Public in and for the County of Hennepin, State of Minnesota.

My Commission Expires:

By:

[Signature]

State of Minnesota
County of Hennepin
The foregoing instrument was acknowledged before me this 17th day of January, 1958, by Mark T. Ellis, single, Notary Public in and for the County of Hennepin, State of Minnesota.

My Commission Expires:

By:

[Signature]

I hereby certify that I have examined and judged the said described real estate an ASPEN RIDGE, the map and plan in the office of the said Surveyor, that all distances are correctly shown on said map and plan and that the boundaries of said real estate are shown on said map and plan and that all improvements thereon are correctly shown on said map and plan and the said description is correct.

By:

[Signature]

[Address]

忤 certify the within instrument of ASPEN RIDGE was filed in this office this 13th day of January, 1958.

By:

[Signature]

R. D. Furrow, Registrar of Titles

MINNESOTA, MINNESOTA
The grant of ASPEN RIDGE was approved and accepted by the City Council of Minneapolis, Minnesota, at a regular meeting held this 13th day of January, 1958, of which the records of the proceedings of the meeting are on file in the offices of the City Clerk of Minneapolis, Minnesota.

[Signature]

Michael A. Magney

Clerk

TAXPAYER SERVICES DIVISION
Hennepin County, Minnesota

I hereby certify that the taxes payable for the preceding year have been paid for land described on the plat.

By:

[Signature]

Patrick M. O'Leary

Hennepin County Auditor

SURVEY SECTION
Hennepin County, Minnesota

Prepared by: MNRS-1000 (1993), this plat has been approved.

By:

[Signature]

Gary F. Connolly

Hennepin County Surveyor

RECORDS OF TELLERS
Hennepin County, Minnesota

This instrument draws its title from the plat of ASPEN RIDGE, which plat was accepted by the City Council of Minneapolis, Minnesota, at a regular meeting held this 13th day of January, 1958.

By:

[Signature]

R. D. Furrow, Registrar of Titles
LEGAL DESCRIPTION:

The Lots 6, 7 and 8, Block 1, Aspen Ridge, Hennepin County, Minnesota, Number 1938431 as embraced within Lots 6 and 7.

LEGAL DESCRIPTION OF PROPOSED EASEMENT (OVER EXISTING DRAINAGE AND UTILITY EASEMENT):

TO BE VACATED

EASEMENT AREA PROPOSED

LOT 6

LOT 7

LOT 8

EXHIBIT A
Resolution No. 2018-

Resolution vacating drainage and utility easements at 3533 and 3535 Orchard Lane

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

Section 1. Background.

1.01 Christian Dean, AIA, on behalf of the property owner, has petitioned the Minnetonka City Council to vacate drainage and utility easements located at 3533 and 3535 Orchard Lane.

1.02 The easement is legally described as follows, to wit:

That part of those easements for drainage and utility purposes originally dedicated per document 1938431 and now contained within lots 6 and 7 of the plat of ASPEN RIDGE, Hennepin County, Minnesota.

The easement is depicted on Exhibit A of this resolution.

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 In 1996, the City Council approved ASPEN RIDGE plat, an eight lot subdivision. The plat dedicated new drainage and utility easements along the perimeter of all lot lines. The existing, obsolete drainage and utility easements were not vacated.

1.05 On February 26, 2018, the city council approved a lot-behind-lot setback variance, a floodplain alteration permit and a conditional use permit to allow the construction of a new home. The proposed home encroaches into one of the obsolete easements.

1.06 On March 19, 2018, 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 areas to be vacated.

2. There is no anticipated public need for the easement.

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

4. New easements were dedicated within the ASPEN RIDGE plat approved by the city in 1996.

5. The existing easement areas are obsolete and could have vacated immediately following the approval of the ASPEN RIDGE plat.


4.01 The city council vacates the above-described easement.

4.02 This resolution does not vacate any easements dedicated on the plat of ASPEN RIDGE.

Adopted by the City Council of the City of Minnetonka, Minnesota, on March 19, 2018.

Brad Wiersum, 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 March 19, 2018.

______________________________
David E. Maeda, City Clerk
City Council Agenda Item #13C
Meeting of March 19, 2018

**Brief Description**
Temporary on-sale liquor license for Bet Shalom Congregation, 13613 Orchard Rd.

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

**Background**

The city has received an application for a temporary on-sale liquor license from Bet Shalom Congregation for their annual fundraiser to be held on Saturday, April 28, 2018, at 13613 Orchard Rd. The event will be held in Social Hall from 6:30 - 9:30 p.m. The event will include food, a silent auction, beer and wine.

The event will be open to all members of the congregation. Bet Shalom will ask for identification from guests and provide wristbands to anyone over age 21.

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. Bet Shalom congregation has completed the license application, paid the application fee and provided proof of insurance. They are a non-profit organization, and are therefore eligible for a temporary liquor license.

Staff does not anticipate any difficulties in connection with serving alcohol at the event.

**Recommendation**
Staff recommends the council hold the public hearing and grant the license.

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

Originated by:
Kathy Leervig, Community Development Coordinator
Description of the Event

Bet Shalom’s annual fundraiser will be held on April 28, 2018 in the evening from 6:30-9:30 at our synagogue at 13613 Orchard Road, Minnetonka, MN. The event will be held in our Social Hall and will include food, a silent auction, and a cash bar serving both beer and wine. The funds raised from this event go to support Bet Shalom’s ongoing program for congregants and outreach in the community.

Liquor served at the event will be purchased from a wholesaler or donated by a congregant and delivered to the event the week prior. All bottles will be kept in a locked closet to ensure that it is not accessed prior to the event and to ensure that only those legally authorized to handle alcohol, do so. The serving of drinks the night of the event will be done by a member of the Spring Fundraiser committee who is over the age of 21.

The event will be open to all members of the congregation, and because there is the possibility of having guests under the age of 21, we will be providing wristbands to all those wanting to partake as they enter the facility and show their ID to verify that they are of age. The server will ask to see a wristband proving that an individual has already been carded prior to serving him/her a drink.

The event will also include wine in the silent auction. All those participating in the silent auction will be checked for a wristband and the bottles of which will remain closed for the duration of the event and to travel home with the purchaser.

Additionally, there will be members of the spring Fundraiser committee monitoring to ensure that any drinks that might be momentarily set down or abandoned are not picked up and consumed by a guest who is under the legal drinking age.

Additionally, all open bottles that are in the process of being served will be attended to by the server in the bar area.
Brief Description: Resolutions for the Plymouth Road trail project (Amy Lane to Hilloway Road)

Recommended Action: Adopt the resolutions

Background

The Trail Improvement Plan identified Plymouth Road (County Road 61), from Minnetonka Boulevard north to Hilloway Road, as a high priority corridor. Completing this trail segment allows connectivity to the Ridgedale Center area as well as the Lake Minnetonka Regional trail, local trails and sidewalks, schools, and parks. In August 2016, staff began work on a feasibility study for the consideration of this proposed trail segment in partnership with Hennepin County, with each organization funding 50 percent of the study cost.

The Plymouth Road trail funding was included in the 2018-2022 CIP over two years, as follows:

- 2018 from Amy Lane to Hilloway Road
- 2019 from Minnetonka Boulevard to Amy Lane

On Aug. 14, 2017, council received the finalized feasibility report and authorized the preparation of plans and specifications for a new 8-foot wide off-road multi-use bituminous trail on the east side of Plymouth Road, from Minnetonka Boulevard north to Hilloway Road. This corridor is approximately 1.5 miles long and will connect the Minnetonka Mills/Lake Minnetonka LRT Regional Trail to the Ridgedale Mall area.

The feasibility report recommended the trail be located on the east side of the road for the following reasons: the existing trail north of the project area is on the east side, the existing connections on Cedar Lake Road are on the east side, fewer utility conflicts, fewer impacts to driveways and private landscaping, and connections to the existing school, library, and Minnetonka Mills businesses are on the east side, thus minimizing roadway crossings.

Final plans and specifications are being prepared and bid in two separate phases. Phase 1 includes the trail north of Amy Lane to Hilloway Road and phase 2 includes the trail south of Amy Lane to Minnetonka Boulevard.

At this time, plans and specifications for phase 1 are prepared and ready for bid consideration.

Proposed Improvements: Phase 1

Phase 1 improvements include a new 8-foot wide off-road multi-use bituminous trail with a 4-foot wide grass boulevard matching into the existing bituminous curb. Grading, tree removal, and impacts to driveways and landscaping of adjacent properties are needed to construct the trail to meet Hennepin County standards; however, these impacts have been minimized. Stormwater regulations require stormwater treatment/ponding along the new trail corridor of phase 1 or phase 2. A potential stormwater pond location was identified during the phase 1
design in the southeast corner of Plymouth Road and Hilloway Road. At this time, the pond is currently planned for construction with phase 2; however, staff is further evaluating alternate locations in phase 2.

Potential crosswalk locations in phase 1 were reviewed with Hennepin County during final design and it was determined to not stripe across Plymouth Road, or side streets due to acceptable sightlines and potential for numerous crossing locations.

**Overhead Power Burial**

On Aug. 14, 2017, council executed an agreement with Xcel Energy for the burial of overhead power on Plymouth Road from Hilloway Road to Woodbridge Trail with the goal to complete burial in advance of trail construction. At this time, Xcel Energy has finalized the burial work and will be removing the poles this spring.

Staff is also coordinating with Xcel on a second phase of overhead power burial from Woodbridge Trail to Minnetonka Boulevard. This burial work is planned for later this fall and will be complete prior to the second phase of trail construction. It is anticipated that an agreement for this work will be presented to council for consideration later this year.

**Public Input**

An informational meeting was held on July 20, 2017. In addition to the webpage notification of the meeting and an article published citywide in the Minnetonka Memo, approximately 419 mailers were sent directly to residents and businesses in the area. Staff also installed signs in three locations (readable in both north and south directions) along the east side of Plymouth Road in the proposed trail location indicating the “Proposed Trail” and providing signup information for project updates. Currently 242 subscribers have signed up.

Approximately 45 residents attended the meeting and staff presented a concept layout of the proposed trail project in a short presentation. Staff discussed how trail projects are very intensive and disruptive to adjacent properties and that this project will require tree removal and impacts to properties including landscaping and driveways. Following the presentation and general questions, city and Hennepin County staff provided an open house format to take one-on-one feedback from residents. Residents were generally very supportive of the project.

At the meeting, staff further presented information on the different ways to stay informed during construction. As they have for other city projects, staff will use various strategies to provide updates, including signage, text alerts, email updates, citizen alerts, and newsletters.

**Estimated Project Costs and Funding**

The total estimated construction cost for phase 1, including contingency, is $220,000. The total expenses for phase 1 and phase 2 are also shown below as a combined cost since it more accurately represents the scope of the entire trail project.

The total estimated construction cost for both phases, including engineering, administration, and contingency is $3,195,000. The budget amount for the project is shown below and is included in the 2018–2022 CIP. The budget for the park and trail improvement fund will be reviewed as final
estimates are completed and potential adjustments as well as amendments to the adopted capital plan can be considered during the development of the 2019-2023 CIP.

On Aug. 1, 2017, the city received a 2017 Hennepin County Bikeway Participation program grant for the construction of the trail on the east side of Plymouth Road from Amy Lane to Hilloway Road, to be constructed in 2018, in the amount of $100,000, the maximum amount possible for this grant.

On Feb. 16, 2018, city staff submitted a grant application to Hennepin County for the 2018 Hennepin County Bikeway Participation program. If awarded, the grant would provide a maximum of $100,000. This application is specific to the phase 2, Amy Lane to Minnetonka Boulevard. The grant application process requires a resolution of support from council.

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Schedule

If the recommended actions are approved by council, staff is planning to open bids for phase 1 on April 20 with intentions of council consideration to award the contract on April 30. Trail construction on phase 1 is expected to begin in early summer and be complete by fall.

Recommendation

1) Adopt the attached resolution accepting plans and specifications and authorizing the advertisement for bids for the Plymouth Road trail project from Hilloway Road to Amy Lane, Project No.19206.

2) Adopt the attached resolution of support for the construction of a trail on Plymouth Road, from Amy Lane to Minnetonka Boulevard.

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

Originated by:
Phil Olson, PE, Assistant City Engineer
RESOLUTION NO. 2018-  
Resolution accepting plans and specifications 
and authorizing the advertisement for bids for the 
Plymouth Road trail project from Hilloway Road to Amy Lane

Be It Resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. Pursuant to city council authorization on Aug. 14, 2017, plans and specifications have been prepared by and/or under the direction of the city engineer who is a Licensed Professional Engineer in the State of Minnesota for the Plymouth Road trail project.

1.02. The plans and specifications for the construction of the aforementioned project have been presented to the city council for approval.

Section 2. Council Action.

2.01. The plans and specifications, copies of which are on file in the engineering department, are hereby accepted upon the recommendation of the city engineer.

2.02. The city clerk shall prepare and cause to be inserted in the official newspaper and in Finance & Commerce an advertisement for bids for the making of such improvements under such approved plans and specifications. The advertisement shall specify the work to be done, shall state that bids will be opened and read aloud at 10:00 a.m., local time, on April 20, 2018, in the Council Chambers at the Minnetonka City Hall, and that no bids will be considered unless sealed and filed with the clerk and accompanied by a cash deposit, cashier's check, bid bond or certified check made payable to the city clerk for five (5) percent of the amount of the bid.

Adopted by the City Council of the City of Minnetonka, Minnesota, on March 19, 2018.

Brad Wiersum, 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 March 19, 2018.

David E. Maeda, City Clerk
Resolution No. 2018-

Resolution for support of grant application for Plymouth Road Trail from Amy Lane to Minnetonka Boulevard

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

Section 1. Background.

1.01. Plymouth Road is identified as a high priority trail gap by the City of Minnetonka and as a planned off-street bikeway in the Hennepin County Bicycle Transportation Plan.

1.02. A feasibility report has been completed for a new trail on the east side of Plymouth Road, from Minnetonka Boulevard to Hilloway Road.

Section 2. Council Action.

2.01. The city supports the construction of new trail on the east side of Plymouth Road, from Amy Lane to Minnetonka Boulevard as outlined in the Plymouth Road Feasibility Study.

2.02. The city will fund the required local match amount for construction of this trail segment.

2.03. The city supports the Hennepin County Bikeway Participation Application for construction of this trail project.

Adopted by the City Council of the City of Minnetonka, Minnesota, on March 19, 2018.

Brad Wiersum, 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 March 19, 2018.

_____________________________________
David E. Maeda, City Clerk
City Council Agenda Item #14B
Meeting of March 19, 2018

Description
Appeal of peddler/solicitor license denial for Steven J Brown

Recommendation
Uphold the denial of the license

Background
On February 22, 2018, Steven Brown applied for a peddler/solicitor license in Minnetonka. One of the questions on the city application states “Have you ever been convicted of any crime – other than petty traffic violation?” Mr. Brown answered “no”. As part of the process to approve or deny a peddler license, staff reviews the background of each application. Upon research of above applicant, a couple of incidents were discovered that were gross misdemeanors. Based on that information, staff denied the application due to omission of material information as pertaining to city code Section 630.025 subdivision 5, which states that people are not eligible for a license if they have omitted required information. The applicant was notified verbally and in writing regarding the reason for denial and was informed that he could appeal the decision in writing to the city council, if desired. The applicant requested the council review the decision.

Appeal
On March 8, 2018, staff received a note from the applicant requesting an appeal.

The council has two procedural choices. The council can refer the item to an administrative law judge to assess the facts and make a recommendation to the council or the council can make a decision. In this instance, the facts are uncomplicated, and the appeal hearing should be relatively simple for the council to conduct. The council must provide the applicant an opportunity to dispute whether he omitted information from his application or, if he does not dispute that he omitted information, to explain the omission and mitigating circumstances, if any.

Staff Recommendation
Staff recommends the council make a decision to uphold the denial, based on the omission of information contained in the applicant’s background.

Submitted through:
Geralyn Barone, City Manager

Originated by:
Kathy Leervig, Community Development Coordinator
Julie Wischnack, AICP, Community Development Director
Dear Ms. Wischnak,

I, Steven J. Brown, choose to pursue my right of appeal before the City Council at the earliest possible date.

Thank you for your attention,

Steven
March 29, 2018

Chris Ahlquist
The Window Store Home Improvements Inc.
2924 Anthony Lane, Suite 115
St. Anthony, MN 55418

Dear Chris:

RE: Application for Peddler/Solicitor License – Steven J. Brown

The above named applicants for a Peddler/Solicitor license in the City of Minnetonka are denied for the following reason(s):

☒ The application submitted contained incomplete application, falsified information, omitted material information, damaged identification, missing items.

City Code Section §630.025 Subd.5
The following people are not eligible for a license and identification card from the city:
A person who has falsified information, or omitted material information, required by this section.

☐ Applicants were charged or convicted with a crime that adversely reflects on the ability to honestly, safely, or lawfully conduct the regulated activities and cannot show sufficient evidence of rehabilitation (MN Stat. 364.03, subd. 3) within three years before the application date.

☐ A license for the regulated activity was denied or revoked by a city or another governmental body within three years before the application date.

☐ Other:

You have the right to appeal this denial by submitting a written request to me within ten days of the date of this letter asking to address the city council.

Sincerely,

Julie Wischnack, AICP
Community Development Director
(952) 939-8282
Jwischnack@eminnetonka.com

cc: Steve J Brown
Peddler & Solicitor License
Application
For-Profit Applicants

This application form requests information which may be classified as private or confidential under the Minnesota Data Practices Act. This information is required by State law or City ordinance. Failure to provide accurate information can result in a denial of the license.

<table>
<thead>
<tr>
<th>Applicant Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
</tr>
<tr>
<td>Address</td>
</tr>
<tr>
<td>Social Security Number</td>
</tr>
<tr>
<td>Date of Birth</td>
</tr>
<tr>
<td>State Driver's License Number or State Issued ID Card number or Tribal Identification Card number</td>
</tr>
<tr>
<td>State where the license/ID was issued</td>
</tr>
<tr>
<td>Have you ever been convicted of any crime – other than petty traffic violation?</td>
</tr>
<tr>
<td>Have you applied for and been rejected, or received a peddler, solicitor, or canvassers license/permit and had it suspended or revoked within the state of Minnesota in the past three years?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Employer Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company Name</td>
</tr>
<tr>
<td>Company Phone Number</td>
</tr>
<tr>
<td>Company Address</td>
</tr>
<tr>
<td>Supervisor’s Name</td>
</tr>
<tr>
<td>Supervisor’s Phone Number</td>
</tr>
<tr>
<td>What product or service are you selling?</td>
</tr>
</tbody>
</table>
List below all the cities (or addresses within a larger city), where you or your company conducted business immediately preceding this application (maximum of 5), including the year that you were in these cities:

<table>
<thead>
<tr>
<th>City or Address</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>MPLS, ST PAUL, EDEN PRAIRIE, FAIDLEY, PLYMOUTH</td>
<td></td>
</tr>
</tbody>
</table>

List below the dates in which you will be soliciting in Minnetonka:

<table>
<thead>
<tr>
<th>Dates</th>
<th>Days of the week</th>
<th>Time on each day</th>
</tr>
</thead>
<tbody>
<tr>
<td>2/25/18 - 2/25/19</td>
<td>M-F</td>
<td>9:00 - 11:00 - 4:00 - 8:00</td>
</tr>
</tbody>
</table>

List below the vehicle information for the proposed activity:

<table>
<thead>
<tr>
<th>Year, Make, Model and Color of Vehicle(s)</th>
<th>License Plate Number(s) &amp; State</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998 PONTIAC BONNEVILLE GREEN</td>
<td>729 PLY</td>
</tr>
</tbody>
</table>

You must sign below in front of a Notary Public. Notary Publics are available at City Hall.

I hereby authorize the City of Minnetonka to have access to all sources of information that may be consulted to verify the information I have provided above. This includes authorization to check criminal history records if I have been asked to provide that information.

I agree to operate such business in accordance with the laws of Minnesota and the ordinances of the City of Minnetonka. The foregoing statements are true and correct to the best of my knowledge and belief.

Signature of Applicant: ___________________________  Date: 2/22/18

Subscribed and sworn to before a Notary Public on this 22 day of February, 2018.

(Notary Signature) ___________________________  My commission expires on: January 31, 2021

Notary Seal:

[Image]
**Narrative**

RECEIVED A TIP THAT STEVEN BROWN REGULARLY DRIVES HIS MOTHER-IN-LAWS VEHICLE CONTRARY TO THE CANCELLED STATUS OF HIS DRIVER'S LICENSE. LEARNED THAT BROWN SPECIFICALLY DOES NOT DRIVE THE VEHICLE WITH SPECIAL SERIES LICENSE PLATES (WX) AND IGNITION INTERLOCK. ENLISTED THE ASSISTANCE OF THE PD INTERN TO MONITOR BROWN'S STREET ON 11/22/13. AT 1609 HOURS, PD INTERN ADVISED THAT MALE MATCHING BROWN'S DESCRIPTION DROVE AWAY FROM RESIDENCE IN TARGETED VEHICLE COORDINATED A STOP/ARREST OF THE DRIVER. BROWN WAS BOOKED AT MPD AND RELEASED. TEMPORARY REGISTRATION ISSUED FOR BENNEVILLE.

**Property**

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Record Type*</th>
<th>Description</th>
<th>Value</th>
<th>Recovered Date</th>
<th>Bin No.</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
<tr>
<td>4</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Record Type = S - Stolen, R - Recovered, E - Evidence, L - Lost, F - Found, B - Bail

**Legal**

[Signature]

[Date] - [State] - [Court]

1201 YALE PLACE #1104, MINNEAPOLIS MN 55403
Preliminary Information

On 11-15-2013 I received a telephone call from a Senior Managing Assistant Hennepin County Attorney regarding a Cancelled Imminent to Public Safety driver living in the city of Minnetonka. The Assistant Hennepin County Attorney advised that the subject is believed to routinely drive a vehicle that registers to another family member and is not outfitted with an Ignition Interlock Device.

Officer Actions/Observations

I did/observed the following:

- Verified the information received from the Hennepin County Attorney’s Office.
- Learned that Steven James Brown resides at 4810 Royal Oaks Drive in Minnetonka and is associated with a Nissan SUV MN Registration WE 4000.
- Learned that Minnetonka Police Officers were familiar with Brown and have arrested him in the past for Driving After Cancellation, Imminent to Public Safety.
- Verified that there was another vehicle at 4810 Royal Oaks Drive in the driveway with MN Registration VAD 687, a green 1998 Pontiac Bonneville that Registers to Carol Marie Inz from Minneapolis, MN.
- Learned that Steven James Brown’s wife is Jennifer Inz, and believed that Carol Marie Inz could be her mother.
- Requested the use of the Minnetonka Police Department Intern on 11-22-2013 between 1200-1700 hours for a surveillance detail on Royal Oaks Drive.
- Received approval to use the PD Intern and communicated the rules of engagement regarding the detail.
- Deployed the PD Intern on Royal Oaks Drive several houses away from 4810, but in a position to observe the vehicles entering/leaving the residence.
- At 1609 hours received radio traffic from the PD Intern that a male was leaving the residence in the green Pontiac Bonneville with MN Registration VAD687.
- Advised that the PD Intern follow the vehicle at a safe distance and radio the current location until squads could intercept.
- Heard radio traffic between the PD Intern and Officer Buttke and Sergeant Petersen. Heard that the vehicle was intercepted and stopped just into the City of Hopkins.
- Went to the stop location and verified that Steven James Brown was arrested for DAC IPS.
- Oversaw the Impound and license plate removal of the 1998 Pontiac Bonneville. Verified that there was no Ignition Interlock Device installed on the Pontiac Bonneville that Brown was driving.
- Assisted with the booking/release process for Brown.

Disposition

- Request Formal Complaint Charges for DAC IPS and Fail to Use Ignition Interlock Device against Steven Brown.
- Temporary 45 day registration issued for the Bonneville.
On November 15, 2013 I was in the Minnetonka Police Sergeant's office when I overheard a telephone call answered by my partner, Sgt. D. Riegert. Sgt. Riegert was talking to someone about resident Steven Brown who is Cancel IPS.

Officer Observations/Actions:

- I told Sgt. Riegert that I am familiar with Steven Brown and have arrested him several times in the past.
- Sgt. Riegert stated that a Senior Managing Assistant Hennepin County Attorney had called to report that Brown was still driving cancelled IPS and may now be using a relative's vehicle.
- I stated that the vehicle most likely was going to be a green Pontiac Bonneville which I had noticed appeared several months ago in the driveway at Brown's residence. (4810 Regal Oaks Drive.)
- I had run the registration and knew the Pontiac registered to an older female with the last name Inz.
- I know Brown's wife uses the same last name. (Jennifer Inz)
- I am familiar with Jennifer Inz because she was once called to a traffic stop I made with Steven Brown. Inz was needed to drive the vehicle away since Brown was at that time in violation of his limited DL.
- On that date, I verified/identified Inz by her MN DL prior to allowing her to take custody of Brown’s vehicle.
- Familiar with Brown, I provided some details on Brown's driving habits to Sgt. Riegert and the Minnetonka Police intern utilized to monitor Brown.
- Brown was monitored on November 22, 2013 by the police intern who at 1609 hours, radioed that he was following who he believed was the suspect driving the Bonneville.
- Officer Buttke and I responded.
- I radioed Officer Buttke Brown's physical description.
- Officer Buttke initiated a traffic stop as I arrived.
- I could see the male driver of the Pontiac Bonneville, MN registration VAD687 was indeed Steven Brown.
- I approached Brown and stated the reason for the stop adding that 'he knew he wasn't allowed to be driving.'
- Brown immediately (recognizing me as well) stated "I know, but I've got to get to work."
- I commented he needed to take a bus, take a taxi or get a ride from someone else and Brown replied, "No buses run near my home." (Brown lives about one block from Excelsior Boulevard where buses run consistently.)
- I placed Brown under arrest for Cancel IPS, had him step out of the vehicle and searched/handcuffed him.
- Brown was secured in the rear of Officer Buttke's vehicle who assisted with transport and booking.
Sgt. Riegert and Officer Thoele arrived and assisted with the impound of the vehicle Brown was driving.
I responded to the Minnetonka Police Department and booked Brown.
Brown declined to answer questions under Miranda.
Brown made a phone call to his wife who I could hear plainly as she spoke in an upset, loud tone.
Brown's wife (Jennifer Inz) who he also referred to as his attorney questioned Brown by asking him "Is it that same female again?!"
I know Inz was referring to me as I have arrested Brown several times. Brown lost his limited DL status and became Cancelled IPS following my arrests.
Brown confirmed that it was indeed me that was involved in his arrest.
Brown's conversation with his wife regarding my involvement in his arrests seemed to blame me rather than address his illegal actions in driving.
Brown requested to speak with a Sergeant and she responded to the Minnetonka Police Department.
Sgt. Riegert spoke with Jennifer Inz.
Inz brought proof of insurance for the vehicle Brown was stopped in with her to the police department. (See attached copy.)
A review of the insurance policy shows both Steven Brown and Jennifer Inz were listed as insured parties on the Pontiac Bonneville effective July 13, 2013.
Brown was released pending complaint at the request of his wife so that he might be able to maintain his job. Brown was en route to work at the time of the stop and had only been employed with this new employer for 4 days.
Both Brown and Inz were notified that Brown would be held and charged in custody if arrested again driving cancel IPS considering he has continued to violate the law despite repeated arrests. Both Brown and Inz agreed to that condition.
Brown was released.

Disposition:

- Request formal complaint charges on Brown for GM Cancel IPS and failure to use an Ignition Interlock Device as required by law.
Case Number: 13-4596

**Supplemental Report:**

On 11-22-2013 around 1200 hours I was working under the supervision of Sgt. Riegert with the Minnetonka Police Department. My assignment was to conduct surveillance on 4810 Royal Oaks Drive and notify my supervisor of any activity involving a male, approximately 5'8" and 200lbs with brown hair, arriving or departing the residence in a green Pontiac Bonneville LIC# VAD687.

I was driving a city-owned, silver Ford Freestyle. As I arrived at the location I observed two vehicles in the driveway of the home one I identified as the Green Pontiac LIC# VAD687. I drove past the house and positioned my vehicle on Royal Oaks so that I could have a constant line of sight on the green Pontiac parked in the driveway. I sat in the back seat of my vehicle and observed the residence. At approximately 1630 hours I observed a heavy set male with brown hair walking out of the home on Royal Oaks Drive. I observed the male enter the green Pontiac and back out of the driveway onto Royal Oaks. I radioed my supervisor and notified him that the vehicle was leaving the residence. I followed the vehicle at a safe distance as the driver turned east onto Pioneer Road. The driver continued onto County Road 3. I continued updating the responding units of my location. The first officer to respond took over at the intersection of Shady Oak and Excelsior Blvd.

I am currently working as an Intern with the Minnetonka Police Department.

MPD 003  01/95    Matthew Palumbo    Date 11-22-2013
MINNETONKA POLICE DEPARTMENT
CONTINUATION REPORT

MN0271200
CASE 13-004596

Officer J. Buttke #127
Supplement report

On 11/22/2013 at 1609 hours, Sgt. Riegert advised that he wanted an officer to stop a vehicle/driver, later identified as Steven James Brown, [redacted] who showed a cancelled-IPS driving status and was being followed by our Minnetonka police intern (later learned that the police intern was watching the suspect address/vehicle for him to be driving).

OFFICER OBSERVATIONS/ACTIONS:

- The police intern advised that they were traveling EB on CR 3 from the area of Pioneer Rd.
- I caught up with the intern (recognized as driving a silver Ford Freestyle belonging to the Minnetonka Police Department) at the intersection of CR 3 and Shady Oak Rd.
- Sgt. Petersen, who is familiar with Brown and can positively identify him, also assisted.
- I was two vehicles behind the suspect vehicle.
- Sgt. Petersen provided me with a description of the suspect via the radio.
- At the intersection of CR 3 and 5th Ave. S in Hopkins at a red light, I drove up alongside the passenger side of the suspect vehicle to look at the suspect.
- The suspect driver, later identified as Brown, noticed me and turned to look at me.
- The driver matched the description given by Sgt. Petersen (wearing sunglasses).
- I initiated a traffic stop on the vehicle at CR 3 at Hwy 169.
- The driver pulled into the Depot Coffee Shop, just to the east of Hwy 169.
- Sgt. Petersen arrived, positively identified Brown and told me the following:
  - She was tipped off by the Hennepin County Attorney's office that Brown's wife, an assistant Hennepin County Attorney's husband had a cancelled-IPS driving status and was circumventing the police by driving a relative's vehicle.
  - Brown has a history of driving on a cancelled-IPS driving status.
- Sgt. Petersen addressed Brown on the traffic stop.
- Sgt. Petersen placed Brown under arrest for DAC-IPS, secured him in my patrol car and asked me to transport him to the Minnetonka Police Department for booking.
- I removed Brown's license plates and entered them into evidence for destruction.
- I transported Brown to the police department and assisted booking him.

DISPOSITION:

- Supplement report.
Minnetonka Police Department
INMATE PROPERTY

Property Officer: Confirm identity of suspect or inmate before releasing any property.

Name: BROWN, STEVEN JAMES

DOB: [redacted]

Case Number: 13004596

Booking Date: 11/22/2013 / 1639

Booking Number: 13A-6018

TO ______________ FROM ______________ DATE ___________

TO ______________ FROM ______________ DATE ___________

TO ______________ FROM ______________ DATE ___________

PROPERTY LIST

# (612) 257-3625
<table>
<thead>
<tr>
<th>Incident</th>
<th>Time</th>
<th>Type</th>
<th>Fri Dispo</th>
<th>Address</th>
<th>Bldg Apt</th>
<th>Callers Name</th>
<th>Callers Address</th>
<th>Callers Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>M131122-041145</td>
<td>16:09</td>
<td>TS</td>
<td>1</td>
<td>301 OUTOFAREA WAY</td>
<td></td>
<td>PCW</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Date: 11/22/13  Time: 16:21

---

**Incident Recall**

13/11/22 16:09 Primary Event: MAIN Opened: 13/11/22 16:09
13/11/22 16:09 Incident Initiated By: M1/ROEHLKE, JEAN
13/11/22 16:09 Plate Number CHANGED To: MN-VAD687
13/11/22 16:09 Initial Field Initiate by M1/16A at 16:09:26 on 13/11/22
13/11/22 16:09 Stat M1/16A AR Loc: HOPKINS M1
13/11/22 16:09 Officer 1 Name: BUTTKE, JACK W Officer 2 Name:
13/11/22 16:09 Primary Unit CHANGED To: M1/16A
13/11/22 16:09 3 UNDER 169
13/11/22 16:10 Stat M1/6A DI Loc: HOPKINS M1
13/11/22 16:10 Officer 1 Name: PETERSEN, SHELLEY Officer 2 Name:
13/11/22 16:10 Stat M1/6A AR Loc: HOPKINS M1
13/11/22 16:10 Officer 1 Name: PETERSEN, SHELLEY Officer 2 Name:
13/11/22 16:12 Unit M1/16A Timed Out
13/11/22 16:12 Officer 1 Name: BUTTKE, JACK W Officer 2 Name:
13/11/22 16:12 Unit M1/6A Timed Out
13/11/22 16:13 Officer 1 Name: PETERSEN, SHELLEY Officer 2 Name:
13/11/22 16:14 Stat M1/6A C4 Loc: HOPKINS M1
13/11/22 16:14 Officer 1 Name: PETERSEN, SHELLEY Officer 2 Name:
13/11/22 16:14 Stat M1/16A C4 Loc: HOPKINS M1
13/11/22 16:14 Officer 1 Name: BUTTKE, JACK W Officer 2 Name:
13/11/22 16:16 WATT'S NOTIFIED
13/11/22 16:16 Report Num: Fmt-05 LM1311222004596 - ADDED TO EVENT ForM1/16A
13/11/22 16:16 Stat M1/16A EN Loc: HOPKINS M1
13/11/22 16:17 Officer 1 Name: BUTTKE, JACK W Officer 2 Name:
13/11/22 16:17 Stat M1/16A AR Loc: HOPKINS M1
13/11/22 16:17 Officer 1 Name: BUTTKE, JACK W Officer 2 Name:
13/11/22 16:18 16A AD MALE MILES 68652 -
13/11/22 16:18 Stat M1/16A BK-BOOKING Loc: ENR BOOKING
13/11/22 16:18 Officer 1 Name: BUTTKE, JACK W Officer 2 Name:
13/11/22 16:19 BROWN, STEVEN JAMES

---

**Vehicle / Subject Information**

13/11/22 16:09 Vehicle:: Role:VS01 Color: Year: Make: Model:
13/11/22 16:09 Style: Plate:VAD687 State:MN Type:
13/11/22 16:09 Misc:

**SELECTION CRITERIA:** LM1311222041145

***** End of Report *****
NOTICE AND ORDER OF LICENSE PLATE IMPOUNDMENT

Date of Incident: 11/22/2013

Enforcement Agency: MINNEAPOLIS PD.

Name of Driver: STEVEN JAMES BROWN

Address: 4810 ROYAL OAKS DR

City: MINNEAPOLIS

PLATE #: VAD 687

List all other Minnesota Plates of Driver to be surrendered/destroyed

Minnesota Statute 169A.60, requires that an order of impoundment of vehicle license plates be issued if the violation is:

1. [ ] a second violation of either
   [X] M.S.169A.20 (Driving while Impaired) or
   [ ] M.S.169A.52 (License revocation for test failure or refusal)
   occurring within ten years of a previous violation of M.S. 169A.20 or 169A.52 or a statute or ordinance from another state in conformity with either section

2. [ ] a license disqualification under M.S. 171.165 (commercial driver's license disqualification)
   resulting from a violation of M.S. 169A.52 within ten years of a qualified prior incident

3. [ ] a violation of M.S. 169A.20 or 169A.52 while having an alcohol concentration that is twice the legal limit (currently 0.16) or more as measured at the time, or within two hours of the time, of the offense

4. [ ] for a violation of M.S. 169A.20 or 169A.52 while having a child under the age of 16 in the vehicle if the child is more than 36 months younger than the offender

5. [X] a violation of M.S. 171.24 (Driving without valid license) by a person whose driver's license or driving privileges have been canceled under M.S. 171.04, subdivision 1, clause (10)
   (Persons not eligible for driver's license, Canceled: Inimical to Public Safety CANC-IPS)

Within 7 days the plates on all motor vehicles owned, co-owned, registered, or leased in the name of the above named Driver must be surrendered or disposed of

IMPORTANT: Please read the instructions and notices on the reverse side of the VEHICLE and OPERATOR copies
Offender Tracking Form

Purpose: 1) Supply the prosecuting authority with the necessary data, when applying for an Adult Felony, Gross or Targeted Misdemeanor and Juvenile Felony and Gross Misdemeanor complaint/petition (you may also use this form to report Misdemeanor data); 2) Supply the BCA with disposition information if a formal complaint is NOT issued; 3) Allow the prosecutor to report diversion data; 4) Supply the court with charging information

| Last Name | Brown |
| Last Name | James |

Were Fingerprints Submitted to BCA?  ☑  Yes  □  No  Prosecutors: If this box is checked “No”, please make a Rule 5.01 motion to have fingerprints taken. If fingerprints are not taken and submitted to the BCA there will be no criminal history record of this arrest.

Does the subject hold a Minnesota permit to carry a pistol? (Run a QPC query)  ☑  Yes, Valid Permit on File  □  No Permit on File

Law Enforcement Agency: Complete when applying for a criminal complaint or petition and submit with your case to the prosecuting attorney.

<table>
<thead>
<tr>
<th>Controlling Agency NCIC Identifier (CAG)</th>
<th>Controlling Agency Case Number (OCA)</th>
<th>MN State Statute</th>
<th>Charge Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>MN0791200</td>
<td>13004596</td>
<td>171.24 (5)</td>
<td>GM DACIPS</td>
</tr>
</tbody>
</table>

Prosecutor: Check the Appropriate Box When a Felony or Gross Misdemeanor Complaint Will Not Be Issued

<table>
<thead>
<tr>
<th>Complaint Denied</th>
<th>Refer to City Attorney</th>
<th>Misd. Tab Citation Issued</th>
<th>Prosecuted in Another Jurisdiction</th>
<th>Other</th>
</tr>
</thead>
</table>

New Alias Names: Law Enforcement or Prosecutor: Please report alias names not shown on the subject’s criminal history record. Do not include alias names previously reported to the BCA.

<table>
<thead>
<tr>
<th>Last Name</th>
<th>First Name</th>
<th>Middle Name (leave blank if NMN)</th>
</tr>
</thead>
</table>

To Be Completed by Prosecutor When the Defendant is Placed on Pre-Trial or Pre-Petition Diversion

Pursuant to (Check Appropriate Statute)  ☑  M.S.A. 401.065, Subd. 3a (Adult)  ☑  M.S.A. 388.24, Subd. 4 (Juvenile)

Prosecutor Contact Information

<table>
<thead>
<tr>
<th>County/City Attorney Name</th>
<th>Atty. File Number</th>
<th>Phone ( )</th>
<th>FAX ( )</th>
<th>Comment:</th>
</tr>
</thead>
</table>

Distribution: Prosecutor Send White Copy to BCA MNJIS Section Only if Subject is Not Prosecuted, Begins, Completes or Fails to Complete Pre-Trial or Pre-Petition Diversion
Canary - Prosecuting Attorney  Blue - Controlling Agency  Pink - Court  Green - Other

Minnesota Department of Public Safety, Bureau of Criminal Apprehension - Minnesota Justice Information Services (MNJIS) Section
1430 Maryland Avenue, St. Paul, MN 55106-2802  Phone (651) 793-2400  Fax (651) 793-2402
### Offender Tracking Form

**Purpose:**
1. Supply the prosecuting authority with the necessary data, when applying for an Adult Felony, Gross or Targeted Misdemeanor and Juvenile Felony and Gross Misdemeanor complaint/petition (you may also use this form to report Misdemeanor data); 2. Supply the BCA with disposition information if a formal complaint is NOT issued; 3. Allow the prosecutor to report diversion data; 4. Supply the court with charging information.

#### Last Name
Brown

#### First Name
Steven

#### Middle Name (leave blank if NMN)
James

#### Were Fingerprinted Submitted to BCA?
- [ ] Yes
- [x] No

**Prosecutors:** If this box is checked “No”, please make a Rule 5.01 motion to have fingerprints taken. If fingerprints are not taken and submitted to the BCA there will be no criminal history record of this arrest.

**Date of Arrest** (MMDDYYYY)
11/22/13

#### Does the subject hold a Minnesota permit to carry a pistol?
- [ ] Yes, Valid Permit on File
- [x] No Permit on File

#### Law Enforcement Agency
- **Complete when applying for a criminal complaint or petition and submit with your case to the prosecuting attorney.**

<table>
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<tr>
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<th>Controlling Agency Case Number (OCA)</th>
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<tbody>
<tr>
<td>MN 0271200</td>
<td>13002596</td>
<td>171.24 (f)</td>
<td>GM DACIPS</td>
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#### New Alias Names:
Law Enforcement or Prosecutor: Please report alias names not shown on the subject’s criminal history record. Do not include alias names previously reported to the BCA.

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<th>Middle Name (leave blank if NMN)</th>
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#### To Be Completed by Prosecutor When the Defendant is Placed on Pre-Trial or Pre-Petition Diversion
- [ ] Pursuant to (Check Appropriate Statute)
  - [ ] M.S.A. 401.065, Subd. 3a (Adult)
  - [ ] M.S.A. 388.24, Subd. 4 (Juvenile)
- [ ] Begin Diversion (MMDDYYYY)
- [ ] Expected Completion Date (MMDDYYYY)
- [x] Successfully Completed Date (MMDDYYYY)
- [ ] Removed From Program Date (MMDDYYYY)

#### Prosecutor Contact Information
- **County/City Attorney Name**
- **Atty. File Number**
- **Phone** ( )
- **FAX** ( )
- **Complaint Number**
- **Comment:**

**Distribution:**
- Prosecutor Send White Copy to BCA MNJIS Section Only if Subject is Not Prosecuted, Begins, Completes or Fails to Complete Pre-Trial or Pre-Petition Diversion
- Canary - Prosecuting Attorney
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- Green - Other

---

Minnesota Department of Public Safety, Bureau of Criminal Apprehension - Minnesota Justice Information Services (MNJIS) Section
1430 Maryland Avenue, St. Paul, MN 55106-2802  Phone (651) 793-2400  Fax (651) 793-2402
### Offender Tracking Form

**Purpose:** 1) Supply the prosecuting authority with the necessary data, when applying for an Adult Felony, Gross or Targeted Misdemeanor and Juvenile Felony and Gross Misdemeanor complaint/petition (you may also use this form to report Misdemeanor data); 2) Supply the BCA with disposition information if a formal complaint is NOT issued; 3) Allow the prosecutor to report diversion data; 4) Supply the court with charging information.

<table>
<thead>
<tr>
<th>Last Name</th>
<th>First Name</th>
<th>Middle Name (leave blank if NMN)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brown</td>
<td>Steven</td>
<td></td>
</tr>
</tbody>
</table>

**Were Fingerprints Submitted to BCA?**
- [ ] Yes
- [ ] No

**Prosecutors:** If this box is checked “No”, please make a Rule 5.01 motion to have fingerprints taken. If fingerprints are not taken and submitted to the BCA there will be no criminal history record of this arrest.

**Date of Arrest (MMDDYYYY):** 11/22/13

**Does the subject hold a Minnesota permit to carry a pistol?**
- [ ] No Permit on File
- [ ] Yes, Valid Permit on File

<table>
<thead>
<tr>
<th>Law Enforcement Agency</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Complete when applying for a criminal complaint or petition and submit with your case to the prosecuting attorney.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Prosecution</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Check the Appropriate Box When a Felony or Gross Misdemeanor Complaint Will Not Be Issued</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Controlling Agency NCIC Identifier (CAG)</th>
<th>Controlling Agency Case Number (OCA)</th>
<th>MN State Statute</th>
<th>Charge Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>11102711200</td>
<td>13004596</td>
<td>171.24 (5)</td>
<td>GM DAPPS</td>
</tr>
</tbody>
</table>

**New Alias Names:** Law Enforcement or Prosecutor: Please report alias names not shown on the subject's criminal history record. Do not include alias names previously reported to the BCA.

<table>
<thead>
<tr>
<th>Last Name</th>
<th>First Name</th>
<th>Middle Name (leave blank if NMN)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

**Prosecutor Contact Information**

<table>
<thead>
<tr>
<th>County/City Attorney Name</th>
<th>Atty. File Number</th>
<th>Phone ( )</th>
<th>FAX ( )</th>
<th>Comment:</th>
</tr>
</thead>
</table>

**Distribution:** Prosecutor Send White Copy to BCA MNJIS Section Only if Subject is Not Prosecuted, Begins, Completes or Fails to Complete Pre-Trial or Pre-Petition Diversion

Canary - Prosecuting Attorney  Blue - Controlling Agency  Pink - Court  Green - Other

**Minnesota Department of Public Safety, Bureau of Criminal Apprehension - Minnesota Justice Information Services (MNJIS) Section**

1430 Maryland Avenue, St. Paul, MN 55106-2802  Phone (651) 793-2400  Fax (651) 793-2402
Minnetonka Police Department Incident Report

Date of Report: Monday, 08-01-14
Time of Report: 1245 hrs
Location of Offense: Minnetonka Blvd & Shady Oak Rd

Arrested
Name (Last, First, Middle): Brown, Steven James
Drivers License No.: M343-101-053310
Race: W
DOB: 1245 hrs
M
Hgt: 600
Wgt: 225
Eyes: GRN
Hair: BRO
Address: 4810 Royal Oaks Dr, Mika MN 55343
Residence Phone: Unk
Other phone: Unk

Vehicle
Registered Owner: Steven James Brown
Address: 4810 Royal Oaks Dr, Mika MN 55343
Phone: Unk

Narrative
While on routine patrol, I observed Veh #1 traveling westbound on Mika Blvd from Hopkins Crossroads. The driver matched the registered owner's physical description and the State Computer indicated his status was CANC-IPS. Traffic stop initiated. Driver identified by MN DL. Status confirmed by telephone with the Department of Motor Vehicles. Brown placed under arrest and transported to the Mika PD for booking. One MN Lic/WJ3053 recovered at the scene. Brown booked and released with a notice of license plate impoundment. Please review for formal complaint.

I have placed the above named person under citizens arrest and delivered this person to a police officer to be dealt with according to law.

I declare I am the responsible parent, guardian or legal caretaker of the above named missing person.

License Plate: WJ3053
Lic State: MN
Year: 2005
Make: Nissan
Model: Pathfinder
Style: 4 Door
Color: Blk
Towed by: Matt's

□ I have placed the above named person under citizens arrest and delivered this person to a police officer to be dealt with according to law.
□ I declare I am the responsible parent, guardian or legal caretaker of the above named missing person.

Item No. | Value | Recovered Date | Bin No.
--- | --- | --- | ---
1 | One MN Lic/WJ3053 | | |
2 | | | |
3 | | | |
4 | | | |

Property

Item No. | Date From | To | Receipt
--- | --- | --- | ---
1 | | | |
2 | | | |
3 | | | |
4 | | | |

Legal Court State: 8-2-11
8-2-11

Squad Video 401
386
Preliminary Information
On Monday, 08/01/2011, at 1245 hrs, I was on routine patrol in the area of Mtk Rd and Hopkins Crossroads. I observed a black Nissan Pathfinder traveling westbound on Mtk Rd from Hopkins Crossroads.

Arrested: Steven James Brown
DOB: [Redacted]

Veh #1: MN Lic/WJ3053
2005 Black Nissan Pathfinder

Officer Actions/Observations:
- I ran MN Lic/WJ3053 through the DMV/NCIC system and was advised that the driving status of the registered owner was Canc-IPS.
- Veh #1 was occupied by only the driver and he matched the physical description of the registered owner.
- I initiated a traffic stop by activating my emergency lights and Veh #1 pulled into the empty parking lot on the north side of Mtk Rd at Shady Oak Rd.
- I made contact with the driver and he was identified by MN D/L as Brown.
- Brown stated he had completed all the required steps to have his license reinstated and had installed an interlock into his Veh #1.
- I observed an interlock mechanism on the dashboard of Veh #1.
- Brown stated that Smart Start had installed the interlock and advised him that installation meant he was valid to drive.
- I made telephone contact with the Department of Motor Vehicles on the law enforcement line.
- I was advised that Brown’s status was CANC-IPS and he was not eligible for reinstatement until September 2011.
- I advised Brown that he was under arrest and handcuffed him with his hands behind his back; handcuffs were checked and double locked for safety.
- Veh #1 was secured and one MN Lic/WJ3053 was removed from the vehicle.
- I transported Brown to the Mtk PD for booking.
- Brown was booked and released pending formal review for charges of Driving After Cancellation-IPS.

Disposition:
- Request formal review of Brown for the charge of:
  - Driving After Cancellation-IPS – 171.24 .5
- One MN Lic/W3053 recovered and entered into evidence.
- Notice and Order of License Plate Impoundment issued.
- Brown booked and released from the Mtk PD.
NOTICE AND ORDER OF LICENSE PLATE IMPOUNDMENT

Date of Incident: 08/10/2011

Enforcement Agency: MNKPD

Name of Driver: James Brown

Address: 4810 Royal Oaks Dr

City: MNK

PLATE #: 605053

State: MN

Ticket or Case #: 11-2782

Court: Hennepin

DOB: [Redacted]

D/L #: [Redacted]

State: MN Zip: 55343

List all other Minnesota Plates of Driver to be surrendered/destroyed:

Minnesota Statute 169A.60, requires that an order of impoundment of vehicle license plates be issued if the violation is:

1. ☐ a second violation of either
   ☐ M.S.169A.20 (Driving while Impaired) or
   ☐ M.S.169A.52 (License revocation for test failure or refusal),
   occurring within ten years of a previous violation of M.S. 169A.20 or 169A.52 or a statute or ordinance from another state in conformity with either section

2. ☐ a license disqualification under M.S. 171.165 (commercial driver's license disqualification) resulting from a violation of M.S. 169A.52 within ten years of a qualified prior incident

3. ☐ a violation of M.S. 169A.20 or 169A.52 while having an alcohol concentration that is twice the legal limit (currently 0.16) or more as measured at the time, or within two hours of the time, of the offense

4. ☐ a violation of M.S. 169A.20 or 169A.52 while having a child under the age of 16 in the vehicle if the child is more than 36 months younger than the offender

5. ☑ a violation of M.S. 171.24 (Driving without valid license) by a person whose driver's license or driving privileges have been canceled under M.S. 171.04, subdivision 1, clause (10)
   (Persons not eligible for driver's license, Canceled: Inimical to Public Safety CANC-IPS)

Within 7 days the plates on all motor vehicles owned, co-owned, registered, or leased in the name of the above named Driver must be surrendered or disposed of.

IMPORTANT: Please read the instructions and notices on the reverse side of the VEHICLE and OPERATOR copies.

---

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES DIVISION

(circle one) 7 / 45 - DAY TEMPORARY PERMIT

<table>
<thead>
<tr>
<th>Year</th>
<th>Make</th>
<th>License Plate Number</th>
<th>License Plate Expires</th>
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<tbody>
<tr>
<td>2005</td>
<td></td>
<td>605053</td>
<td>08/08/2011</td>
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</tbody>
</table>

DATE OF ISSUANCE: 08/01/2011

Enforcement Agency: MNKPD

The vehicle described above has been issued a special permit pursuant to Minnesota Statute 169A.60. This vehicle may be operated for the period indicated above from the date of issuance without displaying license plates.

INSTRUCTIONS ON REVERSE

ISSUING AGENCY COPY
MINNETONKA POLICE
Date: 08/01/11 Time: 13:04

INCIDENT RECALL

Incident Time Type Pri Dispo Address Bldg Apt Callers Name Callers Address Callers Phone
---------- ------- ------ ------- -------- ------ -------------- --------------- ---------------
M110801-026481 12:45 TS 1 MINNETONKA BLVD&SHADY OAK RD

Date Time
-------- -----
11/08/01 12:45 Incident Initiated By: M1/ROEHLKE, JEAN
11/08/01 12:45 Initial Field Initiate by M114A 12:45:50 on 08/01/11
11/08/01 12:45 Plate Number CHANGED To: MN-WJ3053
11/08/01 12:45 Stat M1/14A AR Loc: MINNETONKA BLVD&SHAD
11/08/01 12:45 Officer 1 Name: FORD, DARLENE L Officer 2 Name:
11/08/01 12:45 Primary Unit CHANGED To: M1/14A
11/08/01 12:45 Stat M1/13A DI Loc: MINNETONKA BLVD&SHAD
11/08/01 12:45 Officer 1 Name: JOHNSON, SAMANTHA J Officer 2 Name:
11/08/01 12:47 Stat M1/13A EN Loc: MINNETONKA BLVD&SHAD
11/08/01 12:47 Unit M1/13A Mileage Entered Odo: .
11/08/01 12:49 Unit M1/14A Timed Out
11/08/01 12:49 Officer 1 Name: FORD, DARLENE L Officer 2 Name:
11/08/01 12:57 .BROWN, STEVEN JAMES.19700122
11/08/01 12:58 BROWN, STEVEN JAMES.19700122
11/08/01 13:03 14 TP A/M TO 62
11/08/01 13:03 START MILES 402.4
11/08/01 13:03 Stat M1/13A AR Loc: MINNETONKA BLVD&SHAD
11/08/01 13:03 Officer 1 Name: JOHNSON, SAMANTHA J Officer 2 Name:
11/08/01 13:03 Stat M1/14A TP Loc: EN 62
11/08/01 13:03 Officer 1 Name: FORD, DARLENE L Officer 2 Name:
11/08/01 13:03 Unit M1/13A Mileage Entered Odo: .
11/08/01 13:03 Stat M1/13A CC
11/08/01 13:03 Dispo Non-Primary ADDED Desp: S By: M1/13A

==== Vehicle / Subject Information ====
-------- -----
11/08/01 12:45 Vehicle:: Role:VS01 Color: Year: Make: Model:
11/08/01 12:45 Style: Plate:WJ3053 State:MN Type:
11/08/01 12:45 Desc:
11/08/01 12:45 Prob. Cause: Search Typ: Searched: Property:
Property Officer: Confirm identity of suspect or inmate before releasing any property.

Name: BROWN, STEVEN JAMES

DOB: [redacted]

Case Number: 11002782

Booking Date: 12/30/1899

Booking Number: 11A-4852

PROPERTY LIST

TO ___________ FROM ___________ DATE ___________

TO ___________ FROM ___________ DATE ___________

TO ___________ FROM ___________ DATE ___________

TO ___________ FROM ___________ DATE ___________
<table>
<thead>
<tr>
<th>County/City / Attorney Name</th>
<th>Phone ( )</th>
<th>FAX ( )</th>
<th>First Name</th>
<th>Middle Name</th>
<th>Last Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plaintiff</td>
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<tbody>
<tr>
<td>Adult</td>
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<tr>
<td>Juvenile</td>
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<th>Law Enforcement Agency</th>
<th>Case Number (CA)</th>
<th>NCIC Identifier (CA)</th>
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<tr>
<th>Description of Charge</th>
<th>Crime Description</th>
<th>Charge Description</th>
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<tr>
<th>To Be Completed by Prosecutor When the Defendant is Placed on Pre-Trial or Pre-Petition Diversion</th>
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<table>
<thead>
<tr>
<th>Complaint Type (Check One)</th>
<th>Complaint Number</th>
<th>Crown City/County</th>
</tr>
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<tbody>
<tr>
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<table>
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<tr>
<th>Controlling Agency</th>
<th>Case Number</th>
<th>NCIC Identifier</th>
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<table>
<thead>
<tr>
<th>Control Number</th>
<th>Expiration Date</th>
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</thead>
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</table>

<table>
<thead>
<tr>
<th>Does the subject hold a Minnesota permit to carry a pistol? (Run a QPC Query)</th>
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</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>_motion: Yes</th>
<th>Were Fingerprints Submitted to BCA? (Supply the BCA with Disposition Information if a Criminal Motion to have Fingerprints Taken is NOT Issued)</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>No Fingerprints Taken. (Supply the BCA with Disposition Information if a Criminal Motion to have Fingerprints Taken is NOT Issued)</td>
</tr>
</tbody>
</table>

Offender Tracking Form

Pursuant to Minnesota Statutes section 609.15, subdivision 2, the Minnesota Bureau of Criminal Apprehension will make this information available to law enforcement agencies upon request.
<table>
<thead>
<tr>
<th>Date of Arrest (MM/DD/YY)</th>
<th>1/05/2020</th>
</tr>
</thead>
</table>

**Prosecutor Contract Information**

- **Name:** [Redacted]
- **Middle Name:** [Redacted]
- **Last Name:** [Redacted]
- **Case Number (CJA):** [Redacted]
- **NDOC Identification (CAG):** [Redacted]
- **Controlling Agency:** [Redacted]

**Law Enforcement Agency**

- **Prosecutor:** [Redacted]
- **Type (check one):** Adult
- **Check the appropriate box:** [Redacted]

**Arrest Information**

- **Date in Arrest:** 1/05/2020
- **Location:** [Redacted]
- **Charge Description:** [Redacted]
- **MN State Statute:** [Redacted]

**Complaint**

- **No Permit on File:** [Redacted]
- **Yes, Valid Permit on File:** [Redacted]

**Question**

- **Does the subject hold a Minnesota permit to carry a pistol? (Run a CPQ query):** [Redacted]
<table>
<thead>
<tr>
<th>Form Title: Offender Tracking Form</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Case Number</strong></td>
</tr>
<tr>
<td><strong>County/City Attorney's Name</strong></td>
</tr>
<tr>
<td><strong>Prosecutor Contact Information</strong></td>
</tr>
<tr>
<td><strong>Complainant Number</strong></td>
</tr>
<tr>
<td><strong>Complainant's Name</strong></td>
</tr>
<tr>
<td><strong>Phone ( )</strong></td>
</tr>
<tr>
<td><strong>Fax ( )</strong></td>
</tr>
<tr>
<td><strong>Address</strong></td>
</tr>
</tbody>
</table>

**Prosecutor's Report**

- **Subject's Name:** [Name]
- **Case Number:** [Number]
- **Prosecutor:** [Name]
- **Date of Arrest:** [Date]
- **Charge:** [Charge]
- **Complainant:** [Name]
- **Phone Number:** [Number]
- **Fax Number:** [Number]

**Offense Information**

- **Type of Offense:** [Type]
- **Date of Offense:** [Date]
- **Location:** [Location]

**Probation Information**

- **Probation Officer:** [Name]
- **Probation Start Date:** [Date]
- **Probation End Date:** [Date]

**Sentence Information**

- **Sentence Type:** [Type]
- **Sentence Length:** [Length]

**Misdemeanor Information**

- **Misdemeanor Number:** [Number]
- **Misdemeanor Description:** [Description]
- **Misdemeanor Date:** [Date]

**Probation Violation Information**

- **Probation Violation Number:** [Number]
- **Probation Violation Description:** [Description]
- **Probation Violation Date:** [Date]

**Other Information**

- **Other Information:** [Information]

**Signature**

- **Signature:** [Signature]
- **Date:** [Date]

**Certificate**

- **Certificate Number:** [Number]
- **Certificate Date:** [Date]

**Certified by:** [Name]

---

*Note: This form is provided for tracking purposes only and should not be used as legal documentation.*
STATE OF MINNESOTA  
COUNTY OF HENNEPIN  

State of Minnesota,  
Plaintiff,  

v.  
STEVEN JAMES BROWN (DOB: 11/27/1970)  
4810 Royal Oaks Drive  
Minnetonka, MN 55343,  
Defendant.  

CRIMINAL COMPLAINT  
☑ Summons  ☐ Warrant  
☐ Order of Detention  
☐ Amended  ☐ Tab Charge Previously Filed  

The Complainant, being duly sworn, makes complaint to the above-named Court and states that there is probable cause to believe that the Defendant committed the following offense(s) on July 29, 2010 in the City of Wayzata, Hennepin County, State of Minnesota:  

COUNT I  

Charge: THIRD DEGREE DRIVING WHILE IMPAIRED  
Minnesota Statute: § 169A.20 Subd. 1(1), 169A.26  
Maximum Sentence: 1 year and/or $3,000.00 fine  

Steven James Brown was driving, operating or in physical control of a motor vehicle while under the influence of alcohol, with one aggravating factor (having one qualified prior impaired driving incident within the ten years immediately preceding the current offense), in violation of the provisions of Minn. Stat. §169A.20-1(1), 169A.26  

COUNT II  

Charge: THIRD DEGREE DRIVING WHILE IMPAIRED - ALCOHOL CONCENTRATION OF .08 OR MORE  
Minnesota Statute: § 169A.20 Subd. 1(5), 169A.26  
Maximum Sentence: 1 year and/or $3,000.00 fine  

Steven James Brown was driving, operating or in physical control of a motor vehicle when his alcohol concentration at the time, or as measured within two hours of the time, was .08 or more, with one aggravating factor (having one qualified prior impaired driving incident within the ten years immediately preceding the current offense), in violation of the provisions of Minn. Stat. §169A.20, Subd. 1(5), 169A.26  

COUNT III  

Charge: ASSAULT IN THE FIFTH DEGREE  
Minnesota Statute: § 609.224, Subd. 1(2)  
Maximum Sentence: 90 days and/or $1,000.00 fine  

Steven James Brown did intentionally inflict or attempt to inflict bodily harm upon another, to-wit: Anthony
Joel Yves Herve, in violation of the provisions of Minn. Stat. §609.224, Subd. 1(2)

COUNT IV

Charge: DISORDERLY CONDUCT
Minnesota Statute: § 609.72 Subd. 1(3)
Maximum Sentence: 90 days and/or $1,000.00 fine

Steven James Brown did engage in offensive, obscene, abusive, boisterous and noisy conduct, in a public or private place, knowing or having reasonable grounds to know, that it will, or will tend to arouse alarm, anger or disturb others or provoke an assault or breach of the peace, in violation of the provisions of Minn. Stat. §609.72 Subd. 1(3)

STATEMENT OF PROBABLE CAUSE

The Complainant states that the following facts establish probable cause:

On July 29, 2010 at about 10:30 p.m. Anthony Joel Yves Herve and Tyler Van Wyhe met with Officer Peterson at the Wayzata Police Department regarding an assault that happened at Volnay Bistro in the City of Wayzata. Herve is the head chef, but was at the restaurant as a customer. Van Wyhe is a line cook and was working that night. Herve advised that he was outside on the patio of the restaurant when he approached the former manager of Volnay, STEVEN JAMES BROWN, date of birth [REDACTED] the defendant herein. He said his car had been keyed a couple days prior and he suspected the defendant did it. Herve stated he confronted, but did not touch or threaten the defendant. He said that the defendant became upset and slapped him twice across his face with an open hand. They advised the defendant was still at Volnay when they left and he was driving a black Nissan Pathfinder. They further advised that the defendant had been drinking.

While Officer Peterson spoke to Herve and Van Wyhe, Officer Groves responded to Volnay. Upon his arrival, he was unable to locate the defendant’s Pathfinder. He met with chef Cedric Goubil and restaurant owner Elizabeth Nolan. They were both on the patio when the incident occurred and saw the defendant slap Herve. Goubil stated that he had broken up the altercation and noticed the defendant was unsteady on his feet. He could smell alcohol on the defendant and believed he was intoxicated. As Officer Groves was speaking with Nolan, the defendant returned to the restaurant. Nolan stated that she had called the defendant and asked him to come back.

Officer Peterson responded to Volnay and met with the defendant. While speaking with the defendant, Officer Peterson detected an odor consistent to an alcoholic beverage coming his person. He also noticed the defendant’s eyes were glassy and had a slight pinkish appearance. When asked, the defendant said he had walked to Volnay. Officer Peterson told him that witnesses had seen his Nissan Pathfinder parked in front of Volnay. The defendant then stated he had driven to Volnay. He then admitted to driving away from Volnay after the altercation and parking it in the Wayzata Lund’s parking lot. He said he walked back to Volnay after parking the Pathfinder. Officer Peterson asked him how much he had to drink that night. The defendant denied drinking anything that night. Officer Peterson then asked him if he had anything to drink since he was driving. The defendant reiterated that he had not drunk anything all night. The defendant then consented and submitted to a preliminary breath test. The test resulted in a reading of .171. He also performed several field sobriety tests, which he was unable to complete satisfactorily. The defendant was advised he was under arrest and was transported to the Wayzata Police Department.
Officer Groves responded to the Lund’s parking lot and located the defendant’s Pathfinder. The hood/grill of the Pathfinder was still warm to the touch.

Shortly after their arrival at the Wayzata Police Department, Officer Peterson read the defendant the Minnesota Motor Vehicle Implied Consent Advisory. The defendant said he understood and requested to consult with an attorney. At 12:03 a.m. the defendant was given access to a telephone, his cell phone and telephone books. At 12:23 a.m. Officer Peterson ended the telephone time when the defendant said he had consulted with an attorney. When asked, the defendant agreed to take a urine test. The defendant was able to provide a urine sample in the presence of Officer Peterson. The sample was sealed and later transported to the Bureau of Criminal Apprehension for analysis.

On October 12, 2010 Officer Peterson received the results of the defendant’s urine test from the Bureau of Criminal Apprehension. The defendant was found to have an alcohol concentration of .17 at 12:27 a.m.

According to the Department of Public Safety, the defendant’s driver’s license was revoked on February 20, 2007 for Alcohol Content .08 or More.

---

Complainant requests that Defendant, subject to bail or conditions of release, be: (1) arrested or that other lawful steps be taken to obtain Defendant’s appearance in court; or (2) detained, if already in custody, pending further proceedings; and that said Defendant otherwise be dealt with according to law.

COMPLAINANT’S NAME: Lt. Michael Murphy, Wayzata Police Dept.

COMPLAINANT’S SIGNATURE: [Signature]

Subscribed and sworn to before the undersigned this 17 day of March, 2011.

NAME TITLE: SUE ANN BORZIEN NOTARY PUBLIC - MINNESOTA

SIGNATURE: [Signature]

Being authorized to prosecute the offenses charged, I approve this complaint.

Date: 3/10/11

PROSECUTING ATTORNEY’S SIGNATURE:

Name: Jeffrey W. Lambert (# 59675)
Prosecutor for the City of Wayzata
1000 Twelve Oaks Ctr Dr #101, Wayzata, MN 55391
(952) 475-3435
FINDING OF PROBABLE CAUSE

sworn facts, and any supporting affidavits or supplemental sworn testimony, I, the Issuing Officer,
I that probable cause exists to support, subject to bail or conditions of release where applicable,
ent or other lawful steps be taken to obtain Defendant's appearance in court, or Defendant's detention,
yday, pending further proceedings. Defendant is therefore charged with the above-stated offense.

☐ SUMMONS

YOU, THE ABOVE-NAMED DEFENDANT, ARE HEREBY SUMMONED to appear on the
__________________________ , 2011 at __________ <AM/PM> before the above-named court at
__________________________ to answer this complaint.

TO APPEAR in response to this SUMMONS, a WARRANT FOR YOUR ARREST shall be issued.

☐ WARRANT

If the above-named county; or other person authorized to execute this warrant: I hereby order, in the
e of Minnesota, that the above-named Defendant be apprehended and arrested without delay and
ly before the above-named court (if in session), and if not, before a Judge or Judicial Officer of such
ecessary delay, and in any event not later than 36 hours after the arrest or as soon as such Judge or
is available to be dealt with according to law.

execute in MN Only       ☐ Execute Nationwide       ☐ Execute in Border States

☐ ORDER OF DETENTION

-named Defendant is already in custody, I hereby order, subject to bail or conditions of release, that
d Defendant continue to be detained pending further proceedings.

release:

duly subscribed and sworn to, is issued by the undersigned Judicial Officer this __________ day of
0 ______.

FICER: ___________________________  SIGNATURE: ___________________________

y has been given before the Judicial Officer by the following witnesses:

COUNTY OF HENNEPIN
STATE OF MINNESOTA

OF MINNESOTA

Plaintiff,

vs.

Brown

Defendant

RETURN OF SERVICE

I hereby Certify and Return that I have served a copy of
this COMPLAINT upon the Defendant herein named.
Signature of Authorized Service Agent:

Clerk's Signature or File Stamp:

st 2006 (ITD_SP_0339c)  Page 4 of 6
Addendum
Minnetonka City Council
Meeting of March 19, 2018

14B Appeal of peddler/solicitor license denial for Steven J Brown

The community development director’s change memo indicates that the applicant withdrew his appeal and therefore this item can be pulled from tonight’s agenda.
ITEMS 14B Appeal of peddler/solicitor license denial for Steven J Brown

The applicant is withdrawing his request to appeal the license denial.