Minnetonka City Council

Regular Meeting, Monday, July 8, 2019

6:30 p.m.

Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Calvert-Schack-Carter-Happe-Bergstedt-Ellingson-Wiersum
4. Approval of Agenda
5. Approval of Minutes: None
6. Special Matters: None
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases: None
10. Consent Agenda - Items Requiring a Majority Vote: None
11. Consent Agenda - Items Requiring Five Votes:
   A. Items concerning Chase Bank at 4795 Co Rd 101:
      1) Final site and building plans, with a parking variance; and
      2) Conditional use permit.
      Recommendation: Adopt the resolutions approving the request (5 votes)
   B. Items concerning Chipotle at 10995 Red Circle Drive:
      1) Resolution approving an amendment to the master development plan and
         final site and building plans, with a parking variance; and
      2) Resolution approving a conditional use permit for a restaurant, with a drive-
         up window and outdoor seating area.
      Recommendation: Adopt the resolutions approving the request (5 votes)
C. Time extension for a conditional use permit, with a parking variance, to expand an existing medical clinic at 10653 Wayzata Blvd.

Recommendation: Approve a twelve-month time extension (5 votes)

12. Introduction of Ordinances:

A. Items concerning Shady Oak Road Redevelopment:
   1) Master Development Plan,
   2) Site and Building Plan review,
   3) Preliminary Plat,
   4) Detachment/Annexation,
   5) Comprehensive guide plan amendment, and
   6) Rezoning

Recommendation: Introduce the ordinance amending the master development plan, rezoning the property to Planned Unit Development and refer it to the planning commission (4 votes)

13. Public Hearings: None

14. Other Business:

A. Appeal of the planning commission denial of a front yard setback variance to construct an enclosed porch at 18724 South Lane.

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

B. Amendment to the approved master development plan and final building plans for Doran at 11650 and 11706 Wayzata Blvd.

Recommendation: Adopt the resolution approving the request (5 votes)

C. Crosby Road culvert replacement

Recommendation: Adopt the resolution and amend the CIP (Majority vote)

D. Items concerning HIGHCROFT MEADOWS at 14410 Orchard Road:
   1) Rezoning a portion of the property from R-1 to R-2; and
   2) Preliminary plat, with variances.

Recommendation: Adopt the ordinance and resolution approving the proposal (5 votes)
E. Draft Affordable Housing Policy

Recommendation: Adopt the resolution (4 votes)

15. Appointments and Reappointments: None

16. Adjournment
City Council Agenda Item #11A  
Meeting of July 8, 2019

Brief Description  
Items concerning Chase Bank at 4795 County Road 101:

1) Final site and building plans, with a parking variance; and
2) Conditional use permit.

Recommendation  
Adopt the resolutions approving the request

Proposal  
Jeffrey Agnes, AIA, on behalf of the property owner, is proposing to construct a 3,560 square foot bank with a drive-up window in the existing parking lot of the Westwind Plaza at 4796 County Road 101. The building would be predominately brick, stone and glass materials with a minimal amount of EFIS on the parapets and around the windows.

The proposal requires:

- Final site and building plans to construct a new building;
- Conditional use permit for a drive-up window; and
- Parking variance to reduce the amount of required parking from 477 stalls to 419 stalls.

Planning Commission Hearing  
The planning commission considered the proposal on June 27, 2019. The commission report, associated plans, and the meeting minutes are attached.

Staff recommended approval of the proposal finding:

- The proposed bank would be consistent with the land uses of Westwind Plaza and the surrounding retail areas.
- The proposed bank would meet all minimum setback and site and building plan requirements.
The requested parking variance is reasonable, as the proposed bank would generally be located in an area of the parking lot currently occupied by snow storage during the winter and temporary sales from mid-April through the end of October.

The proposal would reduce the amount of impervious surface onsite. However, by formalizing currently unstriped parking east (in the rear) of the Westwind Plaza building, the proposal would increase the amount of available parking.

At the planning commission meeting, a public hearing was opened to take comments. No comments were received. Following the public hearing, the commission asked questions – primarily related to parking.

**Planning Commission Recommendation**

On a 6-0 vote, the commission recommended that the city council approve the proposal. Meeting minutes from that meeting are attached.

**Since Planning Commission Hearing**

There have been no changes to the proposal or additional information received since the planning commission's meeting on this item.

**Staff Recommendation**

Recommend the city council adopt the following:

1) Resolution approving site and building plans, with a parking variance; and

2) Resolution approving a conditional use permit for a drive-up window.

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

Originator: Ashley Cauley, Senior Planner
MINNETONKA PLANNING COMMISSION
June 27, 2019

**Brief Description**

Items concerning Chase Bank at 4795 County Road 101:

1) Final site and building plans, with a parking variance; and a
2) Conditional use permit.

**Recommendation**

Recommend the city council adopt the resolutions approving the request

Jeffrey Agnes, AIA, on behalf of the property owner, is proposing to construct a bank with a drive-up window in the existing parking lot of the Westwind Plaza at 4795 County Road 101.

**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, Westwind Plaza, is roughly 10 acres in size. The property is improved with three, one-story, buildings that make up the Westwind Plaza shopping center. Surface parking surrounds the buildings on all sides. Access to the site is via a shared access to the south with Shoppes 101/Cub Foods and a right-in/right-out access to the north.

- **Proposal.** As proposed, a one-story, 3,560 square foot building would be constructed in the southwest corner of the site. The new building would include a drive-thru on the north side of the building and 47 parking stalls on the remaining sides. The façade of the building would include predominately brick, stone, and glass. The building would have a minimal amount of EFIS on the parapets and around the windows.

**General location of the new building.**

**Figure 1: West elevation (view from 101).**
Four trees and roughly one acre of the site’s existing parking lot would be removed in order to accommodate the proposal. The trees proposed to be removed are located within existing parking lot islands are not large enough to be regulated by the city’s tree protection ordinance. As such, no mitigation is required or proposed.

The proposal would reduce the amount of impervious surface onsite. However, by formalizing unstripped parking east (in the rear) of the Westwind Plaza building, the proposal would actually increase the amount of available parking onsite from 411 stalls to 419 stalls. By code, the site would require 477 stalls.

**Staff Analysis**

In evaluating the proposed bank building, staff notes:

- The proposed bank would be consistent with the land uses of Westwind Plaza and the surrounding retail areas.

- The proposed bank would meet all minimum setback requirements and site and building plan requirements.

- The proposed parking variance is reasonable, as the proposed bank would generally be located in an area of the parking lot currently occupied by snow storage during the winter and temporary sales from mid-April through the end of October.

- The proposal would reduce the amount of impervious surface, while increasing the amount of available parking, onsite.

**Staff Recommendation**

Recommend the city council adopt the following times related to Chase Bank at 4795 Co Rd 101:

1) Resolution approving site and building plans, with a parking variance; and

2) Resolution approving a conditional use permit for a drive-up window.

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

Surrounding Land Uses
North and East: Purgatory Creek and associated wetland.
South and West: retail shopping areas, zoned B-2 and PUD.

Planning
Guide Plan designation: Commercial
Zoning: B-2

Temporary sales
Beginning in 2004, the city council approved a series of conditional use permits to allow for temporary sales of pumpkins, vegetables and plants at the site. In 2006, the city council approved a conditional use permit for Untiedt’s Garden Market to allow vegetable sales from June 23 to Aug. 13 and then pumpkin sales from Sept. 23 to Oct. 31. The applicant requested an amendment to the conditional use permit in 2007 to allow a continuous market from April 15 to Oct. 31.

In Jun. 2018, the city council approved an interim use permit for TNT Fireworks to allow the sales of fireworks between the dates of June 20 and July 5 each year. The permit is valid from 2018 to 2023.

Since the amount of parking is already less than what is required by code, the applicant has indicated that the temporary uses will no longer operate onsite.

Misc. Standards
The proposed development is subject to the following setbacks:

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Existing</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building setbacks</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North</td>
<td>35 ft</td>
<td>n/a</td>
<td>485 ft*</td>
</tr>
<tr>
<td>South</td>
<td>35 ft</td>
<td>n/a</td>
<td>105 ft</td>
</tr>
<tr>
<td>East</td>
<td>35 ft</td>
<td>n/a</td>
<td>520 ft*</td>
</tr>
<tr>
<td>West</td>
<td>50 ft</td>
<td>n/a</td>
<td>100 ft</td>
</tr>
<tr>
<td>Parking lot setbacks</td>
<td></td>
<td></td>
<td>No change</td>
</tr>
<tr>
<td>North</td>
<td>20 ft</td>
<td>71 ft</td>
<td></td>
</tr>
<tr>
<td>South</td>
<td>10 ft</td>
<td>34 ft</td>
<td></td>
</tr>
<tr>
<td>East</td>
<td>20 ft</td>
<td>63 ft</td>
<td></td>
</tr>
<tr>
<td>West</td>
<td>20 ft</td>
<td>23 ft</td>
<td></td>
</tr>
<tr>
<td>FAR</td>
<td>Max. 80%</td>
<td>20%</td>
<td>21%</td>
</tr>
<tr>
<td>Impervious surface</td>
<td>Max 85%</td>
<td>74%</td>
<td>72%</td>
</tr>
<tr>
<td>Parking</td>
<td>477 stalls</td>
<td>411 stalls</td>
<td>419 stalls</td>
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</tbody>
</table>

* rounded to the nearest 5 ft

SBP Standards
This proposal would comply with all site and building standards as outlined in City Code 300.27 Subd. 5:
<table>
<thead>
<tr>
<th>Standards</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consistency with the elements and objectives of the city’s development</td>
<td>The proposal has been reviewed by the city’s planning, building, engineering, natural resources, fire, and public works staff. Staff finds it to be generally consistent with the city’s development guides.</td>
</tr>
<tr>
<td>guides, including the comprehensive guide plan and water resources</td>
<td></td>
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<tr>
<td>management plans;</td>
<td></td>
</tr>
<tr>
<td>Consistency with this ordinance;</td>
<td>But for the parking variance, the proposal would be consistent with the ordinance. The proposal would meet the variance standard.</td>
</tr>
<tr>
<td>Preservation of the site in its natural state to the extent practicable</td>
<td>The subject property is a developed site. As such, the proposal would not impact natural topography or native-vegetation.</td>
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<tr>
<td>by minimizing tree and soil removal and designing grade changes to be</td>
<td></td>
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<tr>
<td>in keeping with the general appearance of neighboring developed or</td>
<td></td>
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<tr>
<td>developing areas;</td>
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</tr>
<tr>
<td>Creation of harmonious relationship of buildings and open spaces with</td>
<td>The proposal would result in an intuitive and attractive development redevelopment of an existing commercial site.</td>
</tr>
<tr>
<td>natural site features and with existing and future buildings and</td>
<td></td>
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<tr>
<td>having a visual relationship to the development;</td>
<td></td>
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<tr>
<td>Creation of a functional and harmonious design for structures and</td>
<td></td>
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<tr>
<td>site features, with special attention to the following:</td>
<td></td>
</tr>
<tr>
<td>a) An internal sense of order for the buildings and uses on the</td>
<td>The proposal would result in an intuitive redevelopment of an existing commercial site.</td>
</tr>
<tr>
<td>site and provisions of a desirable environment for occupants,</td>
<td></td>
</tr>
<tr>
<td>visitors and the general community;</td>
<td></td>
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<tr>
<td>b) The amount of location of open space and landscaping;</td>
<td></td>
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<td></td>
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</tbody>
</table>
c) Materials, textures, colors and details of construction as an expression of the design concept and the compatibility of the same with 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.

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

| Protection of adjacent and neighboring properties through reasonable provision for surface water drainage, sound and light 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. |
| The proposal would not negatively impact neighboring land uses which is an existing retail area. |

**CUP Standards**

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

<table>
<thead>
<tr>
<th>Standard</th>
<th>Finding</th>
</tr>
</thead>
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<table>
<thead>
<tr>
<th><strong>The use is consistent with the intent of this ordinance;</strong></th>
<th><strong>Drive-up windows are allowed as a conditionally-permitted use within the B-2 zoning district.</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The use is consistent with the goals, policies, and objectives of the comprehensive plan;</strong></td>
<td><strong>The 2030 comprehensive guide plan called for future redevelopment of the Highway 7 and Co Rd 101 community village center. This proposal allows for permanent investment into an existing property within that village center.</strong></td>
</tr>
<tr>
<td><strong>The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and</strong></td>
<td><strong>The proposed drive-up window would not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements.</strong></td>
</tr>
<tr>
<td><strong>The use does not have an undue adverse impact on the public health, safety, or welfare.</strong></td>
<td><strong>The proposed use would not have an undue adverse impact on the public health, safety or welfare.</strong></td>
</tr>
</tbody>
</table>

**The proposal would meet the general conditional use permit standards, for uses having a drive-up window, as outlined in City Code §300.21 Subd. 4(d)**

<table>
<thead>
<tr>
<th><strong>Drive-up windows and stacking areas shall not be located adjacent to any residential parcel;</strong></th>
<th><strong>The drive-up window and stacking area would not be located adjacent to a residential parcel. Rather, they would be located within an existing parking lot of a shopping center.</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Stacking areas shall provide for a minimum of six cars per aisle; and</strong></td>
<td><strong>The plans indicate available stacking for six cars.</strong></td>
</tr>
<tr>
<td><strong>Public address system shall not be audible from any residential parcel.</strong></td>
<td><strong>While there are no adjacent residential parcels, this has</strong></td>
</tr>
</tbody>
</table>
Variance Standard

By City Code §300.07, Subd. 1, a variance may be granted from the requirements of this ordinance including those placed on nonconformities. A variance is only permitted when it is in harmony with the general purposes and intent of this ordinance and when the variance is consistent with the comprehensive plan. A variance may be granted when the applicant establishes that there are practical difficulties in complying with this ordinance. Practical difficulties means that the property owner proposes to use the property in a reasonable manner not permitted by this ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, would not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

The proposal requires a variance to the amount of required parking. The applicant’s proposal meets the variance standard:

<table>
<thead>
<tr>
<th>Standard</th>
<th>Finding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comprehensive plan:</td>
<td>One of the recognized policies of the comprehensive plan is to “support existing commercial areas and encourage new development techniques that contribute to the vitality and diversity of an area”. The requested variance would allow for permanent improvement into an existing retail area.</td>
</tr>
<tr>
<td>Intent of the ordinance:</td>
<td>The intent of the ordinance as it relates to parking is to ensure adequate parking onsite for the shopping center. The proposed bank building would be located in an area that is occupied by snow storage in the winter and temporary sales uses for a majority of the remainder of the year. The proposal would not meet the city code requirements for parking onsite. However, the proposal would result in an overall increase in the amount of parking onsite.</td>
</tr>
</tbody>
</table>
### Meeting of June 27, 2019

**Subject: Chase Bank, 4795 County Road 101**

<table>
<thead>
<tr>
<th>Reasonableness and character of the locality:</th>
<th>The proposed bank would be located within an existing parking lot with sufficient parking. While the proposal would not meet the minimum parking requirement required by code, the proposal would actually increase the amount of available parking onsite.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unique circumstance:</td>
<td>The proposed building would be located within an area of the parking lot that has been occupied by temporary sales and snow storage. As such, the parking in the area of the proposal has not been available for many years.</td>
</tr>
</tbody>
</table>

### Natural Resources

Best management practices must be followed during the course of site preparation and construction activities. This would include installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing. As a condition of approval, the applicant must submit a construction management plan detailing these management practices.

### Pyramid of Discretion

This proposal:

### Voting Requirement

The planning commission will make a recommendation to the city council. A recommendation for approval requires an affirmative vote of simple majority.

### Motion Options

The planning commission has three options:
1) Concur with the staff recommendation. In this case a motion should be made recommending the city council approve the proposal.

2) Disagree with staff’s recommendation. In this case, a motion should recommending the council deny the request. This motion should include findings for denial.

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

**Neighborhood Comments**
The city sent notices to 43 area property owners and received no comments.

**Deadline for Decision**
August 26, 2019
Location Map

Project: Chase Bank
Address: 4795 Co Rd 101
City of Minnetonka
Planning Division
Attn: Susan Thomas
14600 Minnetonka Blvd.
Minnetonka MN 55345
(952) 939-8292
sthomas@eminnetonka.com

WRITTEN STATEMENT - CUP
Chase Bank Outlot Building
Westwind Plaza
4703-4795 County Road 101
Minnetonka, MN 55345

Brixmor (BRE Retail Residual Owner 6 LLC), the mall owner, is requesting a Conditional Use Permit (CUP) to allow a drive-thru for a proposed new Chase Bank outlot building at Westwind Plaza, an existing neighborhood retail center in Minnetonka.

We believe that all requirements for B-2 Limited Business District are met for this development but for the drive-thru use, which, per city code Section 300.18.4.d), requires a CUP for “uses having a drive-up window”.

The proposed development meets the CUP specific standards in B-2, Limited Business District for uses having a drive-up window, Section 300.21.4.d),

1) the proposed stacking area is not located adjacent to a residential parcel;
2) provides for a minimum of six (6) cars per aisle; and
3) the public address system is not audible from any residential parcel.

Aarchitects LLC,

Jeffrey P. Agnes  AIA (Applicant)
JPA/jpa

Cc: Marc Newman – Brixmor
April 26, 2019

City of Minnetonka
Planning Division
Attn: Susan Thomas
14600 Minnetonka Blvd.
Minnetonka MN 55345
(952) 939-8292
sthomas@eminnetonka.com

WRITTEN STATEMENT – Site and Building Plan Review

Chase Bank Outlot Building
Westwind Plaza
4703-4795 County Road 101
Minnetonka, MN 55345

Brixmor (BRE Retail Residual Owner 6 LLC), the mall owner, is requesting a Site and Building Plan Review for a proposed new Chase Bank outlot building with a drive-thru at Westwind Plaza, an existing neighborhood retail center in Minnetonka.

We believe that all requirements for B-2 Limited Business District are met for this development but for the drive-thru use, for which we are also applying for a Conditional Use Permit.

The parking demand for a bank with a drive-thru is minimal and we expect that the current layout is more than adequate to handle the demand, however, we are asking to include 83 proof-of-parking stalls (already paved but not currently striped) on the north and east sides of the lot in order to meet an overall minimum 4.5 stalls per 1,000 sf overall parking stall total (Proposed: 91,607 sf with 419 stalls = 4.6 stalls per 1,000 sf).

Aarchitects LLC,

Jeffrey P. Agnes  AIA (Applicant)
JPA/jpa

Cc:  Marc Newman – Brixmor
I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

Sunde
03-12-2019
Watershed District Submittal

03-27-2019
Revisions per Watershed District comment

05-07-2019
Sewer, Water, Sidewalk, Curb, and Spots

50' BUILDING SETBACK LINE

PERMANENT HIGHWAY EASEMENT PER DOC. NO. 4292611

PERMANENT PUBLIC RIGHT OF WAY EASEMENT PER DOC. NO. 1225798 (OVER A PORTION OF PARCEL 1)

DRAINAGE AND UTILITY EASEMENT PER DOC. NO. 4292612

EX-1
1 of 3
I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.
1. By submitting a proposal for the landscape planting scope of work, the contractor confirms that all plants are specified in accordance with this plan. If some of the plants are not available, the landscape contractor is responsible for determining plant quantities; plant quantities shown on the plan, and contract and permit requirements. For the plant protection methods, exceptions specified in the plant protection methods (e.g., #1 cont., 2' o.c., 3' o.c., etc.).

2. The general contractor is responsible for removing all existing vegetation (except where noted in the drawings).

3. In the context of these plans, notes, and specifications, "finish grade" refers to the final elevation resulting from the construction of all landscape areas as shown on the grading plans. See specifications for more detailed information. Finish grade is defined as the final elevation of surfacing materials, paving, or curbs. Root barriers shall be "Century" or "Deep-Root" 24" deep panels (or equal). Barriers shall be located immediately under all newly-planted trees that are located within five (5) feet of existing structures at the minimum depth specified in the report and on the grading plans. Drainage away from structures at the minimum slope specified in the report and on the grading plans is required. All landscape areas shall have positive slopes as recommended by the geotechnical report. All landscape areas shall have positive slopes as recommended by the geotechnical report. All landscape areas shall have positive slopes as recommended by the geotechnical report. All landscape areas shall have positive slopes as recommended by the geotechnical report.

4. All plant locations are diagrammatic. Actual locations shall be verified with the landscape architect. No substitutions of plant materials shall be allowed without the written permission of the landscape architect. In the event of a discrepancy between the plan and the plant legend, the plant quantity as shown on the plan shall govern. Core States, Inc. does not guarantee that locations shown are exact. The contractor must contact the permitting authority for additional requirements for submittals.

5. The contractor shall maintain the landscape in a healthy condition for 90 days after acceptance by the owner. Refer to specifications for conditions of acceptance for the start of the maintenance period, and for final acceptance at the end of the maintenance period.

6. By submitting a proposal for the landscape planting scope of work, the contractor confirms that all plants are specified in accordance with this plan. If some of the plants are not available, the landscape contractor is responsible for determining plant quantities; plant quantities shown on the plan, and contract and permit requirements. For the plant protection methods, exceptions specified in the plant protection methods (e.g., #1 cont., 2' o.c., 3' o.c., etc.).

7. The contractor shall be responsible for determining plant quantities; plant quantities shown on the plan, and contract and permit requirements. For the plant protection methods, exceptions specified in the plant protection methods (e.g., #1 cont., 2' o.c., 3' o.c., etc.).

8. Before starting work, the landscape contractor shall verify that the rough grades of all landscape areas are within ± 1/2 inch (1.3 cm) of the plan elevation. All landscape areas shall have positive slopes as recommended by the geotechnical report. All landscape areas shall have positive slopes as recommended by the geotechnical report. All landscape areas shall have positive slopes as recommended by the geotechnical report. All landscape areas shall have positive slopes as recommended by the geotechnical report.

9. The landscape contractor is responsible for determining plant quantities; plant quantities shown on the plan, and contract and permit requirements. For the plant protection methods, exceptions specified in the plant protection methods (e.g., #1 cont., 2' o.c., 3' o.c., etc.).

10. All plant locations are diagrammatic. Actual locations shall be verified with the landscape architect. No substitutions of plant materials shall be allowed without the written permission of the landscape architect. In the event of a discrepancy between the plan and the plant legend, the plant quantity as shown on the plan shall govern. Core States, Inc. does not guarantee that locations shown are exact. The contractor must contact the permitting authority for additional requirements for submittals.

11. The contractor shall maintain the landscape in a healthy condition for 90 days after acceptance by the owner. Refer to specifications for conditions of acceptance for the start of the maintenance period, and for final acceptance at the end of the maintenance period.
NOTE: TILE SHOWN FOR PATTERN ONLY. ACTUAL TILE SIZE AND SPACING TO BE LAID OUT AND VERIFIED BY THE ARCHITECT OF RECORD TO REFLECT THE DESIGN INTENT. DO NOT REMOVE THIS TAG FROM FLOOR PLAN

LOCKERS NOT IN SCOPE DUE TO SPATIAL CONSTRAINTS

INFORMATION ONLY

FLOOR PLAN WILL BE UPDATED TO LATEST RETAIL DESIGN STANDARDS AND VALIDATED W/ BUDGET. NOTE TO AOR; DO NOT PROCEED WITH CONSTRUCTION DOCUMENTS IF THIS STAMP IS PRESENT.

OVERVIEW

- **SEVEN HI DRIVE**
- Westwind Plaza Minnetonka
- MINNETONKA, MN

**Regional Director (RD)**
- DATE
- REGION - MINNESOTA
- OVP NO.: 38200P315510

**Operating Model Lead (OML)**
- DATE
- 662
- CPC Staffed at Opening: YES
- Finish Palette: CB 2.0
- DESIGN STANDARDS: 18.3

**Proposed Floor Plan**

- HWY 101
- 662
- 71'-8" 5'-0" 6'-6" 7'-6" 8'-0" 12'-0"

- **ATM 1, 2, 3, 4**
- **LOBBY**
- **CASH CSEG.**
- **PRINT / FILE**
- **DATA**
- **LIVING ROOM**
- **MINI-SPLIT SOLUTION #1 - 55"**
- **MINI-SPLIT SOLUTION #3 - 75"**
- **ACCENT FLOOR TILE**
- **T&G WOOD CEILING FINISH**
- **TAG WOOD CEILING FINISH**
- **WOOD FIN TYPE CEILING FINISH**
- **LOBBY BRIM W/ BLUE LED**
- **TAG WOOD FIN TYPE CEILING FINISH**

- **COATS RFG**
- **MICR**
- **AST**
- **MST**
- **ATM**
- **ATM 3**
- **ATM 4**
- **ATM 2**
- **STAFFED**

- **BOOTH 1, 2**
- **BOOTH 3, 4**

- **LOCKERS**
  - NOT IN SCOPE DUE TO SPATIAL CONSTRAINTS

- **LOCKERS**
  - NOT IN SCOPE DUE TO SPATIAL CONSTRAINTS

- **CEILING FINISH**
  - T&G WOOD
  - T&G WOOD

- **SOLUTION #7 - 32"**
- **SOLUTION #1 - 55"**

- **BULLETIN BD.**
- **DRY ERASE BD.**
- **MAGNETIC STRIPS**
- **5C**
- **5C**

- **FEC**
- **FEC ELEC. PNL.**
- **ADJ. SHF.**
- **34" H.**
- **44" H.**

- **CASH CHEST**
- **WOMEN**
- **MANUAL TRANS.**
- **LOUNGE**
- **JAN.**

- **LTOS**
- **57"x48"**
- **5'-6" HOLD**

- **FLOOR PLAN WILL BE UPDATED TO LATEST RETAIL DESIGN STANDARDS AND VALIDATED W/ BUDGET.**

- **NOTE TO AOR; DO NOT PROCEED WITH CONSTRUCTION DOCUMENTS IF THIS STAMP IS PRESENT.**
To: Planning Commission
From: Loren Gordon, AICP, City Planner
Date: June 27, 2019
Subject: Change Memo for the June 27th Planning Commission Agenda

ITEM 7C – 5625 Eden Prairie Rd

The resolution should read as follows:

- Page Three:
  1. Subject to staff’s approval, the property must be developed in substantial conformance with the following plans, except as modified by the conditions below:
    - Survey, dated Aug. 17, 2019

- Page four:
  b) Submit a revised survey that illustrates the location of all easements and the proposed garage. This survey must also indicate that the proposed garage, or associated foundation, will not be located within the drainage and utility easement.

Item 8B – Chase Bank

The resolution should read as follows:

d) Permits may be required from other outside agencies including, Hennepin County, the Nine-Mile Creek Watershed District, Riley Purgatory Bluff Creek Watershed District, and the MPCA. It is the applicant’s or property owner’s responsibility to obtain any necessary permits.
B. Items concerning Chase Bank at 4795 County Road 101.

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.

Henry asked if there would be a snow removal plan. Cauley answered affirmatively. A snow removal plan would be required as a condition of approval.

Hanson noted that the proposal would increase the number of parking stalls, but the site would still have less than the number required. He asked if there would be proof of parking or a shared parking agreement. Cauley explained that parking variances are already in place for the plaza.

In response to Henry’s question, Cauley explained that the temporary uses would be discontinued if the proposal would be approved by the city council. Cauley studied the site, referenced the institute of transportation engineers (ITE) standards, and reviewed a list of the sizes of each business provided by the Westwind Plaza property owner. The ITE concluded that there would be plenty of parking on site.

Cauley stated that a sign could be added to identify additional parking for customers in back of the building if there would be a parking shortage.

Mark Newman, of Brixmor Property Group, representing the owner of the shopping center, stated that Cauley did a thorough job of explaining the situation. He would like to start construction immediately to beat the frost.

Knight asked why the drive-up window would be backwards. Mark Polienie, architect for the proposal, explained that there would be no teller for the drive thru. It would be a drive-up ATM.

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

Sewall felt the proposal is reasonable. Every time he visited the site, there was enough parking.

Henry moved, second by Knight, to recommend that the city council adopt the resolution approving site and building plans with a parking variance and a resolution approving a conditional use permit for a drive-up window for Chase Bank at 4795 County Road 101 with a modification provided in the change memo dated June 27, 2019.

Hanson, Henry, Knight, Luke, Sewell, and Kirk voted yes. Powers was absent. Motion carried.
Resolution No. 2019-
Resolution approving final site and building plans, with a parking variance, for Chase Bank at 4795 Co Rd 101

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

Section 1. Background.

1.01 Jeffrey Agnes, AIA, on behalf of A Architects, has requested final site and building plan approval for Chase Bank at 4795 Co Rd 101 (Project 88030.19a)

1.02 The property is located at 4795 Co Rd 101. It is legally described as follows:

Lot 1, Block 2, WILLOW WOOD, including adjacent Merchant Ave vacated also South 385 feet of the West 447 feet of the South half of the Northwest Quarter of the Northwest Quarter of Section 29, Township 117, Range 22, except road.

The property is located in Hennepin County, Minnesota.

1.03 On June 27, 2019, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the planning commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended the city council approve the final site and building plans, with variance.

Section 2. General Standards.

2.01 City Code §300.27, Subd.5, states that in evaluating a site and building plan, the city will consider its compliance with the following:

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

2. Consistency with the ordinance;

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

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

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

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

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

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

Section 3. Findings.

3.01 The proposal would meet site and building plan standards outlined in the City Code §300.27, Subd.5.
1. The proposal has been reviewed by the city’s planning, building, engineering, natural resources, fire, and public works staff. Staff finds it to be generally consistent with the city’s development guides.

2. But for the parking variance, the proposal would be consistent with the ordinance. The proposal would meet the variance standard.

3. The subject property is a developed site. As such, the proposal would not impact natural topography or native vegetation.

4. The proposal would result in an intuitive and attractive redevelopment of an existing commercial site.

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

6. The proposal would not negatively impact neighboring land use, which is an existing retail area.

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

1. Purpose and Intent the Ordinance: The intent of the ordinance as it relates to parking is to ensure adequate parking onsite for the shopping center. Though the proposed bank would be located in an existing parking area, that area is occupied by snow storage in the winter, and temporary sales uses for a majority of the remainder of the year. While the proposal would not meet the city code requirements for parking onsite, available parking would increase by formalizing currently unstriped parking east of the building.

2. Consistent with the Comprehensive Plan: One of the recognized policies of the comprehensive plan is to “support existing commercial areas and encourage new development techniques that contribute to the vitality and diversity of an area.” The requested variance would allow for permanent improvement into an existing retail area.

3. Practical Difficulties:
   a) Reasonableness and Character Of The Locality: The proposed bank would be located within an existing parking lot with sufficient parking. While the proposal would not meet the minimum parking requirement required by code, the proposal would increase the amount of available parking onsite by formalizing currently unstriped areas.

   b) Unique Circumstance: The proposed building would be located within an area of the parking lot that has previously been occupied by temporary sales or snow storage. As such, the
Section 4. City Council Action.

4.01 The above-described final site and building plans, with variance, is hereby approved, subject to the following conditions. Approval is based on the findings outlined in section 4 of this resolution and is subject to the following conditions:

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

   - Elevations (option 2), dated Feb. 19, 2019

2. Prior to issuance of a permit:

   a) Submit the following items associated with site work:

   1) Final site, grading, drainage, utility, and a stormwater pollution prevention plan (SWPPP) for staff review and approval. In addition the:

      a. Final landscaping plan must:

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

         2. Include information relating to species, sizes, quantities, location, and landscaping values.

      b. Final site plan must include a sidewalk connection to the existing sidewalk on the west side of the property.

      c. Final stormwater management plan is required. This plan must demonstrate conformance with the following criteria:

         - Rate: limit peak runoff flow rates to that of existing conditions from the 2-, 10- and 100-year events at all points where stormwater
leaves the site.

- Volume: provide for onsite retention of 1-inch of runoff from the entire site’s impervious surface.

- Quality: provide for runoff to be treated to at least 60-percent total phosphorus annual removal efficiency and 90-percent total suspended solid annual removal efficiency.

d. Final utility plan must confirm the alignment of the storm sewer within the site to CSAH 101. The proposed manhole location may need to be adjusted to avoid storm sewer crossing.

2) The following legal agreements for review and approval by the city attorney:

a. A stormwater maintenance agreement in the city approved format for review and approval of city staff.

b. A private hydrant agreement for new and existing hydrants.

3) A utility exhibit. This plan must clearly show property lines, buildings, sewer, water, and stormwater facilities. This exhibit must clearly identify which lines are private and which are public.

4) Truck turning exhibit. This exhibit must use the template for the city’s largest fire truck and illustrate that the fire truck can maneuver through the site.

5) Evidence that the underground system will be able to support 83,000 pounds and 10,800 per square foot outrigger load.

6) A permit from the MDH for the proposed water main or documentation that a permit is not required.

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

8) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to comply with grading
permit and landscaping requirements and to restore the site. One itemized letter of credit is permissible if approved by staff. The city will not fully release the letters of credit or cash escrow until: (1) as-built drawings have been submitted; (2) a letter certifying that the underground facility has been completed according to the plans approved by the city has been submitted; (3) vegetated ground cover has been established; and (4) required landscaping or vegetation has survived one full growing season.

9) A cash escrow in the amount of $1000. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document, the builder and property owner will acknowledge:

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

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

- City staff may waive this escrow amount upon review of the final plans.

b) This resolution must be recorded at Hennepin County.

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

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

3. Prior to submission of a building permit, hold a pre-permit submittal meeting with appropriate city staff.

4. Prior to the issuance of a building permit, submit the following items for staff review and approval:

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

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

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

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

5. Underground facilities must be inspected by a qualified third party during installation to ensure that the pressure requirements are adequately met.

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

7. Construction must begin by Dec. 31, 2020, unless the planning commission grants a time extension.

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 8, 2019.

____________________________
Brad Wiersum, Mayor

Attest:

____________________________
Becky Koosman, 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 July 8, 2019.

__________________________________
Becky Koosman, City Clerk
Resolution No. 2019-

Resolution approving a conditional use permit for a drive-up window for Chase Bank at 4795 Co Rd 101

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

Section 1. Background.

1.01 Jeffrey Agnes, AIA, on behalf of A Architects has requested a conditional use permit for a drive-up window associated with Chase Bank at Westwind Plaza.

1.02 The property is located at 4795 Co Rd 101. It is legally described as:

Lot 1, Block 2, WILLOW WOOD, including adjacent Merchant Ave vacated also South 385 feet of the West 447 feet of the South half of the Northwest Quarter of the Northwest Quarter of Section 29, Township 117, Range 22, except road.

The property is located in Hennepin County, Minnesota.

1.03 On June 27, 2019, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. Standards.

2.01 City Code §300.21 Subd.2 outlines the general standards that must be met for granting a conditional use permit. These standards are incorporated into this resolution by reference.

2.02 City Code §300.21 Subd.4(d) outlines the following specific conditional use permit standards for uses with drive-up windows. The standards include:

1. drive-up windows and stacking areas shall not be located adjacent to any residential parcel;

2. stacking areas shall provide for a minimum of six cars per aisle; and

3. public address system shall not be audible from any residential parcel.
Section 3. Findings.

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

3.02 The proposal meets the specific conditional use permit standards outlined in City Code 300.16 Subd.4(d).

1. The drive-up window and stacking areas would not be adjacent to any residential parcel. Rather, they would be located within an existing parking lot for a shopping center.

2. A minimum of six cars per stacking aisle would be provided as proposed.

3. As a condition of this resolution, any public address system associated with the drive-up window cannot be audible from any residential parcel.

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. Any public address system associated with the drive-up window must not be audible from any residential parcel.

3. The site must be developed and maintained in substantial compliance with plans and conditions as outlined in Resolution No. 2019-xx.

4. 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 July 8, 2019.

_______________________________________
Brad Wiersum, Mayor

Attest:

_________________________________
Becky Koosman, 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 July 8, 2019.

__________________________________
Becky Koosman, City Clerk
City Council Agenda Item #11B
Meeting of July 8, 2019

Brief Description
Items concerning Chipotle at 10995 Red Circle Drive:

1) Resolution approving an amendment to the master development plan and final site and building plans, with a parking variance; and
2) Resolution approving a conditional use permit for a restaurant, with a drive-up window and outdoor seating area.

Recommendation
Adopt the resolutions approving the request

Background
In 1997, the city approved several items to allow the construction of three restaurants – Boston Market, Caribou Coffee, and Einstein Bagels – on the properties at 10995 and 10999 Red Circle Drive. The plans indicated three restaurants spaces with a “lively” appearance and an outdoor patio on the southwestern side of the building. The southern portion of the building – Caribou and Einstein Bagels – was constructed in 1997. Both restaurants continued to operate within the building until recently when Caribou relocated, and MyBurger moved into the space. While a building permit was issued for Boston Market in 1997, the restaurant was never constructed, and the prepared restaurant “pad” has remained vacant.

Proposal
Wilkus Architects is proposing to construct a Chipotle restaurant, with a drive-up window, in the space previously approved for Boston Market. As proposed, the parking lot would be slightly reconfigured to accommodate a trash enclosure, drive-up window access/stacking, and an outdoor seating area.

The proposal requires:

1. A minor amendment to the existing master development plan to reflect the smaller restaurant footprint, a drive-up window, outdoor patio, and the reduction in available parking.
2. Site and building plan approval;
3. Conditional use permit for a restaurant with a drive-up window, and an outdoor seating area; and
4. Variance to reduce the amount of required parking from 126 to 88 stalls.
Planning Commission Hearing

The planning commission considered the request on June 27, 2019. The staff report, various plans, and documents from that meeting are attached. At the meeting, a public hearing was opened to take comment, but no one spoke.

Following the public hearing, the commission asked questions and discussed the proposal. The commission:

- Inquired about snow storage and removal;
- Discussed parking reductions, directional signage and stacking related to the drive-up window;
- Suggested the applicant reduce the amount of EIFS;
- Commented that the restaurant will be a good addition to the OPUS area.

Planning Commission Recommendation

On a 6-0 vote, the commission recommended that the city council approve the proposal. Meeting minutes from that meeting are attached.

Since Planning Commission Hearing

The applicant provided the following photo simulations to illustrate the proposed restaurant and its context better.
Staff Recommendation

Staff recommends the city council adopt the following:

1) Resolution approving an amendment to the master development plan and final site and building plans, with a parking variance; and

2) Resolution approving a conditional use permit for a restaurant, with a drive-up window and an outdoor seating area.

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

Originator: Ashley Cauley, Senior Planner
Items concerning Chipotle at 10995 Red Circle Drive:

1) Amendment to an existing master development plan;
2) Site and building plan, with a parking variance; and
3) Conditional use permit for a restaurant with outdoor seating

Recommend the city council approve the request

On March 31, 1997, the city approved several items to allow the construction of three restaurants – Boston Market, Caribou Coffee and Einstein Bagels - on the properties at 10995 and 10999 Red Circle Drive. The following is intended to summarize those approvals:

- **Master development plan:** The master development plan indicated 7,140 square feet of restaurant space, 119 parking stalls, and a 400 square foot outdoor seating area for Einstein Bagels on the south side of the building.

- **Final site and building plans:** The plans indicated that the approved building would have a “lively appearance” with curved walls and varied rooflines. The façade materials and material colors were to be generally consistent with the Holiday Inn building to the east. The building was designed to not have a “rear” façade, as the building has a high level of visibility on all four sides.
Conditional use permits for restaurants and an outdoor seating area: Fast food restaurants and outdoor seating areas were approved as conditionally permitted uses.

Lot division: The lot division subdivided the 1.6-acre property into two lots to allow for Boston Market to be located on its own property. The lot division was created such that each lot would have the appropriate amount of parking onsite (55 spaces for Boston Market and 64 spaces for Caribou/Einstein), but a shared parking agreement was included as a condition of approval.

Sign plan: As approved, no sign could exceed 36 square feet and the letter height not exceed 26-inches. No sign for “Boston Market” was to be allowed on the east side of the building.

The southern portion of the building – Caribou and Einstein Bagels – was constructed in 1997. Both restaurants continued to operate in the building until recently when Caribou relocated and MyBurger moved into the space. While a building permit was issued for Boston Market in 1997, the restaurant was never constructed and the prepared restaurant “pad” has remained vacant.

Proposal Summary

Wilkus Architects is proposing to construct a Chipotle, with a drive-up window, in the space previously approved for Boston Market. 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.

Proposed site design. The site has been generally prepared for the construction of a restaurant in this location for over 20 years. However, there are a few site changes now proposed to accommodate the new restaurant. The parking lot would be reconfigured slightly to accommodate the relocated trash enclosure, drive-up window access/stacking, and an outdoor seating area. The parking lot aisle on the east side of the building would be reduced from two-way to one-way to allow for the drive-up window and associated stacking.

![Figure 3: 2019 aerial](image)

![Figure 4: Proposal](image)
A stormwater basin located on the hotel property (10985 Red Circle Drive) collects and treats stormwater for both the restaurant and hotel properties. Staff is working with the applicant to determine if the basin was sized appropriately to accommodate the new restaurant. If not, the applicant will work with staff to meet current stormwater requirements. Staff has identified opportunities on the subject property to meet these standards.

- **Proposed building.** The restaurant would be 2,440 square feet in size. The building façade would incorporate EIFS, metal and brick. The façade would complement colors and materials used throughout the existing restaurants. The interior would consist of an eating, ordering and kitchen areas.

**Primary Questions and Analysis**

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

- **Is the minor amendment to the existing master development plan appropriate?**
  Yes. The approved master development indicated a 3,290 square foot, fast food restaurant on the property. The proposed Chipotle restaurant would have a smaller footprint (2,440 square feet). A minor amendment is required to reflect the smaller restaurant footprint, a drive-up window, outdoor patio and the reduction in available parking. Staff finds the amendment request reasonable, as it would meet the intent of the original master development plan.

- **Are the proposed site and building plans reasonable?**
  Yes. While the building design appears "more modern" than the originally proposed Boston Market, the building design is attractive and complements the existing restaurants. In addition, the site plan generally aligns with the site plan originally approved in 1997.

- **Is the conditional use permit for the restaurant, with a drive-up window, and outdoor seating area appropriate?**
  Yes. The proposal would meet all of the conditional use permit standards for both the restaurant use and the outdoor seating area. The standards and staff’s findings out outlined in the “Supporting Information” section of this report.

- **Can the anticipated parking demands be accommodated?**
  Yes. City code parking requirements are based on the square footage of a building and the uses occupying that building. Since the proposed restaurant would “share” access...
and parking with the two existing restaurants, staff calculated parking for the entire site. By city code, 126 stalls would be required and 88 would be available.

Understanding that the parking demands of restaurant can vary depending on the specific type of a restaurant and its amenities, staff consulted data collected by the Institute of Transportation Engineers (ITE). This data suggests that the available parking onsite would be able to reasonably accommodate all three restaurants.

This table is intended to summarize parking calculations:

<table>
<thead>
<tr>
<th>City Code</th>
<th>ITE standard</th>
<th>Restaurant size</th>
<th>Rate per square foot</th>
<th>Required Rate per square foot</th>
<th>Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chipotle</td>
<td>1/50</td>
<td></td>
<td>9.9/1,000</td>
<td>49 stalls</td>
<td>24 stalls</td>
</tr>
<tr>
<td>MyBurger</td>
<td>30 stalls</td>
<td></td>
<td>13.3/1,000</td>
<td>30 stalls</td>
<td>20 stalls</td>
</tr>
<tr>
<td>Einstein Bagels</td>
<td>47 stalls</td>
<td></td>
<td>8.20/1,000</td>
<td>47 stalls</td>
<td>19 stalls</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>126 stalls</strong></td>
<td><strong>63 stalls</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Proposed available onsite</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>88 stalls</td>
</tr>
</tbody>
</table>

In addition, the restaurants would experience different peak parking demands due to their restaurant type and hours of operation:

<table>
<thead>
<tr>
<th>Restaurant</th>
<th>Projected peak parking demand *</th>
<th>Hours of operation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chipotle</td>
<td>Noon – 1 p.m.</td>
<td>10:30 a.m. – 10 p.m. **</td>
</tr>
<tr>
<td>MyBurger</td>
<td></td>
<td>11 a.m. – 10 p.m.</td>
</tr>
<tr>
<td>Einstein Bagels</td>
<td>morning/varies</td>
<td>6 a.m. – 2 p.m.</td>
</tr>
</tbody>
</table>

** as projected by ITE

** based on the hours of operation of existing Chipotle restaurants in surrounding communities

Staff finds the variance to reduce the amount of parking stall from 126 to 88 stalls, as:

- Based on ITE standards, the amount of available parking would accommodate the proposed restaurant as well as the existing restaurants.
- The restaurants would have complimentary peak parking demand times.
- The site shares access with the hotel to the east which has a peak parking demand that occurs during the evening and overnight hours.

**Staff Recommendation**

Recommend the city council adopt the following for Chipotle at 10995 Red Circle Drive:

1) Resolution approving an amendment to the master development plan and final site and building plans with a parking variance; and

2) Resolution approving a conditional use permit for a restaurant, with a drive-up window and an outdoor seating area.
Originator: Ashley Cauley, Senior Planner
Through: Loren Gordon, AICP, City Planner
Supporting Information

**Property**
10995 Red Circle Drive

**Applicant**
Dusty Austin, on behalf of Wilkus Architects.

**Surrounding Land Uses**
Northerly: restaurants and retail, zoned PUD  
Easterly: Hotel, zoned PUD  
Southerly: Eden Prairie  
Westerly: Outlot, zoned PUD

**Planning**
Guide Plan designation: Mixed Use Development  
Zoning: PUD, Planned Unit Development

**Conditional use Permit standards**
The proposal would comply with the general conditional use permit standards outlined in City Code §300.21, Subd. 2:

a) the use is consistent with the intent of this ordinance;  
b) the use is consistent with the goals, policies and objectives of the comprehensive plan;  
c) the use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;  
d) the use is consistent with the city's water resources management plan;  
e) the use is in compliance with the performance standards specified in section 300.28 of this ordinance; and  
f) the use does not have an undue adverse impact on the public health, safety or welfare.

The proposal would comply with the specific standards outlined in City Code §300.21, Subd. 4(f) for fast food restaurants with or without drive-up facilities, except those located in community or regional shopping centers:

1) shall be located only on sites having direct access to minor arterial streets or service roads;

**Finding:** The property has frontage onto Shady Oak Road, which is classified as a minor arterial road. The site does have access via Red Circle Drive which would be a service road.
2) Public address systems shall not be audible from any residential parcel;

**Finding:** Chipotle would not have an exterior public address system, as all orders would be made by phone or online. Additionally, the nearest residential property is 600 feet away and is separated by topography, vegetation and Shady Oak Road. Nonetheless this has been included as a condition of approval.

3) Stacking for a minimum of six cars per aisle shall be provided within applicable parking lot setbacks;

**Finding:** The plans illustrate stacking for six vehicles with space to add additional stacking on the east side of the building.

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:** The city has long anticipated restaurant development of the site, actually approving such development over 20 years ago. The restaurant is not anticipated to negatively impact the level of service of the existing roadways.

5) Building shall be set back at least 100 feet and screened from any adjacent property designated in the comprehensive plan for residential use.

**Finding:** The building would be located 255 feet from the nearest property guided in the comprehensive guide plan for residential use. This residential property, however, is an outlot with a significant amount of vegetation and topography. The nearest developed residential property would be more than 600 feet away from the building.

The outdoor seating area would comply with the standards outlined in City Code §300.21, Subd. 4(p):

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

**Finding:** The outdoor seating area would be fenced with an opening to the sidewalk. The proposal would not include a liquor license.
2) shall not be permitted within 200 feet of any residential parcel and shall be separated from residential parcels by the principal structure or other method of screening acceptable to the city;

Finding: The outdoor seating area would be roughly 225 feet from the nearest residential property. This property is an outlot and is not developed but would serve as screening for the developed residential property which is more than 600 feet away from the patio.

3) shall be located and designed so as not to interfere with pedestrian and vehicular circulation;

Finding: The outdoor seat area would not interfere with pedestrian and vehicular circulation.

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

Finding: The outdoor seating area would be created by the conversion of one parking space. The proposal does include a variance to reduce the parking standards and staff is supportive of that request.

5) shall be located adjacent to an entrance to the principal use;

Finding: The outdoor patio is located between two entrances, but generally outside of the main entrance, on the west side of the building.

6) shall be equipped with refuse containers and periodically patrolled for litter pick-up;

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

7) shall not have speakers or audio equipment which is audible from adjacent parcels; and

Finding: The nearest developed residential parcel is roughly 600 feet away and further buffered by existing vegetation.

8) shall be located in compliance with building setback requirements.

Finding: As a PUD, the setbacks are governed by the master development plan. The applicant has requested an amendment to the existing master development plan to allow for the outdoor seating area.
SBP Standards

The proposal would comply with all site and building standards as outlined in City Code 300.27 Subd.5

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

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

2. Consistency with this ordinance;

Finding: But for the parking variance, the site and building plans are consistent with minimum ordinance standards.

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

Finding: The proposed restaurant would be located on a site previously prepared for the development of a restaurant. As such, minimal site work is required to accommodate the proposal.

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

Finding: The proposed restaurant would incorporate colors and materials from the building to the south.

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

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

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

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

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

**Finding:** The proposal would result in a redevelopment of a property that was approved to have a restaurant for over 20 years. Materials and colors would be appropriate and would include orderly routes for vehicular and pedestrian circulation.

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

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

**Finding:** The proposal would not negatively impact neighboring land uses. Rather, it is anticipated that the restaurant development would result in a physical and visual improvement of the center.

**Natural Resources**

Best management practices must be followed during the course of site preparation and construction activities. This would include installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing. As a condition of approval the applicant must submit a construction management plan detailing these management practices.
The planning commission has three options:

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

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

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

The city sent notices to 21 area property owners and received no comments.

Sept 16, 2019
Location Map

Project: Chipotle
Address: 10995 Red Cir Dr

Subject Property
Master Development Plan Letter

DATE: April 23, 2019

TO: Ashley Cauley  
City of Minnetonka  
Community Development Department  
14600 Minnetonka Blvd.  
Minnetonka, MN 55345  
(952) 939-8298

PROJECT: Chipotle – “Shady Oak”

VIA: E-mail

FROM: Dusty Austin  
Wilkus Architects, P.A.  
15 Ninth Avenue North  
Hopkins, MN 55343  
(952) 843-5045

RE: WRITTEN STATEMENT

This letter is being written in regards to an existing vacant lot in the city, and its future as a Chipotle Mexican Grill, to include a “Chipotlane” and outdoor seating. This expansion lot has been vacant since the original building – Shady Oak Convenience Center - was constructed in 1997. Our goal will be to add a restaurant option to an area that is projected to grow by leaps and bounds in the coming years. Chipotle Mexican Grill will be a great addition to the existing options on the property/adjacent property and in the surrounding area which houses a mix of retail, restaurants, schools, churches and office buildings. The current property and parking lot neighbors a Holiday Inn Express Hotel and their private parking lot, and is located at the northeast corner of 62 and Shady Oak Road.

We are submitting this letter for approval on modifications to the existing Master Development Plan for the following:

Parking: The parking count will be reduced from parking calculation requirements. Parking counts are above and beyond what is required now since the lot is currently sitting vacant and undeveloped, however site restraints do not allow for a very large building if parking is not able to be reduced.

In regards to Architecture - The design shown is our elevations is consistent with neighboring buildings and reflects the Chipotle Mexican Grill trade dress.

Consistency with Approved Master Development Plan: The last proposed use for the vacant lot was a restaurant which we are staying in line with.
DATE: May 14, 2019

TO: Ashley Cauley
City of Minnetonka
Community Development Department
14600 Minnetonka Blvd.
Minnetonka, MN 55345
(952) 939-8298

PROJECT: Chipotle – “Shady Oak” Parking Variance and CUP

VIA: E-mail and Hard Copy

FROM: Dusty Austin
Wilkus Architects, P.A.
15 Ninth Avenue North
Hopkins, MN 55343
(952) 843-5045

On behalf of DJD Partners VII, LLC, Wilkus Architects is submitting this package for a parking Variance and Conditional Use Permit consideration for a vacant lot at the following address:

10995-10999 Red Circle Drive
PID 3611722330021

Should you require any additional information please do not hesitate to contact me directly.

Thank you in advance for your time and consideration on this matter.

Dusty Austin

WILKUS ARCHITECTS
15 Ninth Ave N, Hopkins, MN 55343
T: (952) 843-5048 F: (952) 941-2755
E: dla@wilkusarch.com

Cc: File
DJD Partners, VII, LLC
Chipotle Mexican Grill
DATE: May 15, 2019

TO: Ashley Cauley
City of Minnetonka
Community Development Department
14600 Minnetonka Blvd.
Minnetonka, MN 55345
(952) 939-8298

PROJECT: Chipotle – “Shady Oak”

VIA: E-mail and Hard Copy

FROM: Dusty Austin
Wilkus Architects, P.A.
15 Ninth Avenue North
Hopkins, MN 55343
(952) 843-5045

RE: WRITTEN STATEMENT

This letter is being written in regards to an existing vacant lot in the city of Hopkins, and its future as a Chipotle Mexican Grill with a “Chipotlane” and outdoor seating. The expansion lot has been vacant since the original building – Shady Oak Convenience Center - was constructed in 1997. Our goal will be to add a restaurant option to an area that is projected to grow by leaps and bounds in the coming years. Chipotle Mexican Grill will be a gratifying addition to the existing options on this property and in the surrounding area - which houses a mix of retail, restaurants, schools, churches and office buildings. The current property and parking lot neighbors a Holiday Inn Express Hotel and their parking lot, and is located at the northeast corner of 62 and Shady Oak Road.

We are submitting this letter for approval on a conditional use permit to reduce the required parking counts, operate a Chipotlane and include outdoor seating. We are proposing 87 parking stalls for the existing restaurant spaces to serve the existing Einstein Bagels, burger joint and our proposed Chipotle Mexican Grill. Given that the area is designed for not only patrons driving to the area, but also in close proximity to existing as well as future housing projects, hotels, other retail and the upcoming expansion of public transit, options such as chipotle will only increase in need.

The area is currently zoned PUD and “The purpose of the planned unit development (PUD) zoning district is to provide a district that grants flexibility from certain subdivision and zoning regulations in order to realize public benefits that may not otherwise be achieved through non-PUD development.”

While reading through meeting minutes from prior Planning and Zoning meetings, the following statements were discovered of our neighbors. “The Opus business park was originally designed as a large mixed use development providing the opportunity for people to live, work and play.” as well as “There is more demand for retail or restaurant space”. Providing additional restaurant options will be of great benefit to the area and keep in line with the vision and arrangement of the PUD.
From the March 21 meeting minutes “Continue to support growth in the area, support retail and business growth” - this cannot happen in some areas, without providing conditional use permits, because of existing site restraints. The two existing restaurant facilities provide adequate parking for the site, however, this creates a hardship for any business attempting to build on the vacant lot as the future building (as the property owner shows in all their exhibits as well), would only allow for an approximate 720 +/- square foot building. The neighboring buildings on the property are another restaurant (11am – 10pm) and a coffee shop which has limited hours (6am – 2am). These limited hours decrease the need for parking after that time and increase availability for lunch and dinner hours for Chipotle and the neighboring burger joint.

In keeping with reducing parking needs and congestion, Chipotle Mexican Grill has come out with the “Chipotlane” which was designed to accommodate pick up orders that are called ahead, online and mobile pre-orders and create a quick and easy way to pick up your food. Chipotlane is not a typical drive thru or used for conventional drive thru purposes, no ordering, thus eliminating stacking and provides a seemingly efficient way to grab and go your order with no disruption to the parking lot. It also allows patrons to quickly pick up their order without having to park, cross parking lot traffic, hold up the line having to pay or come into the restaurant.

In regards to the Chipotle outdoor seating, we currently are allowing for a 450 square foot designated area to accommodate up to twenty patio seats which appears to be in line with neighboring businesses around the area.

Chipotle would meet the conditional use permit standards as outlined in city code 4(f)(1 - 4) and 4(p)(1 - 8). Chipotle would be allowed to be a Fast food restaurant with a drive-up facilities in this PUD per City Code 4(f)(1 - 4) and Chipotle is allowed to have an outdoor eating area per City Code 4(p)(1 - 8).

City Ordinance 4(f)(1 - 4)

f) Fast food restaurants with or without drive-up facilities, except those located in community or regional shopping centers:
   1) shall be located only on sites having direct access to minor arterial streets or service roads;
   2) public address systems shall not be audible from any residential parcel;
   3) stacking for a minimum of six cars per aisle shall be provided within applicable parking lot setbacks;
   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
   5) building shall be set back at least 100 feet and screened from any adjacent property designated in the comprehensive plan for residential use.

City Ordinance 4(p)(1 - 8)

p) Accessory sidewalk cafes and outdoor eating areas:
   1) shall be located in a controlled or cordoned area with at least one opening to an acceptable pedestrian walk. When a liquor license is involved, an enclosure is required and the enclosure shall not be interrupted; access shall be only through the principal building;
   2) shall not be permitted within 200 feet of any residential parcel and shall be separated from residential parcels by the principal structure or other method of screening acceptable to the city;
   3) shall be located and designed so as not to interfere with pedestrian and vehicular circulation;
   4) shall not be located to obstruct parking spaces. Parking spaces may be removed for the use only if parking requirements specified in section 300.28 are met;
   5) shall be located adjacent to an entrance to the principal use;
   6) shall be equipped with refuse containers and periodically patrolled for litter pick-up;
   7) shall not have speakers or audio equipment which is audible from adjacent parcels; and
   8) shall be located in compliance with building setback requirements.
DATE: May 15, 2019

TO: Ashley Cauley
City of Minnetonka
Community Development Department
14600 Minnetonka Blvd.
Minnetonka, MN 55345
(952) 939-8298

PROJECT: Chipotle – “Shady Oak”

VIA: E-mail

FROM: Dusty Austin
Wilkus Architects, P.A.
15 Ninth Avenue North
Hopkins, MN 55343
(952) 843-5045

RE: WRITTEN STATEMENT

This letter is being written in regards to an existing vacant lot in the city, and its future as a Chipotle Mexican Grill with a “Chipotlane” and outdoor seating. The expansion lot has been vacant since the original building – Shady Oak Convenience Center - was constructed in 1997. Our goal will be to build a ground up restaurant and bring a new option to an area that is projected to grow by leaps and bounds in the coming years. Chipotle Mexican Grill will be a great addition to the existing options on site and in the surrounding area which houses a mix of retail, restaurants, schools, churches and office buildings. The current property and parking lot neighbors a Holiday Inn Express Hotel and their parking lot, and is located at the northeast corner of 62 and Shady Oak Road.

We are submitting this letter for approval on a variance to reduce the required parking counts which are currently at 105 in total including 5 handicap parking spaces, to 87 parking spaces 5 handicap parking spaces in order to construct a properly flowing Chipotlane pick up. The site does not provide ideal expansion for a new tenant as the parking would certainly need to be decreased in some capacity to allow even the smallest of buildings.

Per Section 300.28, Subd. 12 of the city code, fast food restaurants require one space per 60 square feet of gross floor area (no liquor service). The ratio changes to 1 to 50 if liquor is served. Chipotle would not be serving liquor at this location so the gross floor area of 2,440 square feet would require Chipotle to have 40.6 parking spaces. MyBurger gross floor area of 1,650 square feet would require them to have 27.5 parking spaces. Einstein Bagels gross floor area of 2,500 square feet would require them to have 41.6 parking spaces. The total amount of parking spaces that is required by code for this area would be 109 parking spaces. MyBurger currently operates from (11am – 10pm) and Einstein Bagels which has limited hours from (6am – 2am). These limited hours decrease the need for parking after that time and increase availability for lunch and dinner hours for Chipotle and MyBurger.
In keeping with reducing parking needs and congestion, Chipotle Mexican Grill has come out with the “Chipotlane” which was designed to accommodate pick up orders that are called ahead, online and mobile pre-orders and create a quick and easy way to pick up your food. Chipotlane is not a typical drive thru or used for conventional drive thru purposes, no ordering, thus eliminating stacking and provides a seemingly efficient way to grab and go your order with no disruption to the parking lot and allows patrons to quickly pick up their order without having to park, cross parking lot traffic or come into the restaurant.

In addition to Chipotle’s efforts to reduce parking needs, there are ample trails, businesses within walking distance and bike paths that bring in pedestrian traffic, as well as the concurrent planning of the metro transit “Green Line”.

The request would meet the variance standard as outlined in city code.
LEASE EXHIBITS FOR:
"SHADY OAK & 62"
10995 Red Circle Drive
Minnetonka, MN 55343
STORE NO.: 3495
19 April, 2019

NOTE: DRAWING IS NOT TO SCALE

WEST ELEVATION

PAINT GRIP MBCI METAL PANELS; PAINTED TO COLOR MATCH ROASTED RED SIGN PANEL

EIFS SYSTEM, COLOR MATCH ADJACENT BUILDING EIFS

BRICK SYSTEM, COLOR MATCH ADJACENT BUILDING BRICK

INTERNALLY ILLUMINATED EXTERIOR SIGNAGE (D3 - 56 SF) (BY CHIPOTLE)

PREFINISHED BRAKE METAL FINISH TO MATCH STOREFRONT

CHARCOAL ALUMINUM STOREFRONT SYSTEM

6'-0" WIDE STILE DOORS (BY LANDLORD)
LEASE EXHIBITS FOR:
"SHADY OAK & 62"
10995 Red Circle Drive
Minnetonka, MN 55343
STORE NO.: 3495
19 April, 2019

*NORTH ELEVATION*

- **PAINT GRIP MBCI METAL PANELS;**
  Painted to color match roasted red sign panel
- **EIFS SYSTEM, COLOR MATCH ADJACENT BUILDING EIFS**
- **INTERNALLY ILLUMINATED EXTERIOR SIGNAGE (D3 - 56 SF) (BY CHIPOTLE)**
- **EXTERIOR CHARCOAL MULLIONS**
- **CHARCOAL ALUMINUM STOREFRONT SYSTEM**
- **EIFS SYSTEM BEHIND MULLIONS, COLOR MATCH TO PPG ‘AUTUMN RIDGE’**
- **6'-0" WIDE STILE DOORS (BY LANDLORD)**
- **EIFS SYSTEM, COLOR MATCH TO PPG ‘KNIGHTS ARMOR’**
- **BRICK SYSTEM, COLOR MATCH ADJACENT BUILDING BRICK**
LEASE EXHIBITS FOR:
"SHADY OAK & 62"
10995 Red Circle Drive
Minnetonka, MN 55343
STORE NO.: 3495
19 April, 2019

EAST ELEVATION

*NOTE: DRAWING IS NOT TO SCALE*

EIFS SYSTEM, COLOR MATCH ADJACENT BUILDING EIFS

INTERNALLY ILLUMINATED EXTERIOR SIGNAGE (D3 - 56 SF) (BY CHIPOTLE)

PAINT GRIP MBCI METAL PANELS; PAINTED TO COLOR MATCH ROASTED RED SIGN PANEL

CHARCOAL ALUMINUM STOREFRONT SYSTEM

3'-6" REAR SERVICE DOOR (BY LANDLORD)

EIFS SYSTEM, COLOR MATCH TO PPG 'KNIGHTS ARMOR'

BRICK SYSTEM, COLOR MATCH ADJACENT BUILDING BRICK
PLANT LIST

[List of plant species with corresponding codes]

PLANTING NOTES

- Contractor and client are joint and several liable for all plant materials. The guarantee begins on the date of bill of lading and shall have a 90-day guarantee.

- All plants to be shrubbery-green and/or hardy.

- All plants to be transplanted on site and supplied at planting.

- See adjacent 12" form planting on trees and 6" on shrubs and bottom of plant.

- Contractor must verify locations with all utilities prior to installation of plants.

- Shaping of trees optional; any shaping if more than 1" per year.

- All shrubs and 12" from ground to bottom of plant, thinned by June 1.

- All trees to be covered with burlap if necessary before planting.

- Each plant to be watered every other week for the first year after installation.

- Each plant to be maintained and pruned as necessary.

- Any adjusted price to be paid based on plant quantity and quality.

- All grading and planting beds must be made prior to installation.

- Any grade changes must be made prior to installation.

- All plants to be watered daily for the first year after installation.

- All beds to have a 2" layer of compost before installation.

- All beds to have a 2" layer of mulch over the entire bed area.

- All mowed areas to be maintained.
C. Items concerning Chipotle at 10995 Red Circle Drive.

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.

Luke asked what time the photos of the parking lot had been taken. Cauley answered morning, noon, and evening.

Henry asked if the neighboring Holiday Inn personnel expressed concern for restaurant traffic traveling through their parking area. Cauley answered that no one from the Holiday Inn contacted city staff. There is a shared access agreement that already exists between the two properties.

Sewall asked if there would still be room for snow storage. Cauley invited the applicant to answer.

Scott Murdock, representing the applicant, Chipotle, and Kristen Moen, architect for the proposal, introduced themselves. Ms. Moen pointed out where snow would be stored on the site plan.

Luke asked if the pick-up window would help ease parking constraints. Mr. Murdock answered affirmatively. He expected a quarter of the customers to utilize the pick-up window and not have to park in the lot.

Hanson asked if ordering would have to be done ahead of time or if a patron would be able to order from the vehicle. Mr. Murdock explained that an order would not be able to be made in the pick-up window lane. All orders would be placed and paid for online. There would be temporary waiting areas for patrons to wait for an employee to come to the vehicle to take the order and then deliver the order to the vehicle.

Mr. Murdock stated that other locations have found that the average customer service interaction for patrons who preordered and picked up the order at the pick-up window lasts 15 seconds. There would be no squawk box or menu panel. A large percentage of the Chipotle pick-up windows’ clientele are drivers for food delivery services.

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

Chair Kirk asked if EFIS would be used. Cauley stated that the representation is not a final determination of materials that would be used.

Hanson noted that there is a lot going on in Opus. This feels like a good indication of what will be happening in the area.
Sewall suggested signage that would alert drivers that the pick-up window would operate
differently than a traditional drive-thru window. He supports the proposal.

*Luke moved, second by Knight, to recommend that the city council adopt the resolution approving an amendment to the master development plan and final site and building plans with a parking variance and a resolution approving a conditional use permit for a restaurant with a drive-up window and outdoor seating area.*

*Hanson, Henry, Knight, Luke, Sewell, and Kirk voted yes. Powers was absent. Motion carried.*

This item is scheduled to be reviewed by the city council at its meeting on July 8, 2019.
Resolution No. 2019-

Resolution amending the master development plan and approving site and building plans with a parking variance for Chipotle at 10995 Red Circle Drive

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

Section 1. Background.

1.01 On March 31, 1997, the city approved the master development plan and site and building plans for three restaurants. As approved, these included Boston Market at 10995 Red Circle Drive and Caribou Coffee and Einstein Bagels at 10999 Red Circle Drive. A building permit was obtained for Boston Market, but it was never built.

1.02 The property is located at 10995 Red Circle Drive. It is legally described as:
Lot 1, Block 1, SHARPHOL ADDITION, according to the recorded plat thereof, Hennepin County, Minnesota, lying Northerly of the following described line:
Commencing at the northwesterly corner of said Lot 1: thence South 13 degrees 09 minutes 43 seconds East, assumed bearing along the westerly line of said Lot 1, a distance of 157.17 feet to the point of the beginning of the line to be described; thence North 76 degrees 50 minutes 17 seconds East, a distance of 83.00 feet; thence North 13 degrees 09 minutes 43 seconds West, a distance of 12.76 feet; thence North 86 degrees 08 minutes 33 seconds East, a distance of 91.85 feet; thence South 42 degrees 42 minutes 37 seconds East, a distance of 28.03 feet; thence North 88 degrees 17 minutes 30 seconds East, a distance of 30.00 feet to the Easterly line of said Lot 1 and said line there terminating.

Hennepin County, Minnesota
Abstract Property

1.03 Dusty Austin, on behalf of Wilkus Architects, is requesting an amendment to the existing master development plan, approval of the final site and building plans, with a parking variance to allow the construction of a restaurant.

1.04 City Code §300.28, Subd.12 requires 126 parking stalls. The applicant is proposing 88 stalls.
Minnesota Statute §462.357 Subd.6 and City Code §300.07 authorizes the Planning Commission to grant variances.

1.05 On June 27, 2019, the planning commission held a public 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 request.

Section 2. Standards.

2.01 City Code §300.22, Subd.9, requires amendments to master development plans.

2.02 City Code §300.27, Subd.5, states that in evaluating a site and building plan, the city will consider its compliance with the following:

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

2. Consistency with the ordinance;

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

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

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

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

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

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

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

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

Section 3. Findings.

3.01 The proposed amendment to the existing master development plan is reasonable as:

1. The development of the site is generally consistent with the previously approved plan, which indicated that the site would be developed with a restaurant.

2. The amendment would reflect the smaller restaurant footprint, a drive-up window, outdoor patio, and the reduction in available parking.

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

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

2. But for the parking variance, the site and building plans are consistent with minimum ordinance standards.

3. The proposed restaurant would be located on a site previously prepared for the development of a restaurant. As such, minimal site work would be required to accommodate the proposal.
4. The proposed restaurant would incorporate colors and materials from the building to the south.

5. The proposal would result in a redevelopment of a property that was approved to have a restaurant for over 20 years. Materials and colors would be appropriate and would include orderly routes for vehicular and pedestrian circulation.

6. The proposal would not negatively impact neighboring land uses. Rather, it is anticipated that the restaurant development would result in a physical and visual improvement of the center.

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

1. Purpose and Intent: The intent of the ordinance as it relates to parking requirements is to ensure that there is adequate parking available onsite to accommodate the anticipated parking demand. Based on data collected by the Institute of Transportation Engineers (ITE), the anticipated peak parking demands can be accommodated on site. Additional shared parking is provided on the hotel property to the east.

2. Consistent with Comprehensive Plan: The site is located just south of the South Shady Oak/Bren Rd neighborhood village center. The comprehensive guide plan calls for “connections to land uses with efficient internal traffic circulation.” The proposal would be consistent with the goals.

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

   a) Reasonableness: The requested parking variance is reasonable. By ITE standards, the anticipated parking demand could be accommodated on site.

   b) Unique Circumstance and Character of Locality: The development of a restaurant has been anticipated on the property for over 20 years. Based on ITE standards, the parking demand could be accommodated on site, as the peak parking demand times of the restaurants are varied. Additional parking, with direct/shared access, is available on the hotel property to the east.

Section 4. City Council Action.

4.01 The above-described final site and building plans, with a parking variance, are hereby 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 site must be developed and maintained in substantial conformance with the following plans, excepted as modified by the conditions below:
   - Site plan dated May 3, 2019
   - Grading plan dated May 3, 2019
   - Floor plan dated May 15, 2019
   - Elevations date-stamped June 18, 2019

2. Prior to the submission of a building, a pre-permit submittal meeting with appropriate city staff may be required.

3. Prior to issuance of a building permit:
   a) A copy of this resolution must be recorded with Hennepin County.
   b) Submit the following:
      1) A final materials board for review and approval by city staff.
      2) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to comply with grading permit and landscaping requirements and to restore the site. One itemized letter of credit is permissible if approved by staff. The city will not fully release the letters of credit or cash escrow until: (1) as-built drawings have been submitted; (2) a letter certifying that the underground facility has been completed according to the plans approved by the city has been submitted; (3) vegetated ground cover has been established; and (4) required landscaping or vegetation has survived one full growing season.
      3) Final stormwater management plan is required. If the proposed activity will disturb less than 50-percent of the existing site's impervious surface, stormwater management is only required for the disturbed and additional impervious surface. If the proposed activity disturbs more than 50-percent of the site, stormwater management must treat for the entire site's impervious surface. The plan must demonstrate conformance with the following criteria:
         - Rate: limit peak runoff flow rates to that of the existing 2-, 10- and 100-year events at all points where stormwater leaves the site.
• Volume: provide for onsite retention of 1-inch of runoff from the site’s impervious surface.

• Quality: provide for runoff to be treated to at least 60-percent total phosphorus annual removal efficiency and 90-percent total suspended solid annual removal efficiency.

4) If the stormwater facility is underground:

• provide evidence that the underground system will be able to support 83,000 pounds and 10,800 per square foot outrigger load, and;

• the underground facility must be inspected by a qualified third party during installation to ensure that the pressure requirements are adequately met.

5) A stormwater maintenance agreement in a city-approved format for review and approval by city staff.

6) A landscape plan. The plan must:

• Meet minimum landscape and mitigation requirements as outlined in ordinance. Note, only small shrubs, perennials, and grasses may be located in public easements.

• Include information relating to species, sizes, quantities, and landscape values.

7) A private hydrant maintenance agreement in a city-approved format for review and approval by city staff for existing and proposed hydrants.

8) A snow removal plan.

c) Install erosion control fencing as required by staff for inspection and approval. These items must be maintained throughout the course of construction.

d) Install a temporary rock driveway, erosion control, tree and wetland protection fencing and any other measures as identified as SWPPP for staff inspection. These items must be maintained throughout the course of construction.
4. Permits may be required from other outside agencies including, Hennepin County, the Nine Mile Creek Watershed District, and the MPCA. It is the applicant or property owner’s responsibility to obtain any necessary permits.

5. The applicant or property owner should coordinate site work with private utilities.

6. If the city determines that the restaurant has inadequate parking, the property owner or the restaurant owner must work with city staff to implement a solution.

7. Construction must begin by Dec. 31, 2020, unless the city has issued a building permit for the project or a time extension has been approved.

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 8, 2019.

____________________________________
Brad Wiersum, Mayor

Attest:

_________________________________
Becky Koosman, 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 July 8, 2019

__________________________________
Becky Koosman, City Clerk
Resolution No. 2019-

Resolution approving a conditional use permit for a restaurant, with a drive-up window and an outdoor seating area at 10995 Red Circle Drive

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

Section 1. Background.

1.01 Dusty Austin, on behalf of Wilkus Architects, is proposing to construct a restaurant, with a drive-up window and an outdoor seating area.

1.02 The property is located at 10995 Red Circle Drive. It is legally described as:

Lot 1, Block 1, SHARPHOL ADDITION, according to the recorded plat thereof, Hennepin County, Minnesota, lying Northerly of the following described line:

Commencing at the northwesterly corner of said Lot 1: thence South 13 degrees 09 minutes 43 seconds East, assumed bearing along the westerly line of said Lot 1, a distance of 157.17 feet to the point of the beginning of the line to be described; thence North 76 degrees 50 minutes 17 seconds East, a distance of 83.00 feet; thence North 13 degrees 09 minutes 43 seconds West, a distance of 12.76 feet; thence North 86 degrees 08 minutes 33 seconds East, a distance of 91.85 feet; thence South 42 degrees 42 minutes 37 seconds East, a distance of 28.03 feet; thence North 88 degrees 17 minutes 30 seconds East, a distance of 30.00 feet to the Easterly line of said Lot 1 and said line there terminating.

Hennepin County, Minnesota
Abstract Property

1.03 On June 27, 2019, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. Standards.

2.01 City Code §300.21 Subd.2 outlines the general standards that must be met for granting a conditional use permit. These standards are incorporated into this resolution by reference.
2.02 City Code §300.21 Subd.4(f) outlines the following specific standards that must be met for granting a conditional use permit for fast food restaurant with drive-up facility:

1. shall be located only on sites having direct access to minor arterial streets or service roads;
2. public address systems shall not be audible from any residential parcel;
3. stacking for a minimum of six cars per aisle shall be provided within applicable parking lot setbacks;
4. the city has long anticipated restaurant development of the site, approving such development over 20 years ago. The restaurant is not anticipated to negatively impact the level of service of the existing roadways.
5. building shall be located at least 100 feet and screened from any adjacent property designated in the comprehensive guide plan for residential use.

2.03 City Code §300.21, Subd.4(p): outlines the following specific standards that must be met for granting a conditional use permit for outdoor seating areas:

1. shall be located in a controlled or cordoned area with at least one opening to an acceptable pedestrian walk. When a liquor license is involved, an enclosure is required, and the enclosure shall not be interrupted; access shall be only through the principal building;
2. shall not be permitted within 200 feet of any residential parcel and shall be separated from residential parcels by the principal structure or other methods of screening acceptable to the city;
3. shall be located and designed so as not to interfere with pedestrian and vehicular circulation;
4. shall not be located to obstruct parking spaces. Parking spaces may be removed only if parking requirements specified in section 300.28 are met;
5. shall be adjacent to the entrance to the principal use;
6. shall be equipped with refuse containers and periodically patrolled for litter pickup.
7. shall not have speakers or audio equipment which is audible from adjacent parcels; and
8. shall be located in compliance with building setback requirements.

Section 3. Findings.
3.01 The proposal meets the general conditional use permit standards outlined in City Code §300.21 Subd.2.

3.02 The proposal would meet all of the specific conditional use permit standards outlined in City Code 300.21 Subd.4(f) for fast food restaurants with a drive-up facility:

1. The property has frontage onto Shady Oak Road, which is classified as a minor arterial road. The site does have access via Red Circle Drive which would be a service road.

2. Chipotle would not have an exterior public address system, as all orders would be made by phone or online. Additionally, the nearest residential property is 600 feet away and is separated by topography, vegetation, and Shady Oak Road.

3. The plans include stacking for six vehicles with space to add additional stacking on the east side of the building.

4. The city has long anticipated restaurant development of the site, actually approving such development over 20 years ago. The restaurant is not anticipated to negatively impact the level of service of the existing roadways.

5. The building would be located 255 feet from the nearest property guided in the comprehensive guide plan for residential use. However, this residential property is an outlot with a significant amount of vegetation and topography. The nearest developed residential property would be more than 600 feet away from the building.

3.03 The proposal would meet all of the conditional use permit standards outlined in City Code §300.21, Subd.4(p) for outdoor seating areas:

1. The outdoor seating area would be fenced with an opening to the sidewalk. The proposal would not include a liquor license.

2. The outdoor seating area would be roughly 225 feet from the nearest residential property. This property is an outlot and is not developed but would serve as screening for the developed residential property, which is more than 600 feet away from the patio.

3. The outdoor seating area would not interfere with pedestrian and vehicular circulation.

4. The outdoor seating area would be created by the conversion of one parking space. The proposal does include a variance to reduce the parking standards. That variance is supported by Resolution 2019-xx.

5. The outdoor patio would be located between two entrances, but generally
outside of the main entrance, on the west side of the building.

6. As a condition of this resolution, the outdoor area must be equipped with refuse containers and regularly patrolled for litter pick-up.

7. The nearest developed residential parcel is roughly 600 feet away, additionally buffered by existing vegetation.

8. As a PUD, the setbacks are regulated by the master development plan. The applicant has requested an amendment to the existing master development plan to allow for the outdoor seating area.

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. Subject to staff approval, the property must be developed as per Resolution No. 2019-XXX.

3. The outdoor seating area must be equipped with refuse containers and regularly patrolled for litter pick-up.

4. Outdoor audio equipment that is audible from the adjacent property is not allowed.

5. The restaurant and outdoor seating area must conform to all aspects of City Code Chapter 8, Public Health and Public Nuisance ordinances.

6. The city council may reasonably add or revise conditions to address any future unseen problems.

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 8, 2019.

Brad Wiersum, Mayor

Attest:
Becky Koosman, 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 July 8, 2019.

Becky Koosman, City Clerk
## Description
Time extension for a conditional use permit, with a parking variance, to expand an existing medical clinic at 10653 Wayzata Blvd.

## Recommendation
Approve a twelve-month time extension

## Background
In July 2018, the city council approved a conditional use permit to expand an existing medical clinic (Odom Health and Wellness) within the building at 10653 Wayzata Boulevard. The minor expansion – from 3,800 square feet to 4,885 square feet in size – also necessitated a parking variance. The property owner recently contacted staff and indicated that the clinic has not expanded into the larger space, but intends to do so in the next twelve months.

## Extension Request
By City Code §300.06 Subd.7, “a conditional use permit shall expire if normal operation of the use has been discontinued for 12 or more months.” Given the expansion of the medical clinic has not occurred to date, the CUP is set to expire. The property owner has requested an extension of the previous approval. (See attached.)

## Staff Analysis
In evaluating extension requests, the city has generally considered: (1) whether there have been changes to city code or policy that would affect the previous approvals; and (2) whether such extension would adversely affect the interests of neighboring property owners. Staff finds that an extension is reasonable as:

- There have been no changes to city code that would affect the previous approval; and,
- An extension would not adversely affect the interests of neighboring property owners.
- An extension is consistent with city practice.

## Staff Recommendation
Approve a twelve-month time extension.

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

Originator: Susan Thomas, AICP, Assistant City Planner
Drew Ingvalson
Planner
City of Minnetonka | eminnetonka.com

From: Shawn L. Dahl [mailto:ShawnDahl@amesco.com]
Sent: Tuesday, June 18, 2019 2:40 PM
To: Drew Ingvalson <dingvalson@eminnetonka.com>
Subject: Odom Health Conditional use approval

Hello Drew,

As we discussed by telephone today I am the owner/manager of the Mill City Building located at 10653 Wayzata Boulevard where Odom Health is a tenant. I would like to request an extension of the conditional use permit approval that was granted in July 2018. The tenant is not ready to absorb the space as quickly as they thought when we initiated the request with the city but intend to do so as soon as it is feasible.

Could the approvals please be extended to July of 2020 to allow us more time to prepare for this addition?

Thank you!

Shawn Dahl
BTR Voyager I, LLC
612-366-4600
2018 APPROVAL
MINNETONKA PLANNING COMMISSION
June 28, 2018

Brief Description
Conditional use permit, with a parking variance, to expand an existing medical clinic at 10653 Wayzata Blvd.

Recommendation
Recommend the city council approve the request

Proposal
Shawn Dahl of BTR Voyager, LLC is proposing to expand an existing medical clinic (Odom Health and Wellness) on the second floor of the building at 10653 Wayzata Blvd. The proposed addition would be over the existing bank drive thru. (See attached.) There is currently an approved conditional use permit for this medical clinic. However, the Odom Health and Wellness proposal would expand the medical clinic from 3,800 square feet to 4,885 square feet in size.

Proposal Requirements
The proposal requires:

- **Conditional use permit:** The property is zoned PID/Planned I-394 District. Medical clinics are a conditional use in this zoning district. The expansion of the medical clinic requires an amendment of the existing conditional use permit.

- **Variance:** The property is currently under-parked and the expansion of the medical office area would increase the parking non-conformity.

Staff Analysis
Staff finds that the applicant’s proposal is reasonable and would meet the conditional use permit standards (general and specific) and variance standards outlined in the zoning ordinance.

Staff finds that the proposal meets the general conditional use permit standards, as the use:

1) Is consistent with the intent of the ordinance;

   **Finding:** Medical clinics are a conditionally permitted use within the Planned I-394 District (PID). As proposed, the addition would meet all ordinance requirements, with the exception of parking.

2) Is consistent with the goals, policies and objectives of the comprehensive plan;

   **Finding:** The use is consistent with the goals, policies and objectives of the comprehensive plan. The subject site is guided for office use. Medical clinic uses are consistent with the uses within this land use category.
3) Does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;

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

4) Is consistent with the city's water resources management plan;

**Finding:** The use is consistent with the city’s water resources management plan. The proposed addition would be located over an existing overhang with impervious surface below and would not create additional stormwater runoff.

5) Is in compliance with the performance standards specified in §300.28 of the ordinance; and

**Finding:** The proposal is for a small addition within the footprint of an existing building. With the exception of the parking variance to allow a reduction of parking, the proposal would meet the standards outlined.

6) Does not have an undue adverse impact on the public health, safety or welfare.

**Finding:** The use is not anticipated to have an undue adverse impact on the public health, safety or welfare.

Staff finds that the proposal meets the specific conditional use permit standards, as the use:

1) Shall not be adjacent to low density residential areas;

**Finding:** All of the surrounding land uses are office and medical uses, and all of the surrounding properties are guided for office use in the comprehensive plan. The site is not adjacent to any low-density residential properties.

2) Shall have direct access from the site to a collector or arterial street as defined in the comprehensive plan;

**Finding:** The site has direct access from Wayzata Blvd., which is defined as an arterial street in the comprehensive plan.

3) Shall not have emergency vehicle access adjacent to or located across a street from any residential use; and

**Finding:** The proposed medical use is a sports medicine and health clinic. It is not anticipated that the use would require
emergency vehicle access. Additionally, the site access locations are not located adjacent to or across the street from any residential use properties.

4) May be required to submit a detailed parking analysis for uses exceeding 10,000 square feet. Additional parking may be required based on this analysis.

**Finding:** The proposed clinic would be expanded to 4,885 square feet in size, a 1,060 square foot expansion from the previously approved clinic area. The applicant completed a parking utilization study covering a two-week period, Monday through Friday, in April and May 2018. The observation noted that over the two-week period there was an average of 13.3 parking spaces available in the 58-stall parking lot, or 23 percent. Per city ordinance, the expansion of the medical clinic would require the site to have 74 parking spaces. Staff finds that there is adequate parking available to meet the increased parking need that would result from the expanded medical clinic.

Staff previously created a proof-of-parking plan with the 2017 conditional use permit approval indicating how ten additional parking stalls, resulting in the required 68 stalls, could be constructed if needed in the future. (See attached). Per the conditions of approval, these stalls would need to be installed if there is an observed parking issue in the future.

Staff finds that the proposal meets the variance standards, as:

1) **Purpose and Intent of the Zoning Ordinance:**

**Finding:** The proposal, and resulting variance request, would be in keeping with the city’s zoning ordinance. The intent of the ordinance, as it pertains to parking requirements, is to ensure adequate parking is provided to meet the anticipated parking demand of the subject site. A parking utilization study completed over two weeks in April and May 2018. This study found that, on average, there were 13 parking spaces (23 percent) available on site. With this consideration, staff finds that the proposed reduction in parking spaces would meet the intent of the ordinance because, based on the parking utilization study, the proposed use would demand less parking than required by ordinance.

2) **Consistent with the Comprehensive Plan:**

**Finding:** The proposal would be consistent with the city’s comprehensive plan. The subject property is guided for office use. A medical clinic is a conditionally permitted use within this land use designation.
3) Practical Difficulties:

**Findings:** There are practical difficulties in complying with the ordinance.

Reasonableness: Staff finds that the request for a variance from the required number of parking spaces is reasonable. Based on parking analysis in the Institute of Transportation Engineers (ITE) Parking Generation manual, the office and clinic building uses would require an average peak period parking demand of 54 parking spaces. The proposed parking variance would meet the intent of the ordinance. Based on the ITE information, the proposed use would actually demand less parking than what is currently on site.

Circumstance Unique to the Property: The applicant submitted parking utilization information for a two-week period in April and May 2018. The observation noted that, on average, there were 13 parking spaces available in the 58-stall parking lot.

Neighborhood Character: The parking variance would not adversely affect the character of the surrounding neighborhood as the site should meet the anticipated peak parking demand on site.

**Staff Recommendation**

Recommend that the city council adopt the resolution, which approves a conditional use permit for a medical clinic, with parking variance, at 10653 Wayzata Blvd.

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

Project No.  98054.18a

Property  10653 Wayzata Blvd.

Applicant  Shawn Dahl, BTR Voyager I, LLC

Surrounding Land Uses
North: Wayzata Blvd and Highway I-394
South: Office building, zoned PID and guided for office use
East: Office building, zoned PID and guided for office use
West: Medical office building, zoned PID and guided for office use

Planning
Guide Plan designation: Office
Zoning: PID/Planned I-394 District

Site Features
The site is located on Wayzata Blvd., just east of Archwood Road. The site is 1.7 acres in size and contains a 2-story, 15,200 square foot office building which was constructed in 2004.

History
In 2003, the city approved a site and building plan for a two-story building on the subject property.

In January 2013, the city received a building permit application for a chiropractor clinic within the office building. By city code, medical clinics over 2,000 square feet in size are conditionally permitted uses. A medical clinic that is 2,000 square feet or less in size is considered a standard office use, which is a permitted use in the PID zoning district. Since the building permit was for a 2,000 square foot clinic, the city issued the permit.

In February 2014, the city approved a request to expand the medical clinic to 3,500 square feet in size, requiring a conditional use permit. The increase in medical clinic space increased the parking requirement for the site. Staff did not require additional parking to be constructed due to proof-of-parking and parking utilization information.

In February 2017, the city approved a request to add a second sign on the north elevation of the existing 2-story office building. The request required a variance as the proposed wall signage would exceed the maximum number and graphic area allowed by city ordinance on the north elevation.

In March 2017, the city approved a request to expand the medical clinic to 3,800 square feet in size, requiring an amendment to their conditional use permit. The increase in medical clinic space increased the parking requirement for the site. Staff did not require additional parking to be constructed due to proof-of-parking and parking utilization information.
**Proposed Addition**

The applicant is proposing to add a 26.5-foot by 40-foot (1,060 square foot), second story addition over an existing drive thru overhang. This will increase the building size from 15,200 square feet to 16,260 square feet, a seven percent increase. This addition would be for a patient training area and a private conference room for patient consultation and staff meetings. (See attached).

The proposed addition would maintain the same footprint as the overhang and would thus meet all setback requirements. Additionally, the impervious surface of the site would not be increased, as the addition will be over the existing overhang, which is over concrete and asphalt. The floor area ratio would be increased from 0.20 to 0.22.

**Parking**

In 2014, the subject property was granted a conditional use permit for a medical clinic. The property needed additional parking stalls to meet parking ordinance requirements. As a part of this request, the applicant provided parking utilization information from a one-week period in January 2014 (which included operation of a chiropractor clinic, see attached) and a proof-of-parking document. In turn, the city added a condition that required that these stalls be installed if there was a demonstrated need for additional parking.

In 2017, the subject property was granted an amendment to their conditional use permit to expand the medical clinic 300 square feet. The request was reviewed based on the January 2014 parking study, a generation study completed by the Institute of Transportation Engineers (ITE), and a proof of parking document. Again, the city added a condition that required that these stalls be installed if there was a demonstrated need for additional parking.

The subject site currently has 58 parking spaces. As proposed, city parking ordinance would require that the site have 74 parking spaces. However, ITE suggests that the uses on the site would require only 54 parking spaces to meet the average peak period parking demand. Additionally, the April and May 2018 parking utilization review showed that the lot on average had 13.3 parking spaces, or 23 percent, available during the weekdays. There was a low parking availability day of three parking spaces on Monday, April 30, 2018. However, the applicant informed staff that there was a meeting this day with six typically off-site, rehabilitation trainers. The applicant informed staff that their presence most likely caused in the increase for this day, as the following Monday had eight empty spaces. (See attached.) Due to these findings, staff has found it reasonable for the applicant to request a parking variance, subject to conditions.

Staff has drafted a proof-of-parking plan for the subject site and added a condition of approval that allows the city to require installation of up to ten proof-of-parking spaces if there is a demonstrated need for additional parking. Additional parking must meet all zoning code requirements.
Pyramid of Discretion

Motion Options

The planning commission has three options:

1. Concur with the staff’s recommendation. In this case a motion should be made recommending the city council approve the conditional use permit with parking variance.

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

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

Voting Requirement

The planning commission will make a recommendation to the city council on the applicant’s proposal. A recommendation for approval requires an affirmative vote of four members. The city council’s final approval requires affirmative votes of five members.

Neighborhood Comments

The city sent notices to 87 area property owners and received no comments.

Deadline for Decision

September 17, 2018
Odom Health and Wellness
BTR Voyager I, LLC
BTR Voyager Building
10653 Wayzata Boulevard

Description of Request: Odom Sports Medicine, PA/dba/Odom Health and Wellness (OHW) and the building ownership, BTR Voyager I, LLC are proposing to amend the existing Conditional Use Permit and request a parking variance in conjunction with the proposed expansion of Odom Health and Wellness.

OHW is a clinic which provides physician directed Health and Wellness Services: Sports Medicine, Physical Therapy, Massage Therapy, Nutrition, Personal Training, and other wellness services. The normal hours of operation are Monday – Friday 6 a.m. to 8 p.m., Saturdays 6 a.m. to 6 p.m.

Proposed Conditional Use Permit Amendment: OHW and the BTR Voyager I, LLC would like to propose to amend the existing Conditional Use Permit to expand the Odom Health and Wellness Medical Office by approximately 1058 Square feet. The proposed expansion would consist of a patient training area and a private conference room for patient consultation and organizational staff meetings for Odom Health and Wellness and would be located directly overhead of the existing bank teller drive through window canopy located on the south side of the building. The expansion architectural design and building materials will match the existing building façade.

Proposed Parking Variance: Currently, the property consists of 58 parking stalls. For a two week period (4/30/18- 5-11-18) a parking study was performed during the peak business hours from 8:30 am to 4:00 p.m., Monday through Friday. (Please see attached parking study data) The results indicate that vehicle parking never reaches capacity. On average there are at least 13 parking spots open at any time. This equates to 23% parking vacancy on average during the peak business hours. Additionally, the first floor of the building is occupied by Mill City Bank which includes a service teller window so a portion of the bank customers do not utilize parking spaces when visiting the bank. Attached is a proof of parking plan which depicts the ability to expand the parking lot up to an additional 10 stalls if warranted. The applicant would like to propose that the parking lot remains at its current capacity to allow for the preservation of existing green space to be enjoyed by Mill City Credit Union and Odom Health and Wellness management and to maintain buffer between the building and parking areas. The applicant will continuously monitor the parking availability and will also communicate with the building occupants frequently to determine if there is a need for additional parking at which time the applicant would agree to expand the parking lot as needed.
EXISTING DRIVE THROUGH CANOPY

Proposed Addition
City Submittal
1053 Wayzata Blvd
Minneapolis, MN 55305

BUILDING ELEVATIONS
NEW ROOF SYSTEM TO MATCH EXISTING ROOFING SYSTEM.

THERMAL BARRIER
VAPOR BARRIER
1 1/2" METAL DECKING

NEW ROOF STRUCTURE VERIFY WITH STRUCTURAL ENGINEER

REMOVE EXG WALL AT NEW BEAM CONNECTION TO EXISTING STRUCTURE,
EXG BEAMS
EXG LINEAR METAL CEILING, TO REMAIN, PATCH AND REPAIR AT CONNECTION TO NEW EXTERIOR WALL

EXG WINDOW TO BE REMOVED
EXG STRUCTURE TO REMAIN. STRUCTURAL ENGINEER NEEDS TO VERIFY IF EXISTING STRUCTURE CAN SUPPORT NEW LOADS OF CONFERENCE ROOM EXPANSION.

NEW ROOF TOP UNIT FOR HEATING AND COOLING OF ADDITION SIZE AND REQUIREMENTS TO BE DETERMINED BY DESIGN BUILDING MEP CONTRACTOR

NEW LIGHT FIXTURES, SMOKE DETECTORS, SPRINKLERS BY DESIGN BUILD MEP CONTRACTOR FOR ADDITION.

EXISTING SLOPED CONCRETE ON METAL DECK TO REMAIN

NEW ACT CLG TO MATCH EXISTING LIGHTING TO MATCH EXISTING

EXG STRUCTURE TO REMAIN. STRUCTURAL ENGINEER NEEDS TO VERIFY IF EXISTING STRUCTURE CAN SUPPORT NEW LOADS OF CONFERENCE ROOM EXPANSION.

EXISTING ROOF DRAINS.
DOWN SPOUTS TO BE EXTENDED UP TO NEW ROOF STRUCTURE SEE NEW WORK SECTION

NEW ROOF SYSTEM TO MATCH EXISTING ROOFING SYSTEM.

NEW ROOF STRUCTURE VERIFY WITH STRUCTURAL ENGINEER.
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2 week Average: 13.3, 23%
2018 Council Minutes and Resolution
Ellingson moved, Happe seconded a motion to adopt ordinance 2018-08 and Res. 2018-073 approving the Master Development Plan amendment and Site and Building Plan Review with drive aisle and stall length variances. All voted "yes." Motion carried.

D. Order for tobacco license violation at Freedom Valu Center #57, 17516 State Hwy 7

Ellingson moved, Happe seconded a motion to approve issuing the Findings of Fact, Conclusion, and Order for the Freedom Valu Center #57, 17516 Hwy 7. All voted "yes." Motion carried.

E. Resolution providing for the issuance and sale of $10,000,000 General Obligation Utility Revenue Bonds, Series 2018A

Ellingson moved, Happe seconded a motion to adopt resolution 2018-074 providing for the issuance and sale of approximately $10 million General Obligation Utility Revenue Bonds, Series 2018A. All voted "yes." Motion carried.

11. Consent Agenda – Items requiring Five Votes:

A. Resolution approving a conditional use permit, with a parking variance, to expand an existing medical clinic at 10653 Wayzata Blvd.

Ellingson moved, Happe seconded a motion to adopt resolution 2018-075 approving a conditional use permit for a medical clinic, with parking variance, at 10653 Wayzata Blvd. All voted "yes." Motion carried.

12. Introduction of Ordinances: None

13. Public Hearings: None

14. Other Business:

A. Conditional use permit for a religious institution at 2333 and 2339 Hopkins Crossroad and 11170 Mill Run

City Planner Loren Gordon gave the staff report.

Wagner asked if the road were to be perfectly reconstructed, what the width of the lanes would be. City Engineer Will Manchester said if the road were to be reconstructed, the county would do an extensive study. A common width of lanes per state aid standards would be 11 feet. He said the county would look to add a trail and a sidewalk to each side as well as widening the shoulder on the west. Wagner asked what the likelihood the road could be widened in the next four to five years where the guard rails were located. Manchester said it was a very expensive widening because it would require retaining walls. This was usually done as part of a reconstruction given the costs.
Resolution No. 2018-075

Resolution approving a conditional use permit, with parking variance for a medical clinic at 10653 Wayzata Blvd.

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

Section 1. Background.

1.01 The property is located at 10653 Wayzata Blvd. It is legally described as:

Lot 1, Block 2, Colonial Oaks, Hennepin County, Minnesota

1.02 Shawn Dahl of BTR Voyager, LLC is proposing to expand an existing medical clinic (Odom Health and Wellness) on the second floor of the building on the site. The proposed addition would be over the existing bank drive thru.

1.03 There is currently an approved conditional use permit for this medical clinic. However, this proposal would expand the medical clinic from 3,800 square feet to 4,885 square feet in size. This expansion requires an amendment of the existing conditional use permit.

1.04 The subject site currently has 58 parking spaces. However, by ordinance, the site requires 68 parking spaces, but a ten space, proof-of-parking was provided with the previous approval. The proposed request would require an additional six parking spaces on the site, creating a total requirement of 72 parking spaces. This requires a parking variance.

1.05 City Code §300.31 Subd. 4(b)(2)(d) allows hospitals and medical clinics on property designated for office, retail or service commercial uses within the Planned I-394 District (PID).

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

1.07 On June 28, 2018, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the planning commission. The planning commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The
commission recommended that the city council approve the permit.

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 or welfare.

2.02 City Code §300.31 Subd. 4(b)(2)(d) lists the following specific standards that must be met for granting a conditional use permit for hospitals and medical clinics uses:

1. Shall not be adjacent to low density residential areas;
2. Shall have direct access from the site to a collector or arterial street as defined in the comprehensive plan;
3. Shall not have emergency vehicle access adjacent to or located across a street from any residential use; and
4. May be required to submit a detailed parking analysis for uses exceeding 10,000 square feet. Additional parking may be required based on this analysis.

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

3.01 General CUP Findings: The proposal meets the general conditional use permit standards.

1. Medical clinics are a conditionally permitted use within the Planned I-394 District (PID). As proposed, the addition would meet all ordinance requirements, with the exception of parking.

2. The use is consistent with the goals, policies and objectives of the comprehensive plan. The subject site is guided for office use. Medical clinic uses are consistent with the uses within this land use category.

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

4. The use is consistent with the city's water resources management plan. The proposed addition would be located over an existing overhang with impervious surface below and would not create additional stormwater runoff.

5. The proposal is for a small addition within the footprint of an existing building. With the exception of the parking variance to allow a reduction of parking, the proposal would meet the standards outlined.

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

3.02 Specific CUP Findings: The proposal meets the conditional use permit standards.

1. All of the surrounding land uses are office and medical uses, and all of the surrounding properties are guided for office use in the comprehensive plan. The site is not adjacent to any low-density residential properties.

2. The site has direct access from Wayzata Blvd, which is defined as an arterial street in the comprehensive plan.

3. The proposed medical use is a sports medicine and health clinic. It is not anticipated that the use would require emergency vehicle access. Additionally, the site access locations are not located adjacent to or across the street from any residential use properties.

4. The proposed clinic would be expanded to 4,885 square feet in size, a 1,060 square foot expansion from the previously approved clinic area. The applicant completed a parking utilization study covering a two-week period, Monday through Friday, in April and May 2018. The observation noted that over the two-week period there was an average of 13.3 parking
spaces available in the 58-stall parking lot, or 23 percent. Per city ordinance, the expansion of the medical clinic would require the site to have 74 parking spaces. Staff finds that there is adequate parking available to meet the increased parking need that would result from the expanded medical clinic.

Staff previously created a proof-of-parking plan with the 2017 conditional use permit approval indicating how ten additional parking stalls, resulting in the required 68 stalls, could be constructed if needed in the future. Per the conditions of approval, these stalls would need to be installed if there is an observed parking issue in the future.

3.03 Variance Standards: The proposal meets the variance standards, as:

1. Intent of the Ordinance. The proposal, and resulting variance request, would be in keeping with the city’s zoning ordinance. The intent of the ordinance, as it pertains to parking requirements, is to ensure adequate parking is provided to meet the anticipated parking demand of the subject site. A parking utilization study was completed over two weeks in April and May 2018. This study found that, on average, there were 13 parking spaces (23 percent) available on site. With this consideration, the proposed reduction in parking spaces would meet the intent of the ordinance. Based on the parking utilization study, the proposed use would demand less parking than required by ordinance.

2. Comprehensive Plan. The proposal would be consistent with the city’s comprehensive plan. The subject property is guided for office use. A medical clinic is a conditionally permitted use within this land use designation.

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

   a) Reasonableness. The request is reasonable. Based on the Institute of Transportation Engineers (ITE) Parking Generation manual, the office and clinic building uses would require an average peak period parking demand of 54 parking spaces. This is less parking than is currently on site.

   b) Circumstance Unique to the Property: The applicant submitted parking utilization information for a two-week period in April and May 2018. The observation noted that, on average, there were 13 parking spaces available in the 58-stall parking lot.

   c) Neighborhood Character: The parking variance would not adversely affect the character of the surrounding neighborhood as the site should meet the anticipated peak parking demand on site.
Section 4.  City Council Action.

4.01 The above-described conditional use permit, with variance, 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 documents:
   - Floor plans dated May 25, 2018.
   - Site plan dated May 25, 2018.

2. Prior to issuance of a building permit:
   a) This resolution must be recorded with Hennepin County prior to the issuance of a building permit.
   b) The applicant must provide erosion control best management practices to prevent the construction activity from impacting the wetland and storm water pond; this includes inlet protection.

3. The building must comply with all requirements of the Minnesota state building code, fire code, and health code and appropriate permits must be obtained.

4. Canopy clearance height must be labeled on both sides of the canopy.

5. Sign permits are required for any exterior signs.

6. The city may require installation of proof-of-parking spaces if there is a demonstrated need for additional parking. Additional parking must meet all zoning code requirements.

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

8. Any change to the approved use that results in a significant increase in traffic, 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 July 9, 2018.

Brad Wiersum, Mayor
Resolution No. 2018-075

Attest:

David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption: Ellingson
Seconded by: Wagner
Voted in favor of: Acomb, Happe, Calvert, Bergstedt, Wagner, Ellingson, Wiersum
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 July 9, 2018.

David E. Maeda, City Clerk
City Council Agenda Item #12A
Meeting of July 8, 2019

Brief Description
Items concerning Shady Oak Road Redevelopment:

1) Master Development Plan,
2) Site and Building Plan review,
3) Preliminary Plat,
4) Detachment/Annexation,
5) Comprehensive guide plan amendment, and
6) Rezoning

Recommendation
Introduce the ordinance amending the master development plan, rezoning the property to Planned Unit Development and refer it to the planning commission

Background

The city of Minnetonka purchased the property at 4312 Shady Oak Rd. in March 2015. In Nov. 2016, after several neighborhood meetings and a developer interview process, the city council selected Ron Clark Construction to begin negotiations and propose a development concept.

On Sept. 25, 2017, after an extensive community outreach and engagement process, the city council approved the Shady Oak Crossings redevelopment project. The project, as approved, is a two and three-story, 49-unit apartment building with underground parking, resident community room, exercise room, on-site manager’s office, and an outdoor play area. The building would have a mix of 1, 2, and 3 bedroom apartments with rents expected to be between $800 and $1200 per month.

After the 2017 approval, the developer worked towards 2018 tax credit financing for the project (through the state). In Nov. 2018, the developer was notified that they were not awarded tax credits. In June 2019, another application for tax credits was submitted.

Complete information on the project’s history is posted on the city’s website here:

In May 2019, Ron Clark Construction announced it was proposing to make revisions to the approved plan. A revised concept plan was submitted to the planning commission, and city council reviewed a revised concept plan.

- Planning Commission Concept Plan Review. The commission reviewed the concept plan at its May 2, 2019 meeting. The commission was generally supportive of the proposed changes. Comments and questions from their review included:

  o The overall plan was an improvement compared to the approved plan.
  o Like the partial pitched roof.
- Traffic is improved with the garage access from Shady Oak Rd at the stoplight
- Is there a need for 31 surface parking spaces?
- If the play area moves, could it be moved to a sunny area?
- Could the building footprint be reduced?
- With the reduced building setback along Oak Drive Lane, a clear landscaping plan is needed.

In addition to the planning commission comments, the commission also received input from two residents. One resident stated it was a big building getting bigger. Another resident indicated support for the project.

- **City Council Concept Plan Review.** The city council reviewed the concept plan at its May 20, 2019 meeting. The council generally commented that the revised plans addressed many outstanding issues of the previously approved project. Comments and questions from their review included:
  - The building was massive for the neighborhood.
  - Use of the city-owned residential property for stormwater treatment.
  - Process going forward with the developer
  - Could the surface parking lot be connected to the new Shady Oak Road driveway?
  - Better location of the play area interior on the site.
  - Would the building be taller than previously approved?
  - What other buildings in the area or city are comparable?

**Proposal**

Ron Clark Construction is proposing to revise the previously approved 2017 plans. The new plans propose a three-story, 67-unit apartment building on the property located at 4312 Shady Oak Road. The proposed apartment building would have underground parking, resident community room, exercise room, on-site manager’s office, and an outdoor play area. The building would have a mix of 1, 2, and 3 bedroom apartments with rents expected to be between $900 and $1300 per month. The revised proposal requires (1) Master Development Plan, (2) Subdivision, (3) Site and Building Plan review, (4) Annexation/Detachment, (5) Comprehensive Plan amendment, (6) Rezoning. The proposal requires the approval of:

1) **Master Development Plan.** The revised proposal requires an amendment to the previously approved project for the increase in building size, housing units, and changes to the site plan.

2) **Final Site and Building Plans.** By city code, site and building plan review is required for construction of any new building of the proposed size.

3) **Subdivision.** The applicant is proposing to subdivide a portion of the adjacent and also city-owned residential property and allowance for stormwater management to occur on that property with an easement. The subdivision would also incorporate adjacent land currently located in the city of Hopkins.
4) **Annexation/Detachment.** The applicant has secured a purchase agreement with an adjacent property located in the city of Hopkins that would provide additional land to expand the project. A concurrent detachment/annexation process could be undertaken by both cities. Minnetonka city council would consider action at the second council review meeting of the request, tentatively scheduled for August.

5) **Comprehensive Guide Plan Amendment.** With annexation, the Hopkins land parcel would need to be designated in the comprehensive plan as high-density residential. As both cities 2040 comprehensive plans are not yet in effect, any project approvals would be conditioned on the Metropolitan Council approving the plans.

6) **Rezoning.** With annexation, the Hopkins land parcel would need to be zoned consistent with the comprehensive plan. The applicant has requested Planned Unit Development.

**Issue Identification**

The purpose of introducing an ordinance is to give the city council the opportunity to review a new application before sending it to the planning commission for a recommendation. Introducing an ordinance does not constitute an approval. The tentative planning commission date is July 18, 2019.

Based on a preliminary review of the proposal, staff has identified the following issues for further analysis and discussion:

1) **Site and Building Design.** The revised plans change the access location of the under building parking from Oak Drive Lane to the Shady Oak Road / Main Street intersection. This will result in a considerable reduction in trips from this residential street. Although larger than the previously approved building, the design remains relatively similar. The new plans incorporate a hip roof design for much of the building.

2) **Stormwater Management.** Development of this site will require the implementation of new stormwater management techniques. The proposed techniques will be analyzed for conformance with the city’s water resources management plan.

3) **Neighborhood Buffering and Screening.** Although the commercial building has no landscape or constructed screening to buffer it from the adjacent single-family neighborhood, the proposal presents an opportunity to improve screening and buffer the site and Shady Oak Road corridor.

4) **Annexation.** Cooperation from the City of Hopkins is required for this project to be completed. Completion of the detachment/annexation process would be a condition of project approvals.

**Staff Recommendation**

Introduce the attached ordinance and refer it to the planning commission.

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

Originated by:
Loren Gordon, AICP, City Planner
LOCATION MAP

Project: Shady Oak Redevelopment
Address: 4312 Shady Oak Rd.

This map is for illustrative purposes only.
Tuesday, June 18, 2019

Loren Gordon
City of Minnetonka
14600 Minnetonka Blvd
Minnetonka, MN 55345

RE: Shady Oak Crossing Project Narrative

Ron Clark Construction is proposing a three-story, 67-unit apartment building on the property located at 4312 Shady Oak Road.

The proposed apartment building would have underground parking, resident community room, exercise room, onsite manager's office and an outdoor play area.

It is proposed to have a mix of 1, 2 and 3 bedroom apartments and they currently expect the unit rents to be between $900 and $1,300 per month. (See attachments).

Zoning for the property is currently B-2, limited business district. The city’s comprehensive plan guides the property for commercial use.

Rezoning and Comprehensive Plan: The proposed residential use requires a rezoning and guide plan change.

The proposed housing component would qualify the project for public benefit under the planned unit development zoning district.

A complementary high density residential comprehensive plan re-guidance would align with the zoning density of 24.28 units/acre. (67 units/2.76 acre)
**Building Design:** The proposed 3 story building with a combination of sloped and flat roof and two-story components at each end represents significant first step in the redevelopment of the Shady Oak Road corridor between Highway 7 and Excelsior Boulevard.

This existing commercial building is dilapidated and unlikely to be a candidate for remodeling.

Other residential redevelopment in the area includes The Oaks of Mainstreet townhome development (late 1990s) at the corner of Shady Oak Road and Mainstreet.

The proposed apartment building incorporates an attractive roof design and an articulated façade, underground parking and common building entry accesses.

**Changes from the previously approved development plan:**
During our previous City approval process most of the concern from the neighbors was the impact of traffic on Oak Drive Lane. We had attempted during the previous application to approach our neighbor to the south on acquiring some additional property to allow for a change of access to the site, but we were unsuccessful. After our approval we re-kindled those discussions and have now acquired a purchase agreement for the additional land needed to make the access off Shady Oak Road possible.

Our current design includes 67 units vs 49 units previously. The additional units are needed to make the project viable.
Site Design: Like our previous proposal, this proposal would site the apartment building toward Shady Oak Road while providing greenspace to separate the building from the sidewalk.

Surface parking and a tot lot are provided on the west side of the building.

Underground parking is now accessed from Shady Oak Road.

Site and building design consider the relationships of public and private spaces. A strong relationship of the sidewalk, front yard space and the building’s first floor is essential for great spaces.

Changes to Site Design:
The previously approved site plan had the entrance to the parking garage coming from Oak Drive Lane. The parking garage now enters from Shady Oak Road. The only traffic to Oak Drive Lane will come from our small surface parking lot of 25 parking stalls that will mainly be used by visitors.

The building now has shifted south to allow the garage entrance to come from Shady Oak Road.

The building exterior has changed to more blend and complement the existing residential neighborhood and the front of the building is faced toward and connected to the sidewalk along Shady Oak Road while providing greenspace to separate the building from the sidewalk.

Accenting landscaping will be placed at the north and south ends of the building to provide an attractive updated presence along Shady Oak Road. All efforts will be made to protect the existing trees as well as adding additional trees and landscaping to screen the existing neighbors from the surface parking.
Stormwater Management:
The current property is covered with 1.22 acres of impervious surface and primarily drains to the wetland. The new development stormwater management system for the site will convey all site runoff to a new basin installed on the adjacent property to the West. The impervious area for the new development provides a 23% reduction from the existing site condition. The development will meet all management standards required by the City of Minnetonka, the Nine Mile Creek Watershed District and the MPCA NPDES Permit.

Traffic: Prior to our previously approved proposal the city consultant prepared a traffic study of the area and it clearly shows that the new use will have less traffic than other currently allowed uses and the effect on the surrounding intersections was minimal. The impact of our current design will be dramatically reduced from our previously approved proposal due to most of our traffic will now enter directly onto Shady Oak Road vs Oak Drive Lane.

Financing: The project will be financed through the Minnesota Housing Finance Agency (MHFA) 9% tax credit program, The tax credit financing program is a public/private partnership whereby the tax credit investor receives federal tax credits for a 10 year period which we are able to convert into Equity for the project, this allows for a small mortgage but in return the rents must be kept at a level set by MHFA for 30 years, with a Tenant’s income restricted to 60% of the Median Income for the County., which currently for a family of 4 is $60,000/year.

In addition, MHFA does annual inspections of the property and require us to set aside about $150,000 in reserves at closing and to set aside another $23,000/year for major repairs and replacements. This assures that the building will be maintained at a high quality and continue to be an asset to the city for years to come.

If the project is approved by the city, we will be applying for tax credits in 2019 and if selected would plan to start construction in early 2020.
Professional Management: Steven Scott Management will be our management company, they are a highly respected local company.

We will have an onsite resident caretaker as well as a building manager who is at the building a minimum of 30 hours per week, along with a Senior Manager who oversees the building management.

As part of the maintenance and management of the building we are in each unit, normally monthly or bi-monthly to maintain equipment and to do a quick inspection to confirm no lease violations or undo wear and tear is happening.

Each resident in the household must pass extensive credit, criminal & housing history checks

The leases are also very clear as to our right to evict or non-renew a tenant for either a major lease violation or continued smaller issues. They also sign a Drug-free/Crime-free lease addendum.

Smoking is not allowed anywhere in the building.
**Income requirements and Rents for Shady Oak Crossing**

New 2019 Qualifying incomes:  
- At or below $42,000 (family of 1)  
- At or below $48,000 (family of 2)  
- At or below $54,000 (family of 3)  
- At or below $60,000 (family of 4)  
- At or below $64,800 (family of 5)  
- At or below $69,600 (family of 6)  

Each resident in the household must pass extensive credit, criminal and housing history checks.

Projected rents including utilities:

1 bedroom = $937  
2 bedroom = $1,125  
3 bedroom = $1,300  

Note: There are also 8 permanent supportive housing units within the development.
WARNING:

THE CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING FOR LOCATION OF THE
EXISTING LINES THAT SHALL Cross WITH THE LINES OWNED OR MAINTAINED
BY OTHERS PRIOR TO COMMENCEMENT OF WORK IN THE AREA
WHERE SAID LINES MAY CROSS OR BE DILATERED.

THE CONTRACTOR SHALL NOTIFY THE CITY OF MINNETONKA PRIOR TO
ADVANCEMENT OF THE LOCATIONS OF THE EXISTING LINES
OWNED OR MAINTAINED BY OTHERS.

THE CONTRACTOR SHALL COMPLY WITH THE CITY OF MINNETONKA
STANDARDS ISSUED BY THE ZONING COMMISSION.

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SHADY OAK CROSSING
RON CLARK CONSTRUCTION
MINNETONKA, MN

Preliminary Tree Inventory
Plan

Lot 19
Lot 20

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Northwest 010

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Lot 19
Lot 20

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Prepared by:
N. Campion
N. Campion Engineering Services, Inc.

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Minnetonka, MN

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Scale: 1" = 100'
Planning Commission and City Council
Concept Plan Review Meeting Minutes
9. Other Business

A. Concept plan review for amendments to Shady Oak Crossing at 4312 Shady Oak Road.

Chair Kirk introduced the concept plan and called for the staff report.

Gordon reported. Staff recommends that planning commissioners provide comments and feedback on the identified key issues and other issues commissioners deem appropriate. The discussion is intended to assist the applicant with future direction that may lead to the preparation of more detailed development plans.

Luke asked if the setbacks on the north side would meet ordinance requirements. Gordon explained that the property is zoned as a planned unit development (PUD). The current north setback is approximately 37.5 feet. The proposal would reduce the north setback.

Chair Kirk noted that the houses in the area were built before setback ordinances were adopted. Gordon stated that the standard front setback for houses in the area is 35 feet.

In response to Henry’s question, Wischnack explained that the city of Hopkins has not provided comments on the concept plan and would do so when a formal application would be submitted.

In response to Henry’s question, Wischnack explained tax-increment financing.

Powers asked who would pay for the annexation and detachment. Wischnack answered that the developer would be required to provide all necessary documents.

Gordon reviewed the four areas staff would appreciate comments regarding: density, building design, site design, and traffic and circulation.

Mike Waldo, of Ron Clark Construction, applicant, reviewed the concept plan and stated that:

- He still likes the original project proposal.
- Comments were received regarding the traffic on Oak Drive Lane.
- He spent time with the land owner on the south and purchased part of the property. The property owner lost a lot of parking space from the street improvement project. The current purchase agreement is for 17,000 square feet.
- The proposal should reduce the traffic on Oak Drive Lane by 80 percent to 90 percent. There would be 90 stalls down below.
- The current proposal is a better project for the applicant, the neighbors, the city, and would provide 18 workforce-housing residences.
• There is no way to have no parking off of Oak Drive Lane. There is an elevation change of 11 feet and would not work for trucks to access and exit the site.
• The entrance to the parking lot was moved farther west to provide more room for stacking on Oak Drive Lane.
• He spoke with adjacent neighbors about providing landscaping for screening.
• There would be more area for the tot lot and play area.
• The applicant would agree to reduce the parking area if staff would be comfortable with that.
• The 37-foot setback was reduced to a 20-foot setback.
• The applicant thought that a soft-pitch roof would look more residential than a flat roof. He requested commissioners provide their comments.

Tim Whitten, architect with Whitten and Associates, on behalf of the applicant, gave a presentation on the concept plan:

• He described the drive area and traffic flow.
• He provided slides of the concept plan with and without landscaping.
• He described the roof provided in the concept plan.
• The building would be closer to the sidewalk than the previous proposal to allow for the turning radius of trucks.
• Grading could occur up to the first floor and would be able to have landscaping.
• On the northwest corner, there would be a two-story component that would move into the tot lot area and main entrance for visitors.
• The southwest corner would preserve a lot of trees.
• The exterior materials would be brick and made up of a cement board panel system. He explained the horizontal and vertical components.
• The elevation on the north end is one of his favorites. There would be a flat, bungalow-like feel.
• He is proud of how all of the pieces have been brought together and is excited about the opportunity.

In response to Henry’s question, Mr. Whitten explained the evolution of the changes to the roof.

Luke thought the traffic pattern would be better with a signaled intersection for the entrance. She asked about walkability and where sidewalks and entrances to the building would be located. Mr. Waldo stated that there would be a sidewalk around the entire building. Mr. Whitten pointed out the patio area and entrances.

Henry asked if having the tot lot closer to the building had been discussed. Mr. Waldo said that it was determined that having the connection to the main access on Shady Oak Road was more of a priority. The play area would be fenced in. He could see positives and negatives with both scenarios.
Powers applauded the concept. It is an improvement from the 49-unit apartment building. He was amazed how the applicant tried to please everyone by making the south end look more urban and the north end residential. He asked if he understood correctly that there would be more room for buffering on the Oak Drive Lane side. Mr. Waldo answered affirmatively. He would work with staff. The applicant is committed to doing better projects. The applicant knew that was an important factor.

Knight stated that he likes the balconies. Mr. Whitten stated that the balconies would be solid aluminum and last as long as the apartment building.

Henry discussed buffering options for neighbors on Oak Drive Lane with Mr. Waldo. Mr. Waldo stated that the applicant would be happy to meet with the neighbor to see what the neighbor would prefer for buffering.

Chair Kirk invited those present to provide comments.

Chris Aanestad, 4255 Oak Drive Lane, stated that:

- He questioned how long the project would take.
- He appreciated the proposal moving the access off of Oak Drive Lane.
- The building would be too large. He did not understand how the building was shown on the plan.

Cynthia Jung, 18505 Spring Crest Drive, stated that:

- She represented the Minnetonka Housing Team. The Minnetonka Housing Team supports adding more units of affordable housing.
- They support the proposal.

Chair Kirk concluded receiving public comments.

Chair Kirk discussed with Mr. Waldo and Mr. Whitten how it is difficult to show the different elevations and scale of the building on a screen.

Chair Kirk stated that the building is too long to keep it to scale on the screen and it is difficult to represent a building that has an elevation change because it is distorted.

Wischnack explained that the city has a contract with the applicant. If tax credits would be awarded this year, then construction would begin in 2020. Relocation of businesses could occur in 2019.

Gordon provided that the 2017 plan proposed 31 units per acre and this concept plan has 33 units per acre.
Knight likes the concept plan. The building looks nice. He likes the change in the roofline. That improves the look significantly. He remembered residents on the south concerned with motorists cutting through their neighborhood. He asked if the proposal would create a cut through. Gordon recalled that a resident was concerned with motorists using Bradford Street to cross southbound traffic to make a left-hand turn onto Excelsior Blvd. to travel east or north on Shady Oak Road. Gordon did not see the concept plan creating that type of circumstance. Mr. Waldo described the traffic pattern for semis with trailers.

Powers liked everything about the new concept plan. He liked the roof lines. He liked how the developer worked so diligently to make this work. Work force housing is needed now. The sooner this is approved and started the happier he will be. The area would be wonderful for kids. He liked the architect thinking of the change in exterior colors and materials.

Luke liked the concept plan more than the previous proposal. The building would be attractive. She liked how traffic would be managed on the south side of the building instead of accessing Oak Drive Lane. She thought the 31 parking stalls looked like a lot of parking.

Henry felt that the type of housing is needed in the city. He liked how there would be more of a buffer between the proposed apartment building and residence on the west side. The building would be massive. Lowering the building to two levels sooner on the south side like it is on the north would make it more visually appealing. He would like to see how much sun would be blocked by the building.

Chair Kirk supports affordable housing. He voted no for the previous proposal because he wanted to see it improved. Moving the access to the south was key. He was happy to see that happen. He suggested aligning the road to prevent headlight wash. Mr. Waldo explained that the parking lot would be sloped down so a vehicle would travel with headlights pointed down.

Chair Kirk asked if a playground could be located over a sewer pipe. Gordon stated that would be looked at. The concept plan provides more flexibility to move the playground around. Chair Kirk suggested moving the playground further south and aligned with the backyard of 4292 Oak Drive Lane. He would like proof of parking. He looks forward to seeing a clear landscaping plan with trees, sidewalks, and snow storage. The building is still too close to the road. He was fine with the rooftop. He hoped the number of units could be condensed a little to help condense the setback from Oak Drive Lane.

Powers stated that he visited residents of Oak Drive Lane and most of them did not care about the size of the building, except for the closest neighbors. It is 2020 and density is going to increase. He sees buildings in suburbs twice this size. The density is appropriate. The building is appropriately sized and takes into account that the city needs affordable housing now. This type of opportunity for this type of parcel, along a major street, that has already been developed is rare. The site’s proximity to amenities makes it even rarer. He favored keeping the density as it is.
Luke felt that it would be nice to have an apartment building near single-family houses instead of an industrial area. That would make the apartments more attractive and keep the workforce housing near other workforce housing. The site would be accessible to amenities including the grocery store. It would be a very good location.

Chair Kirk noted that the owners of surrounding businesses would welcome the residents. The site is ready for redevelopment.

Henry would like the playground area moved closer to the main entrance if it could be done without ending up in a completely shaded area.
Andy Freeland, 3426 Robin Wood Terrace, explained he has been working on this project with the city for some time. He indicated he would like to build a home on the new lot.

Wiersum closed the public hearing.

Carter moved, Happe seconded a motion to hold the public hearing and adopt Resolution 2019-043 and Resolution 2019-044 approving the requests. All voted “yes.” Motion carried.

2. Items related to sale of city property adjacent to 3515 Park Valley Road

City Attorney Corrine Heine gave the staff report.

Schack moved, Calvert seconded a motion approve the purchase agreement and adopt Ordinance 2019-13 authorizing the sale. All voted “yes.” Motion carried.

14. Other Business:

A. Concept plan review for the Shady Oak Redevelopment located at 4312 Shady Oak Road.

City Planner Loren Gordon gave the staff report.

Happe stated this appeared to be a massive structure for this neighborhood. He believed the three story building was too high and questioned how many units would be lost if the structure were reduced to two stories. Gordon reported the building would lose 14 units if the third floor were eliminated.

Schack asked if this proposal would use the adjacent lot for drainage purposes. Gordon explained the lot to the west was owned by the city and the rear of the lot would be used for stormwater treatment.

Wiersum questioned what the process would be going forward for the developer. Community Development Director Wischnack reported staff would work first with the City of Hopkins on the annexation. She stated the developer would then seek land use approvals. City Manager Barone explained a project had been approved, but noted if this revised plan were to come forward, the whole approval process would have to start over. Wischnack clarified that if the revised plans were not approved by the city the original plans would continue unless rescinded by the council.
Michael Waldo, Ron Clark Construction, described how he had addressed traffic concerns for this development. He discussed the changes that were made to the site noting how this had went from a good project to a great project. He stated there would be a more efficient use of resources if he were allowed to add a third story which would create 20 more affordable housing units. He indicated he was comfortable that staff would be able to address the annexation issue with the City of Hopkins.

Tim Witten, Witten Associates, explained he was the architect for this project. He reviewed elevations of the new building noting comments from the neighbors had been taken into consideration. He commented on the grade of the site, where the retaining walls would be located and discussed the landscaping plans. It was noted the building would have a flat and hipped roof. He reviewed the location of the play area stating he would hate to add too much asphalt to this site if it was not necessary. He explained the apartments would be served by 90 underground parking spaces and noted the surface parking was for visitors.

Mr. Waldo reported a two-story apartment building would be very difficult to make work financially. He stated most apartment complexes were three or four stories.

Ellingson asked how steep the grade would be to access the structured parking. Mr. Witten reported the grade would be approximately 9%.

Ellingson questioned how long the building was from north to south. Gordon reported the building would be 420 feet long.

Carter commented she approved of the play area being located to the interior of the building as this would be safer for children.

Happe inquired if there were other three story buildings in the area. Gordon stated on this stretch of Shady Oak Road the buildings were one story commercial structures or two story single family homes.

Wiersum asked what the anticipated height of the building would be. Mr. Waldo explained the building height would be the same as was previously approved.

Wiersum questioned if there was another building of comparable size in Minnetonka. Wischnack reported the Ridge building would be very comparable except that building was four stories and the proposed building would be three stories.

Calvert inquired how many units were located within Applewood Point. Wischnack stated this development had 84 units in four stories. She noted the square foot per unit was much higher for that development than for the proposed apartment complex.
Wiersum opened the meeting for public comments. There were none.

Schack stated she was not part of the council that approved this project but had served on the Planning Commission that approved this project. She was of the opinion the revised plans were much improved and appreciated the fact the developer had addressed the access concerns. She commented the city knew light rail was coming and appreciated the fact this development would have close access to light rail. She noted she also supported the play area being moved to the interior of the project.

Calvert indicated she believed the new plans were dramatically improved. She thanked the developer for providing a hipped roof. She stated she could support the play area being put in either location so long as the space receives natural sunlight. She thanked the developer for adjusting access to the site. She noted the number of units does not bother her at this location.

Bergstedt stated he was pleased the city had an outstanding developer willing to make revisions to the project per the feedback that has been received from the neighbors. He explained the original building iterations were for a larger building. He was pleased the building size had been reduced. He thanked the developer for making this building appear to be more like row houses and for providing access to Shady Oak Road. He supported the play area being moved to the east away from traffic and the adjacent roadways. He commented he appreciated the hipped roof as it softened the building. He stated the proposed development would provide Minnetonka with more workforce housing. He noted his only concern with the project was how long the building was.

Happe indicated he believed the site plan and building design was great. However, he believed the building was too big for the area, as both the length and height of the building were too great. He feared this massive structure was being shoe-horned onto this property. He expressed concern with the fact the building would be very close to the road and may appear to be a big wall adjacent to the roadway.

Ellingson thanked Bergstedt and Happe for their observations. He stated he appreciated the fact the access to the site had been improved. He noted he was concerned with the size of the building and the lack of a setback from the street. He feared the proposed building would not fit very well into the neighborhood. He understood this was an urban setting, but explained he would be reluctant to support the revised plans.

Calvert explained the neighbors on Oak Drive Lane were concerned with the amount of traffic that would be using this roadway. She encouraged the
developer to ensure traffic using Oak Drive Lane would have adequate stacking lanes for safety purposes.

Wiersum commented this proposal was better than the previous proposal for a number of reasons, the first being improved access to the underground parking. He stated this was a big deal and noted the developer was proposing to construct an expensive building. He believed this project was better because it works. He indicated he was concerned about the building mass given the fact this was a 400+ foot long building. He was of the opinion the building design worked and he anticipated this area of the city would become more urban over time. He explained the proposed apartment complex would serve as a sound wall for the adjacent neighborhood. He appreciated the fact that the access issues had been addressed and noted the city was sorely in need of more workforce housing. He believed that the benefits of the project outweighed any of the drawbacks. He encouraged the developer to further break up the building and noted he supported the proof of parking.

Discussed concept plan with the applicant. No formal action required.

B. Items concerning the demolition and construction of a new automobile dealership at 15906 Wayzata Boulevard
   1. An ordinance approving a master development plan and final site and building plans, with a parking setback variance; and
   2. A resolution approving a conditional use permit, with a building-to-parking ratio variance, and a sign plan

City Planner Loren Gordon gave the staff report.

Wiersum requested further information on the approval timeline. Gordon stated state law gives cities 60 days to act on an application after being deemed complete. Typically action can be taken in 60 days, however, if additional time is needed a 60 day extension is allowed. He reported the city was on the 120 day clock at this time and the 120 time period would expire on June 3rd. He explained the city could request another 60 days from the applicant in order for the planning commission to review the revised plans before seeking council approval.

Bergstedt stated he would feel more comfortable with this item having another 60 days given the fact the plans have been revised. He indicated he would be in a much better position to make an informed decision if the revised plans were reviewed by the planning commission.

Wiersum asked if the council had any questions for staff.
Ordinance No. 2019-

An ordinance approving a master development plan and rezoning the property at 4312 Shady Oak Road to Planned Unit Development

The City Of Minnetonka Ordains:

Section 1.

1.01 The subject property is located at 4312 Shady Oak Road. It is legally described in Exhibit A.

1.02 The proposed three-story, 67-unit apartment building would have 90 underground parking spaces, 25 surface parking spaces, a resident community room, an exercise room, on-site manager’s office and an outdoor play area. The building would have a mix of 1, 2, and 3 bedroom apartments.

Section 2.

2.01 This ordinance is based on the findings that the proposed development would not negatively impact public health, safety, or welfare.

2.02 This ordinance is subject to the following conditions:

1. The site must be developed and maintained in substantial conformance with the following plans:

   • Site Plan, dated June 17, 2019
   • Grading Plan, dated June 17, 2019
   • Utility Plan, dated June 17, 2019
   • Landscape Plan, dated June 17, 2019
   • Building Elevations, dated June 17, 2019

2. The development must further comply with all conditions outlined in City Council Resolution No. 2019-xx, adopted by the Minnetonka City Council on _______________, 2019.

Section 3. This ordinance is effective immediately.
Ordinance No. 2019-

Adopted by the city council of the City of Minnetonka, Minnesota, on ______________, 2019.

_________________________________________
Brad Wiersum, Mayor

Attest:

_________________________________________
Becky Koosman, City Clerk

**Action on this ordinance:**

Date of introduction: July 8, 2019
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 regular meeting held on ______________, 2019.

_________________________________________
Becky Koosman, City Clerk
City Council Agenda Item #14A
Meeting of July 8, 2019

Brief Description
Appeal of the planning commission denial of a front yard setback variance to construct an enclosed porch at 18724 South Lane.

Recommendation
Adopt the resolution upholding the planning commission decision.

Background
By city code, enclosed residential buildings must be set back 35-feet from front property lines adjacent to local roadways. Open porches (without walls) are permitted a five-foot exemption; in other words, a 30-foot front yard setback is required. The home at 18724 South Lane previously had an open porch at its front entrance, which appears to have been demolished in 2017. Based on historical street views and aerial images, the open porch met the setback requirement.

Proposal
The applicant, Aliaksandr Smolau, is proposing to build an enclosed addition (8-foot by 10-foot) at 18724 South Lane. The proposed addition would extend eight feet out from the existing home, creating a 28.5-foot front yard setback. As an enclosed structure, the proposed porch would not be eligible for the 5-foot setback exemption. As such, this proposal requires:

- Variance: The principal addition would encroach into the required front yard setback.

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<th>Applicant’s Proposal</th>
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<td>Front Yard Setback</td>
<td>35 ft.</td>
<td>36.7 ft.</td>
<td>28.5 ft.*</td>
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* requires variance

Planning Commission Hearing
The planning commission considered the request on June 27, 2019. Staff presented the item and noted that the request met four out of the five variance standards outlined in city code. Staff found that the request would:

- Meet the intent of the ordinance;
- Be consistent with the comprehensive plan;
- Be reasonable; and
- Not alter the essential character of the neighborhood.

However, city code states that the city may approve a variance from city code requirements only if the request meets all of the variance standards. Staff did not find a circumstance unique to the property that causes the variance (one of the five variance standards). The existing home meets the minimum front yard setback requirement, and there is a considerable amount of buildable area on the property available for home additions.

Additionally, city code would permit the property owner to construct an unenclosed porch that extends 6.5 feet from the home (similar to what was previously existing on the property).
However, enclosing the structure would be prohibited. As such, staff found that the need for the variance is caused by the specific design proposed by the property owner and recommended denial of the request.

At the planning commission meeting, the applicant was provided the opportunity to speak regarding the request. Mr. Smolau stated the reason for his variance request is to have an interior area to take off coats and unload groceries out of the elements. Currently, he feels that he loses a lot of hot air in the winter when opening his front door. The proposed front porch would fix both of these issues.

- He completed several home remodeling projects to improve the appearance and functionality of his home; and
- Long term, he wishes to connect the home to the detached garage on the property, which could conform to city code. However, he does not currently have the funds to complete this project.

At the meeting, a public hearing was opened to take comments; no members of the public provided comment. Following the public hearing, the commission discussed the proposal. (See attached minutes).

Planning Commission Recommendation

Five votes are necessary to approve a variance. A motion to approve the request failed with a 3-3 vote. A specific motion to deny the request also failed with a 3-3 vote. Procedurally, a failure to gain enough votes in favor of an application constitutes a denial.

Since Planning Commission Hearing

The applicant has appealed the planning commission decision to the city council. (See attached.)

Staff Recommendation

Staff recommends the city council adopt the attached resolution denying the variance request.

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

Originator: Drew Ingvalson, Planner
Brief Description  A front yard setback variance to construct an enclosed porch at 18724 South Lane

Recommendation  Adopt the resolution denying the variance request

Proposal  The applicant, Aliaksandr Smolau, is proposing to build an enclosed porch addition (8-foot by 10-foot) at 18724 South Ln. The proposed porch addition would extend eight feet out from the existing home, creating a 28.5-foot front yard setback. This proposal requires:

- Variance: The principal addition would encroach into the required front yard setback.

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</table>

* requires variance

Existing Property

- Lot Size: 20,007 square feet
- Use: Residential Single-Family Home
- Subdivision: Unplatted
- Buildings
  - Home:
    - Originally constructed in 1918, remodeled in 1965
    - 1,280 total square feet
  - Detached Garage: 364 square feet.
  - Shed: 113 square feet
- Frontage/Access: South Lane

Staff Analysis  The city may approve a variance from city code requirements, only if an applicant meets all of the variance standards outlined in city code. Staff finds that the applicant’s proposal does not meet all of the required variance standards:
1. INTENT OF THE ORDINANCE. The proposal is consistent with the general purposes and intent of the zoning ordinance. The intent of the front yard setback requirement is to provide for consistent building lines within a neighborhood and to provide for adequate separation between homes and roadways. Fourteen of the 36 homes within 400 feet of the subject property do not meet the front yard setback requirement. In addition, eight of the 20 homes on the same street as the subject property do not meet the required front yard setback requirements.

2. CONSISTENT WITH COMPREHENSIVE PLAN. The proposed variance is consistent with the comprehensive plan. The guiding principles in the comprehensive guide plan provide for maintaining, preserving and enhancing existing single-family neighborhoods. The requested variance would preserve the residential character of the neighborhood and would provide an investment into a property to enhance its use and visual aesthetics.

3. PRACTICAL DIFFICULTY: The subject request does not meet all three standards to qualify for a practical difficulty. While the request is reasonable and would be consistent with the neighborhood character, the plight of property owner is not caused by a circumstance unique to the property.

   - REASONABLENESS: The request to add an 80 square foot enclosed porch is reasonable. While there are not many enclosed porches on South Lane, some homes within the city have similar additions.

   - CIRCUMSTANCE UNIQUE TO THE PROPERTY: There is not a circumstance unique to the property that causes the variance. The subject home meets the minimum front yard setback requirement and has a considerable amount of buildable area available for home additions. City code would permit the property owner to construct an unenclosed porch that extends 6.5 feet from the home; enclosing the structure would be prohibited. As such, the need for the variance is caused by specific design proposed by the property owner.

   - NEIGHBORHOOD CHARACTER: The surrounding neighborhood is largely characterized by homes that encroach into the front yard setback, including the home immediately to the west of the subject property. If approved, the proposed addition would not alter the essential character of the subject neighborhood.
Staff Recommendation

Adopt the resolution denying a variance request to construct an enclosed porch onto the single-family home at 18724 South Ln.

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

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<td><strong>Applicant</strong></td>
<td>Aliaksandr Smolau</td>
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<td><strong>Surrounding Land Uses</strong></td>
<td>All of the properties to the north, south, east, and west are zoned R-1, single family residential. The properties to the west, south, and east are improved with single family homes and guided for low density residential. The property to the north is Reich Park and is guided for parks.</td>
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</table>
| **Planning**    | Guide Plan designation: Low Density Residential  
Zoning: R-1 Single Family Residential |
| **Non-conforming Properties** | There are several properties within the surrounding neighborhood that do not conform to the required front yard setback. Specifically, 14 out of 36 total homes, within 400 feet of the subject property, have non-conforming front yard setbacks. Based on aerial photography, the non-conforming setbacks of these homes appear to range from 25 feet to 34 feet from the front property line. The majority of these homes are non-conforming because they were built just prior to the adoption of the first city ordinance. |
| **McMansion Policy** | The McMansion Policy is a tool the city can utilize to ensure new homes or additions requiring variances are consistent with the character of the existing homes within the neighborhood. By policy, the floor area ratio (FAR) of the subject property cannot be greater than the largest FAR of properties within 1,000 feet on the same street, and a distance of 400 feet from the subject property.  
As proposed, the property would comply with the McMansion Policy. Currently, the property’s FAR is 0.07. The proposed porch would increase the property’s FAR to 0.08. This is still significantly below the largest FAR within 400 feet, which is 0.25. |
| **Variance Standard** | A variance may be granted from the requirements of the zoning ordinance when: (1) it is in harmony with the general purposes and intent of the ordinance; (2) it is consistent with the comprehensive plan; and (3) when an applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties mean that the applicant proposes to use a property in a reasonable manner not permitted by the ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and, the variance if granted, would not alter the essential character of the locality. (City Code §300.07) |
Neighborhood Comments
The city sent notices to 38 area property owners and received no comments.

Pyramid of Discretion

Motion Options
The planning commission has three options:

1. Concur with the staff recommendation. In this case a motion should be made to adopt the resolution denying the variance request.

2. Disagree with staff's recommendation and approve the applicant's variance request. In this case, a motion should be made directing staff to prepare a resolution for approving the applicant's proposal. This motion must include findings for approval.

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

Voting Requirement
The planning commission action on the applicant's request is final subject to appeal. Approval of a variance requires the affirmative vote of five commissioners.

Appeals
Any person aggrieved by the planning commission's decision about the requested variance may appeal such decision to the city council. A written appeal must be submitted to the planning staff within ten days of the date of the decision.

Deadline for
August 26, 2019
Location Map

Project: Smolau Residence
Address: 18724 South Ln
Certificate of Survey

Prepared for:
Alex Smolau

Legend
- Found Iron Monument
- Set Iron Monument (LS 14700)

Site Address:
18724 South Lane
Minnetonka, MN 55345

Boundary Description (Doc. No. 14947770)
The South 230 feet as measured along the West line of the West 100 feet of the Southwest Quarter of the Southeast Quarter of the Northwest Quarter in Section 30, Township 117, Range 22, Hennepin County, Minnesota.

Subject to any and all easements of record.

Bearings based on assumed datum.
PRACTICAL DIFFICULTIES WORKSHEET

By state law, variances may be granted from the standards of the city’s zoning ordinance only if:

1) The proposed variance is in harmony with the general purpose and intent of the zoning ordinance;
2) The proposed variance is consistent with the comprehensive plan; and
3) An applicant establishes that there are practical difficulties in complying with the ordinance standard from which they are requesting a variance. Practical difficulties means:
   • The proposed use is reasonable;
   • 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
   • The proposed use would not alter the essential character of the surrounding area.

<table>
<thead>
<tr>
<th>PRACTICAL DIFFICULTIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Describe why the proposed use is reasonable</td>
</tr>
<tr>
<td>I'm trying to add some functional detail to the house. Right now if I open my front door in winter it will drain all warm air from the house. (Trying separate open living room and kitchen area from the entry) Also gain some closet space by the entry.</td>
</tr>
</tbody>
</table>

| Describe: |
| circumstances unique to the property; |
| why the need for variance was not caused by the property owner; and |
| and why the need is not solely based on economic considerations. |
| My house was built in 1918 and it is not energy efficient and functional. Most houses in my area was built before you have your setbacks, so my addition will be at same front view line (I provide my neighbor house site view) |

| Describe why the variance would not alter the essential character of the neighborhood |
| Most houses in my area was built before city have their setback rules, so my addition will be at same front view line (I provide my neighbor house site view) |

VARIANCE APPLICATIONS WILL NOT BE ACCEPTED IF THIS WORKSHEET IS NOT COMPLETE

PROCESS
Recommend that the city council adopt the resolution approving a conditional use permit for an accessory apartment at 3518 Hopkins Crossroad.

*Henry, Knight, Luke, Sewell, Hanson, and Kirk voted yes. Powers was absent. Motion carried and the items on the consent agenda were approved as submitted.*

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

8. Public Hearings

A. Resolution denying a variance for a front porch addition at 18724 South Lane.

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

Ingvalson reported. He recommended denial of the application based on the findings listed in the staff report.

Chair Kirk asked if the property would qualify as a small lot. Ingvalson explained that the site would meet two out of three requirements to be considered a small lot. The average lot size within 400 feet of the site must be smaller than 15,000 square feet; the lot must have been created prior to 1966; and the lot cannot exceed 15,000 square feet. The lot is 20,000 square feet, so it is not considered a small lot.

Ingvalson clarified that an enclosed porch would be required to meet a 35-foot front yard setback and a porch that would not be enclosed would be required to meet a 30-foot setback. Staff did not find a unique circumstance with the property.

Aliaksandr Smolau, 18724 South Lane, applicant, stated that:

- The house was located on the lot in 1918.
- He provided pictures of remodeling the house.
- He explained the improvements he is making including adding insulation.
- He listed the benefits of the porch including that it would provide closet space and prevent heat from escaping when the door would be opened.
- He plans to build an attached garage in the future.

Henry thought the addition would be good for the house and the neighborhood. He lives in the neighborhood and it is nice to see the house improved. It is a fine line between honoring the code requirements and standards to approve a variance. He saw the proposal as an improvement.

Knight was torn. The front of the house on the west side is closer to the road. The proposal would not extend the entire front of the house, just an enclosed porch. The
proposal would make the house more energy efficient. That is commendable. He was inclined to support approval of the application.

Luke struggled as well. More closet space and usable area would benefit the small house. When the attached garage would be added, that would diminish the need to use the front door. She leaned toward staff’s recommendation to deny the application because there would be other options that could be available in the near future.

Sewall felt that the request is reasonable. The rules are in place to prevent more egregious requests. He was glad the rules are in place, but, as long as the request would be reasonable, he supports the proposal. The property is unique and the house was positioned in 1918. He respectfully disagrees with staff’s recommendation to deny the application.

Chair Kirk noted that all of the surrounding houses seem close to the road. He recognized the practical difficulties. He did not see a unique circumstance. The lot is narrow with the rear property line located way back. He knew that the difference is only 1.5 feet, but he tends to support denying the application. The applicant is doing a marvelous job remodeling the house. He thanked the applicant for providing photos. It is good to see a small house being improved and maintained. He applauded the applicant’s efforts.

Hanson felt that the application fits the way people are currently living. He saw no problem with the application. The commission has approved similar enclosed porches. The location of the house and shape of the lot make the site unique and were not created by the homeowner.

Chair Kirk did not want to set a precedent to allow a front yard setback of 28.7 feet from the right of way for an enclosed porch.

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

Sewall stated that the house’s location on the lot occurred in 1918 and the shape of the narrow lot is unique and creates a practical difficulty.

**Hanson moved, second by Sewall, to adopt a resolution approving a variance request to construct an enclosed porch onto the single-family home at 18724 South Lane.**

**Hanson, Knight and Sewell voted yes. Henry, Luke, and Kirk voted no. Powers was absent. Motion failed.**

Hanson noted that the staff report states that the proposal would not change the character of the neighborhood. It did not make sense to him to deny the proposal.
Henry voted “no” for approval of the application because there is the potential to construct a garage on the property.

Chair Kirk noted that the house currently meets the 30-foot front yard setback.

**Henry moved, second by Luke, to adopt the resolution denying a variance request to construct an enclosed porch onto the single-family home at 18724 South Lane.**

**Henry, Luke, and Kirk voted yes. Hanson, Knight, and Sewall voted no. Powers was absent. Motion failed.**

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

**B. Items concerning Chase Bank at 4795 County Road 101.**

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.

Henry asked if there would be a snow removal plan. Cauley answered affirmatively. A snow removal plan would be required as a condition of approval.

Hanson noted that the proposal would increase the number of parking stalls, but the site would still have less than the number required. He asked if there would be proof of parking or a shared parking agreement. Cauley explained that parking variances are already in place for the plaza.

In response to Henry’s question, Cauley explained that the temporary uses would be discontinued if the proposal would be approved by the city council. Cauley studied the site, referenced the institute of transportation engineers (ITE) standards, and reviewed a list of the sizes of each business provided by the Westwind Plaza property owner. The ITE concluded that there would be plenty of parking on site.

Cauley stated that a sign could be added to identify additional parking for customers in back of the building if there would be a parking shortage.

Mark Newman, of Brixmor Property Group, representing the owner of the shopping center, stated that Cauley did a thorough job of explaining the situation. He would like to start construction immediately to beat the frost.

Knight asked why the drive-up window would be backwards. Mark Polienie, architect for the proposal, explained that there would be no teller for the drive thru. It would be a drive-up ATM.
Hi, I want to appeal variance reject for 18724 South Lane Minnetonka. Can you also help me find out city council contact information. I do have some question for them, what helps me to prepare for appeal. Thank you.
Resolution No. 2019-

Resolution denying a front yard setback variance for construction of an enclosed porch/addition at 18724 South Lane

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

Section 1. Background

1.01 The subject property is located at 18724 South Lane. It is legally described as:

The South 230 feet as measured along the West line of the West 100 feet of the Southwest Quarter of the Southeast Quarter of the Northwest Quarter in Section 30, Township 117, Range 22, Hennepin County, Minnesota

1.02 The home has a non-conforming side yard setback (west property line) of 9.6 feet but meets all other setback requirements.

1.03 The applicant, Aliaksandr Smolau, has submitted a proposal to construct an enclosed porch/addition within the required front yard setback. As proposed, the porch/addition would extend 8 feet from the home, creating a 28.5-foot setback.

<table>
<thead>
<tr>
<th>Required</th>
<th>Existing</th>
<th>Applicant’s Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard Setback</td>
<td>35 ft.</td>
<td>36.7 ft.</td>
</tr>
</tbody>
</table>

* requires variance

1.04 On June 27, 2019, the planning commission held a hearing on the application. The applicant was provided the opportunity to present information to the planning commission. The planning commission considered all of the comments and the staff report, which are incorporated by reference into this resolution. The commission made a motion to deny the request. The commission split 3-3 to deny the request. As such, the request was effectively denied.

Section 2. Standards

2.01 Minnesota Statute §462.357 Subd.1(e)(b) allows a municipality, by ordinance, to permit an expansion of nonconformities.

2.02 City Code §300.29 Subd.3(g) allows expansion of a nonconformity only by variance or expansion permit.
2.03 By City Code §300.07 Subd. 1, a variance may be granted from the requirements of the zoning ordinance when: (1) the variance is in harmony with the general purposes and intent of this ordinance; (2) when the variance is consistent with the comprehensive plan; and (3) when the applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties means: (1) The proposed use is reasonable; (2) the need for a variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations; and (3) the proposed use would not alter the essential character of the surrounding area.

Section 3. Findings

3.01 The requested variance would not meet all of the variance standards as outlined in City Code §300.07 Subd. 1.

1. Intent of the Ordinance: The proposal is consistent with the general purposes and intent of the zoning ordinance. The intent of the front yard setback requirement is to provide for consistent building lines within a neighborhood and to provide for adequate separation between homes and roadways. Fourteen of the 36 homes within 400 feet of the subject property do not meet the front yard setback requirement. In addition, eight of the 20 homes on the same street as the subject property do not meet the required front yard setback requirements.

2. Consistent with Comprehensive Plan: The proposed variance is consistent with the comprehensive plan. The guiding principles in the comprehensive guide plan provide for maintaining, preserving, and enhancing existing single-family neighborhoods. The requested variance would preserve the residential character of the neighborhood and would provide an investment into a property to enhance its use and visual aesthetics.

3. Practical Difficulty: The request is not based on practical difficulty. While the request may be considered reasonable and would be consistent with the neighborhood character, the plight of the property owner is not caused by a circumstance unique to the property.

   a) Reasonableness: The request to add an 80 square foot enclosed porch is reasonable. While there are not many enclosed porches on South Lane, some homes within the city have similar additions.

   b) Circumstance Unique to The Property: There is not a circumstance unique to the property that causes the variance. The subject home meets the minimum front yard setback requirement and has a considerable amount of buildable area available for home additions. City code would permit the property owner to construct an unenclosed porch that extends 6.5 feet from the subject home; enclosing the structure would be prohibited. As such, the need for the variance is caused by a specific design
c) Neighborhood Character: The surrounding neighborhood is largely characterized by homes that encroach into the front yard setback, including the home immediately to the west of the subject property. If approved, the proposed addition would not alter the essential character of the subject neighborhood.

Section 4. City Council Action

4.01 The above-described variance is hereby denied based on the findings outlined in section 3.01 of this resolution.

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 8, 2019.

Brad Wiersum, Mayor

Attest:

Becky Koosman, 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 July 8, 2019.

Becky Koosman, City Clerk
Hi, can you add some information to my city council appeal. I want to add list off my closed
neighbors who support my variance request. I circle their houses on the plan what I will send
to you. Let me know if you have any question.

On Fri, Jun 28, 2019 at 10:01 AM Drew Ingvalson <dingvalson@eminnetonka.com> wrote:

Alex,

Good morning. I have received your request for an appeal. You are tentatively scheduled for the
July 8, 2019 city council meeting.

All city council contacts can be found on our website (see link below, select name on left side of
screen for each council member).

https://eminnetonka.com/city-council-mayor

Best regards,

Drew Ingvalson | Planner
City of Minnetonka | eminnetonka.com
14600 Minnetonka Blvd. | Minnetonka, MN 55345
Office: 952-939-8293

Hi, I want to appeal variance reject for 18724 South Lane Minnetonka. Can you also help
me find out city council contact information. I do have some question for them, what helps
me to prepare for appeal. Thank you.
18724 South Lane Minnetonka front porch addition


Neighbors support list:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>Terence Ott</td>
<td>18741 South Ln</td>
<td></td>
</tr>
<tr>
<td>Karen Gillespie</td>
<td>18801 South Lane</td>
<td></td>
</tr>
<tr>
<td>Don Schaefer</td>
<td>18721 South Ln</td>
<td></td>
</tr>
<tr>
<td>Geoff Bray</td>
<td>18718 South Ln</td>
<td></td>
</tr>
<tr>
<td>Jason Schaefer</td>
<td>18800 South Ln</td>
<td></td>
</tr>
</tbody>
</table>
City Council Agenda Item #14B
Meeting of July 8, 2019

Brief Description
Amendment to the approved master development plan and final building plans for Doran at 11650 and 11706 Wayzata Blvd.

Recommendation
Adopt the resolution approving the request

Introduction
On Dec. 17, 2018, the city council approved the 175-unit apartment building proposed by Doran Companies at 11650 and 11706 Wayzata Blvd. The approval included:

1) Comprehensive guide plan amendments from service commercial to mixed-use;
2) Ordinance rezoning the property from PID, Planned I-394 District, to PUD, planned unit development, and adopting a master development plan;
3) Final site and building plans, with variances;
4) Preliminary and final plats of MARSH RUN; and

As approved, the building will have a varied height, with a reduced height near the residential townhomes to the north and at the Fairfield Road/Wayzata Blvd intersection. Grading is currently occurring onsite in preparation for the construction of the building.

Request
Doran Companies is requesting amendments to allow several changes to the façade of the approved apartment building. The following is intended to summarize the applicant’s changes. Additional information on the changes can be found in the “Staff Comments” section of this report:

<table>
<thead>
<tr>
<th>Approved</th>
<th>Current request</th>
</tr>
</thead>
<tbody>
<tr>
<td><img src="image1.jpg" alt="Image" /></td>
<td><img src="image2.jpg" alt="Image" /></td>
</tr>
</tbody>
</table>

Kitchen window
Staff Comments

The plans indicate a few changes to the façade of the building:

1. The approved windows were three vertical panes. The proposed windows would still have three panes but would be in a different configuration. But for the smaller kitchen windows, the new windows would be larger than what was originally approved. Staff acknowledges that the proposed windows may allow for better light access, but staff generally prefers the originally approved windows, as:
• The approved windows align with the context of the neighborhood, especially the
townhomes to the north;
• Provide for variation of the building façade; and
• Extenuate and carry through vertical elements of the building design.

2. The approved elevations did not show the portions of the building that were set back
behind the front wall elevation. The most recent renderings include the “firewall” behind
the north wall elevation. Staff indicated to Doran that the firewall façade was “stark” and
should include some variety. In advance of the council meeting, Doran will review
perspectives from the ground and townhomes to determine how much of the wall will be
visible. If their review indicates that the façade is visible, they will explore opportunities to
“dress” the wall up.

3. The corner parapets have been lowered to maintain approved building heights after final
grading plans.

4. Final grading plans indicate that more of the garage façade would be exposed than
initially shown in the renderings. In advance of the council meeting, Doran will submit a
second elevation that includes landscaping to show that the area would be visually
screened.

5. The windows on the garage elevation have also changed. The plans also indicate that
the vertical element would no longer extend into the garage façade. Staff has indicated
to the applicant that these elements provided visual interest to the façade. Doran is
exploring building materials and landscaping and will provide a follow up at the council
meeting.

Staff is aware that the neighbors and the council were concerned with the aesthetics of the
building throughout the process. Staff does not find that the façade changes are overly
significant but were outside the scope of administrative review.

Staff Recommendation

Adopt the resolution approving an amendment to the Marsh Run master development plan and
final site and building plans.

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

Originator:  Ashley Cauley, Senior Planner
June 28, 2019

Ashley Cauley
Senior Planner
City of Minnetonka
14600 Minnetonka Blvd.
Minnetonka, MN 55345

Re: Marsh Run – Revisions to Building Windows

Dear Ashley,

We are requesting the City Council review and approve a minor change in window design at Marsh Run. The original concept design that we presented to the City Council last year showed three single hung windows. We are proposing switching to a window with a large single pane of glass coupled with an awning window. The proposed new window is slightly larger than the original window design and results in a 17.5% increase in glass area over the design shown on the concept plans.

This upgrade to a higher quality window will create a better resident experience. We recently installed these windows in another project we developed, and the feedback from our residents is overwhelmingly positive. Maximizing access to natural light is critical to creating well designed apartment units, and we think that this change will increase the overall quality of the building and development by increasing the desirability of the units.

Attached are comparisons of the concept windows and the proposed upgraded windows along with the upgraded windows shown in the building elevations. We request that you review this proposed change and we look forward to presenting the revised design of the windows at the July 8th City Council meeting.

Sincerely,

Tony Kuechle
Glass Area: 35.6 SQ FT

Height: 6' 0"

Width: 7' 4"
Glass Area: 30.3 SQ FT
Height: 6' 0"
Width: 7' 2"
BLACK COLOR EXTERIOR WHITE COLOR INTERIOR
MAXIMUM DESIGN PRESSURE = 40 PSF

WINDOW TYPE "W1"

SCALE 1/2" = 1'-0"

BLACK COLOR EXTERIOR WHITE COLOR INTERIOR
MAXIMUM DESIGN PRESSURE = 40 PSF

WINDOW TYPE "W1"

SCALE 1/2" = 1'-0"
Resolution No. 2019-

Resolution amending the master development plan and final site and building plans for a multi-family residential building at 11650 and 11706 Wayzata Blvd

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

Section 1. Background.


1.02 The properties are located at 11650 and 11706 Wayzata Blvd. These properties are legally described on Exhibit A of this resolution.

1.03 Marsh Run, LLC is requesting an amendment to these previous approvals. The amendment is specifically to allow for changes to the approved facade. No other changes are proposed.

Section 2. Findings.

2.01 The proposed amendment is generally consistent with the approved master development plan and site and building plans.

2.02 The proposed amendment would result in an attractive façade treatment.

Section 3. City Council Action

3.01 The requested amendment is hereby approved based on the findings outlined in section 2 of this resolution. Approval is subject to the following condition:

1. Subject to staff approval, the façade treatment must be in substantial conformance with building elevations dated April 29, 2019.

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 8, 2019.

__________________________
Brad Wiersum, Mayor
Attest:

Becky Koosman, 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 July 8, 2019.

Becky Koosman, City Clerk
Exhibit A

11650 Wayzata Boulevard

Parcel 1: Lot 5, Block 1, Marsh Run 2nd Addition, Hennepin County, Minnesota.

Parcel 2: Lot 16, Block 2, Boulevard Gardens, Hennepin County, Minnesota, except that part thereof embraced within the plat of Marsh Run Two 2nd Addition.

(Torrens property/ Certificate No. 1127072)

11706 Wayzata Boulevard:

The real property located in Hennepin County, Minnesota, and legally described as follows:

Part 1: Lots 1 to 6 inclusive, Block 1, Marsh Run Two; and that part of U.S. Highway No. 12 dedicated by the plat of Marsh Run Two.

Part 2: Lots 1 to 4 inclusive, Block 1, Marsh Run Two 2nd Addition; and that part of U.S. Highway No. 12 by the plat of Marsh Run Two 2nd Addition.

(Torrens Property – PART OF Certificate of Title No. 781405)
Brief Description: Crosby Road culvert replacement

Recommended Action: Adopt the resolution and amend the CIP

Background

On May 17, 2019, the arched steel culvert under Crosby Road that provides access to Lake Minnetonka partially collapsed. Since that time, the city’s public works department has removed the culvert and stabilized the roadway for the nine properties that travel this road for access to their homes as well as worked with property owners to remove all boats on the downstream side of the channel. The temporary stabilized roadway allows for no weight restrictions and full access to the area including emergency response vehicles. As a note, this culvert is inspected on a four-year cycle as part of the city’s bridge inspection program and the most recent inspection, completed on November 19, 2018, had not indicated signs of potential failure.

Proposed Improvements and Public Input

On May 30, 2019, staff held a meeting onsite with property owners to discuss the culvert replacement in which approximately 20 property owners attended. Staff discussed the timing and schedule for the replacement, design considerations and how access will be maintained prior to and during construction. Staff also took feedback from property owners who requested increased height of the culvert and aesthetic improvements. At that time, staff indicated they would host a follow-up meeting once further design was completed and present a recommended option to the group for further feedback.

On June 25, 2019, staff held a follow-up meeting at the city’s public works facility and presented three options with a recommendation. The three options included box culvert (option 1), box culvert enhanced to meet city standards (option 2) and bridge (option 3).

<table>
<thead>
<tr>
<th></th>
<th>Existing Culvert</th>
<th>Option 1 (box culvert)</th>
<th>Option 2 (box culvert - city standards)</th>
<th>Option 3 (bridge)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Size (height x width)</td>
<td>11-ft x 16-ft</td>
<td>12-ft x 12-ft</td>
<td>12-ft x 12-ft</td>
<td>12-ft x 20-ft</td>
</tr>
<tr>
<td>Clearance</td>
<td>5-ft</td>
<td>7-ft</td>
<td>7-ft</td>
<td>8.5-ft</td>
</tr>
<tr>
<td>Estimated Cost</td>
<td>-</td>
<td>$375,000</td>
<td>$650,000</td>
<td>$900,000</td>
</tr>
<tr>
<td>Construction Duration</td>
<td>-</td>
<td>2-weeks</td>
<td>2-weeks</td>
<td>2-months</td>
</tr>
</tbody>
</table>

Staff is recommending option 2 as it allows for the maximum increased vertical height, an additional two-feet from existing, while not negatively affecting the surrounding roadway steepness. This option also provides aesthetics meeting city standards with the cost-effective construction of a box culvert versus a full bridge structure. Also, due to the standard manufacturer box structure sizes, the increased vertical clearance is a minimal cost increase. The typical design life of this type of structure is approximately 75 to 100 years.

Property owners supported this option and supporting correspondence is attached.
Estimated Project Cost and Funding

The total estimated cost for this project including construction, engineering and contingency, is $650,000.

<table>
<thead>
<tr>
<th></th>
<th>Budget Amount</th>
<th>Proposed Funding</th>
<th>Expense</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Costs</td>
<td></td>
<td>$475,000</td>
<td>$475,000</td>
</tr>
<tr>
<td>Contingencies</td>
<td></td>
<td>$75,000</td>
<td>$75,000</td>
</tr>
<tr>
<td>Engineering, Administration,</td>
<td></td>
<td>$100,000</td>
<td>$100,000</td>
</tr>
<tr>
<td>and Indirect Costs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Storm Sewer Fund</td>
<td>$200,000</td>
<td>$350,000</td>
<td>$350,000</td>
</tr>
<tr>
<td>Street Improvement Fund</td>
<td>$0</td>
<td>$300,000</td>
<td>$300,000</td>
</tr>
<tr>
<td><strong>Total Budget</strong></td>
<td><strong>$200,000</strong></td>
<td><strong>$650,000</strong></td>
<td><strong>$650,000</strong></td>
</tr>
</tbody>
</table>

The city’s 2019 storm sewer risk assessment funding in the adopted Capital Improvement Program (CIP) would be used to cover a portion of these costs. Staff is recommending an amendment to the 2019 CIP to cover the remaining unscheduled project costs using available fund balances in the storm water and street improvement funds. As a note, the proposed funding would not impact the schedule of upcoming projects due to cost savings in other approved capital projects, including that for the 2018 Woodhill Road reconstruction project.

Schedule

If council chooses to move forward with the project, staff would present bids to council this fall for their consideration and construction would be anticipated to begin late fall and take approximately two weeks. In an effort to allow the actual box culvert to be manufactured to the above schedule, staff would preorder these materials to be incorporated into the bids. Vehicle access would be limited during the construction for approximately two weeks; however, pedestrian access would be maintained as discussed in detail at the June 25 meeting. Also, staff would work with city emergency services to maintain response at all times during construction.

Recommendation

Adopt the attached resolution ordering the improvements, authorizing preparation of plans and specifications and authorizing bids for the Crosby Road culvert replacement project and amend the CIP.

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

Originated by:
  Darin Ellingson, Street and Park Operations Manager
Resolution No. 2019-
Resolution amending the CIP for the Crosby Road culvert replacement

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, plans and specifications will be prepared by and/or under the direction of the city engineer who is a Licensed Professional Engineer in the State of Minnesota for the Crosby Road Culvert replacement project.

1.02. The plans and specifications for the construction of the aforementioned project will be prepared to the general standards as presented to the city council on July 8, 2019.

Section 2. Council Action.
2.01. Once prepared, plans and specifications copies will be on file in the engineering department, 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 a specific local time and date, 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 July 8, 2019.

_________________________________________
Brad Wiersum, Mayor

Attest:

_________________________________________
Becky Koosman, 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 July 8, 2019.

__________________________________________
Becky Koosman, City Clerk
Will —

The Board of Directors of the Crosby Cove Homeowners Association met and reviewed the proposed “Option 2” solution that was presented for neighbor feedback at the meeting on 6/25.

We endorse that solution as a way to meet the demands and limitations that the City has been tasked with solving for this unplanned repair. We understand that the Crosby Rd./Gray’s Bay-facing neighbors (other than in one case), are primarily concerned with vehicle access and aesthetics, while CCHOA residents are primarily concerned with watercraft access and aesthetics. We are all sensitive to direct and indirect costs.

As to watercraft access, the 12’ rectangular culvert with 7’ of average clearance in a visually appealing design will be a welcome addition to the neighborhood! Some neighbors mentioned the desire for the maximum possible width in order to facilitate safe watercraft passage. 12’ is great but any additional width would be even better! So if there is any way, we would appreciate it.

Our Board, our neighbors, and everyone impacted by this culvert collapse, greatly appreciate the City’s efforts to remediate the problem. You have all been so understanding and diligent with your work. This level of municipal support is one of the many reasons we all love living in Minnetonka/Wayzata.

As discussed during the meeting, the upcoming execution of the new culvert would seem like an ideal time to “clean up” the channel. Years and years of mother-nature take-over, sediment dispersion from the emergency fill/repair, plus a summer of no channel activity, will leave us with a largely clogged channel. At minimum we need to engage a 3rd party for debris removal and also consider more extensive dredging. Any assistance you could provide would help tremendously.

Best,

Brian Lipschultz
Treasurer, Crosby Cove Homeowners Association

On Jun 26, 2019, at 8:51 AM, Will Manchester <wmanchester@eminnetonka.com> wrote:
Brian,

Good seeing you at the Crosby Culvert replacement meeting last night. As a follow up to our conversation, we plan to take this item to council on July 8th, and it would be helpful to receive a letter on behalf of your association for support of option 2 as we discussed, including any feedback you’d like to include regarding the process.

Also, as discussed, the city would be willing to assist in the coordination of permits for your association to complete dredging, natural debris removal, etc. separately from this project. Please include which items you’d be interested in our assistance on these permits.

Thanks again and don’t hesitate to let Darin or I know if questions or you need anything further.

Will

William D. Manchester, P.E. | Director of Engineering
City of Minnetonka | eminnetonka.com
14600 Minnetonka Blvd. | Minnetonka, MN 55345
Office: 952-939-8232
Lake Minnetonka Culvert Reconstruction
Lake Minnetonka

Option 1: Box Culvert

Option 2: Box Culvert Enhanced

Option 3: Bridge Culvert

Existing Culvert
Alternative 2:

**Straight Headwall:**

![Straight Headwall Image]

**Domed Headwall:**

![Domed Headwall Image]
City Council Agenda Item #14D
Meeting of July 8, 2019

Brief Description
Items concerning HIGHCROFT MEADOWS at 14410 Orchard Road:

1) Rezoning a portion of the property from R-1 to R-2; and
2) Preliminary plat, with variances.

Recommendation
Adopt the ordinance and resolution approving the proposal

Background

In October 2018, Charles Cudd Co. submitted a concept plan for the roughly six-acre property at 14410 Orchard Road. The plan contemplated removal of the site’s existing single-family home and accessory building and construction of 19 villa-style homes; such homes are sometimes referred to as detached townhomes. The city council reviewed the concept plan on Nov. 5, 2018, and generally indicated that the housing type was desirable, though the number of units and resulting density was too great. (See attached concept plan and minutes.)

In May 2019, the planning commission and city council considered a formal application submitted by Rachel Development on behalf of Charles Cudd Co. As proposed, the property would be divided into 14 lots. Thirteen villa-style homes would be constructed around a new, public cul-de-sac and one single-family home would be constructed with access to Cardinal Road. The plan required:

- **Rezoning:** From R-1 to R-2 for the villa lots.
- **Preliminary plat, with variances:**
  - 10 lot variances – 6 lot area, 2 lot width at right-of-way, and 2 lot depth;
  - Variance to allow construction of detached structures; and
  - Variance to establish a maximum floor area ratio (FAR) based on average lot size.

City staff recommended approval of the proposal, and the planning commission recommended denial. The city council tabled the request, generally indicating that the proposal contained too many lots and required too many variances.

Revised Plans

On May 21, 2019, Rachel Development submitted revised plans for the city’s consideration, removing two lots. The plans illustrate a 12-lot subdivision. Eleven homes would be constructed around a new, public cul-de-sac and one single-family home would be constructed with access to Cardinal Road. The revised plan requires:

- **Rezoning:** From R-1 to R-2 for the villa lots.
- **Preliminary plat, with variances:**
2 lot variances – both lot width at right-of-way;
✓ Variance to allow construction of detached structures; and
✓ Variance to establish a maximum floor area ratio (FAR) based on average lot size.

The following outlines the lot area and dimension difference between the 14-lot and 12-lot proposals.

<table>
<thead>
<tr>
<th>14-Lot Proposal</th>
<th>12-Lot Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Area</strong></td>
<td><strong>Width</strong></td>
</tr>
<tr>
<td>REQUIRED</td>
<td>12,500 sq.ft.</td>
</tr>
<tr>
<td>Lot 1</td>
<td>16,740 sq.ft.</td>
</tr>
<tr>
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<tr>
<td>Lot 12</td>
<td>8,810 sq.ft.</td>
</tr>
<tr>
<td>Lot 13</td>
<td>16,940 sq.ft.</td>
</tr>
<tr>
<td>Lot 14</td>
<td>71,490 sq.ft.</td>
</tr>
</tbody>
</table>

All numbers rounded down to closest 5 ft. or 56 sq.ft.

The applicant indicates that the lot changes – particularly the increased width – would allow for more customization flexibility. This flexibility would, in turn, allow for more variety in home design and resulting appearance. While villa-style homes could be built on the lots, other styles including “cottage ramblers” could also be constructed. As is generally the case, and is evidenced throughout the community, an increase in lot size typically results in an increase in home size. Example home elevations were shown at a neighborhood meeting held on June 10, 2019, and can also be found in the Supporting Information section of this report.

**Analysis**

Staff recommended approval of the previously proposed 14-lot plan and supports the now proposed 12-lot plan for the following reasons:

- **Rezoning.** Maintaining the property’s existing R-1 zoning is highly unlikely to result in single-family construction consistent with the size and design of homes in the surrounding area. Therefore, the city must determine what type of housing should be added to the Minnetonka community. Staff supports adding variety/options to the city’s new construction that could be accommodated by R-2 zoning.

- **Variances.** The requested variances are reasonable, as:
Lot Width Variances. The property could be divided into 14 lots meeting all minimum R-2 standards. Such subdivision would require a slightly longer cul-de-sac and – in some cases – oddly angled lot lines. The requested lot dimension variances would not result in more lots than could otherwise be achieved with R-2 zoning.

Detached Structures. Significant grading would occur to accommodate the proposed public street, installation of required public utilities, and construction of new homes. The level of site work is not a function of the number or style of homes proposed. Rather, the primary influence is the site’s existing topography. There would be little – if any – difference in site impact were an attached home product constructed.

FAR. Applying the maximum 0.25 FAR to individual lots would result in varying maximum floor areas on each lot, given the varying sizes of each proposed lot. This is generally contrary to an association-maintained development, in which dwellings are similarly sized. Average lot size within the 12-lot proposal is 20,206 sq.ft. This would result in a maximum floor area of 5,050 square feet per lot. (0.25 x 20,206 sq. ft.). Whether FAR is based on average lot size or individual lot size, the total square footage of building area within the development would essentially be the same. Given that the total square footage of building area within the development would not differ under these two methodologies, the requested variance is reasonable.

On-site Impacts. Significant grading would occur to accommodate the proposed public street, installation of required public utilities, and construction of new homes. The level of site work is not entirely a function of the number homes proposed. Rather, the primary influence is the site’s existing topography. The grading plans of the 14-lot and 12-lot subdivisions differ very little. The revised plan would result in removal or significant impact of eight – or 22 percent – of the site’s high-priority trees that would be removed or significantly impacted. This would be under the 35 percent threshold established by the tree protection ordinance.

Off-Site Impacts. The grade and width of Orchard Road would not be impacted by the proposed development. Neither planning nor engineering staff is of the opinion that 12 new lots would negatively impact the functionality of the roadway. Similarly, city engineering staff, as well as staff from Barr Engineering, have reviewed the proposed stormwater management plan and find that it is acceptable.

Summary Comments

Neighborhoods in Minnetonka do not all consist of equally-sized lots and homes. A variety of single-family lot sizes and home styles coexist. The applicant’s proposal would complement the community’s existing housing stock and resident housing desires, which in turn supports housing strategies identified in the comprehensive plan.

The subject property will inevitably be developed. The site is many times larger than the surrounding properties and the existing zoning district’s minimum lot size. In staff’s opinion, this future development will not look or feel like surrounding neighborhoods, most of which were developed 50 or more years ago, nor should it. Given this, staff is also of the opinion that – as long as the property maintains a low-density residential comprehensive plan guidance – it is not
necessary to maintain the property’s existing R-1 zoning. Variety and options in new construction could be accommodated by rezoning the property to R-1A or R-2, which would allow for smaller lot size.

The requested variances would not allow for the creation of more lots or total floor area that would otherwise be allowed under R-2 zoning. Rather, they would facilitate the development of villa-style homes, which are not specifically accommodated in any of the city’s existing zoning districts.

**Staff Recommendation**

Staff recommends the city council adopt the following, pertaining to HIGHCROFT MEADOWS at 14410 Orchard Road:

1) An ordinance rezoning a portion of the property to R-2, low-density residential; and

2) A resolution approving the 12-lot preliminary plat of HIGHCROFT MEADOWS, with variances.

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

Originated by:
Susan Thomas, AICP, Assistant City Planner
Supporting Information

Charles Cudd Villa and Cottage Rambler Homes
Location Map

Project: Highcroft Meadows
Address: 14410 Orchard Rd
12 TOTAL LOTS
14 LOTS

PREVIOUSLY REVIEWED
Brief Description

Items concerning HIGHCROFT MEADOWS at 14410 Orchard Road:

1) Rezoning a portion of the property from R-1 to R-2; and

2) Preliminary plat, with variances.

Recommendation

Adopt the ordinance and resolution approving the proposal

Background

In October 2018, Charles Cudd Co. submitted a concept plan for the roughly six-acre property at 14410 Orchard Road. The plan contemplated removal of the site’s existing single-family home and accessory building and construction of 19 villa-style homes; such homes are sometimes referred to as detached townhomes. The city council reviewed the concept plan on Nov. 5, 2018 and generally indicated that the housing type was desirable, though the number of units and resulting density was too great. (See attached concept plan and minutes.)

Formal Application

In February 2019, Rachel Development, on behalf of Charles Cudd Co., submitted formal applications for the redevelopment of the site. The plans illustrated the construction of 15 villa-style homes accessed via a new cul-de-sac. Following preliminary staff review and comments, revised plans were submitted. The current proposal is for: (1) construction of 13 village-style homes accessed via a new, public cul-de-sac; and (2) construction of one single-family home accessed via Cardinal Road. The proposal requires:

Rezoning.

To facilitate the development of the villa-style homes, a portion of the property would be rezoned to R-2, low-density residential.

Preliminary plat, with variances.

- Lot area, lot width at right-of-way, lot depth variances;
- Variance to allow construction of detached structures; and
- Variance to establish a maximum floor area ratio (FAR) based on average lot size.

Planning Commission Review and Recommendation

The planning commission considered the proposal on April 25, 2019. The commission report, associated plans, and meeting minutes are attached. Staff recommended approval of the proposal, finding:
Maintaining the property’s existing R-1 zoning is highly unlikely to result in single-family construction consistent with the size and design of homes in the surrounding area. Therefore, the city must determine what type of housing should be added to the Minnetonka community. Staff supports adding variety/options to the city’s new construction that could be accommodated by R-2 zoning.

The requested variances are reasonable, as:

- **Lot Area and Dimension Variances.** The property could be divided into 14 lots meeting all minimum R-2 standards. Such subdivision would require a slightly longer cul-de-sac and – in some cases – oddly angled lot lines. The requested lot area and dimension variances would not result in more lots than could otherwise be achieved with R-2 zoning. Rather, the variances would result in less impervious surface and more intuitive lot lines.

- **Detached Structures.** Significant grading would occur to accommodate the proposed public street, installation of required public utilities, and construction of new homes. The level of site work is not a function of the number or style of homes proposed. Rather, the primary influence is the site’s existing topography. There would be little – if any – difference in site impact were an attached home product constructed.

- **FAR.** Applying the maximum 0.25 FAR to individual lots would result in varying maximum floor areas on each lot, given the varying sizes of each proposed lot. This is generally contrary to an association-maintained villa development, in which dwellings are similarly sized. Whether FAR is based on individual lots or average lot size, the total square footage of building area within the development would essentially be the same.

At the commission meeting, a public hearing was opened to take comment. Seven area residents addressed the commission, generally expressing concern related to:

- **Neighborhood character.** While area property owners noted that they appreciate the quality and design of the proposed homes, they stated there were too many homes. Further, the arrangement of the homes – particularly the eight lots closest to Orchard Road, was visually too dense.

- **Orchard Road.** The grade and width of Orchard Road, regardless of the development of the subject property, is problematic. Speakers encouraged the city to consider the installation of sidewalks and stop signs, where appropriate.

Following the public hearing, the commission discussed the proposal. Discussion specifically focused on the requested rezoning to R-2. Commissioners opposed to the rezoning generally concurred with resident speakers, finding that the rezoning would result in an unreasonable visual density. A commissioner supporting the rezoning noted that the proposed R-2 zoning would abut an existing R-2 development.

On a 4-1 vote, the commission recommended the city council deny the rezoning request. There was no further discussion on the proposed plat or requested variances, as these were predicated on the rezoning.
Summary Comments

Neighborhoods in Minnetonka are not all equally sized lots and homes. A variety of single-family home styles and lot sizes coexist. This specific housing product would complement existing housing stock and resident housing desires which in turn supports housing strategies identified in the comprehensive plan.

It is inevitable the site will be developed. The subject property is many times larger than the properties surrounding it. In staff's opinion, this future development will not look or feel like surrounding neighborhoods, most of which were developed 50 or more years ago, nor should it. Given this, staff is also of the opinion that it is not necessary to maintain the property’s existing R-1 zoning. Variety/options in new construction could be accommodated by rezoning the property to R-1A or R-2, which would allow for smaller lot size.

The requested variances would not allow for the creation of more lots or total floor area that would otherwise be allowed under R-2 zoning. Rather, they would facilitate the development of villa-style homes, which are not specifically accommodated in any of the city's existing zoning districts.

Staff Recommendation

Staff recommends the city council adopt the following, pertaining to HIGHCROFT MEADOWS at 14410 Orchard Road:

1) An ordinance rezoning a portion of the property to R-2, low-density residential; and
2) A resolution approving the preliminary plat of HIGHCROFT MEADOWS, with variances.

Submitted through:
Geralyn Barone, City Manager
Julie Wischnack, AICP, Community Development Director
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Originated by:
Susan Thomas, AICP, Assistant City Planner
Brief Description

Items concerning HIGHCROFT MEADOWS at 14410 Orchard Road:

1) Rezoning a portion of the property from R-1 to R-2; and

2) Preliminary plat, with variances.

Recommendation

Adopt the ordinance and resolution approving the proposal

Background

In October 2018, Charles Cudd Co. submitted a concept plan for the roughly six-acre property at 14410 Orchard Road. The plan contemplated removal of the site’s existing single-family home and accessory building and construction of 19 villa-style homes; such homes are sometimes referred to as detached townhomes. The city council generally indicated that the housing type was desirable, though the number of units and resulting density was too great. (See attached concept plan and minutes.)

Formal Application

In February 2019, Rachel Development, on behalf of Charles Cudd Co., submitted formal applications for redevelopment of the site. The plans illustrated construction of 15 villa-style homes accessed via a new cul-de-sac. Following preliminary staff review and comments, revised plans were submitted. The current proposal is for: (1) construction of 13 village-style homes accessed via a new, public cul-de-sac; and (2) construction of one single-family home accessed via Cardinal Road. The proposal requires:

1) Rezoning. To facilitate the development of the villa-style homes, a portion of the property would be rezoned to R-2, low-density residential.

2) Preliminary plat, with variances.

Primary Questions and Analysis

A land use proposal is comprised of many details. These details are reviewed by members of the city’s economic development, engineering, fire, legal, natural resources, planning, and public works departments and divisions. These details are then aggregated into a few primary questions or issues. The analysis and recommendations outlined in the following sections of this report are based on the collaborate efforts of this larger staff review team.

- What is low-density development?

  Low-density development is defined in the city’s comprehensive plan as one to four living units per acre.
A community’s comprehensive plan is intended to generally guide public and private land use, development, and redevelopment within a community. As a general guide, a comprehensive plan outlines the goals of community. It does not contain specific regulations intended to further those goals. Rather, the specific regulations pertaining to land use, development and redevelopment are outlined in a community’s subdivision and zoning ordinances.

The subject property is designated for low-density residential development within Minnetonka’s 2030 Comprehensive Guide Plan and the Draft 2040 Comprehensive Guide. The city’s zoning ordinance contains four traditional, low-density zoning districts: R-1, R-1A, R-2, and R-3. Development under any of these zoning classifications would be considered low-density and would, therefore, be consistent with the comprehensive plan. In some cases, the flexible Planned Unit Development (PUD) zoning district can also be considered a low-density district.

• Does a low-density development designation allow for subdivision of the property?

Yes. The subject property is 6.19-acres in size. Under its current R-1 zoning, staff believes the site could be divided into seven single-family residential lots meeting all R-1 standards. The city would be legally obligated to approve such subdivision. The zoning classification of the property could also be changed to any other low-density classification – as outlined above – and the property subdivided. Rezoning a property is a legislative function of city. In other words, the city council has broad authority to rezone properties.

• Would an R-1 development of the site be consistent with the surrounding area?

Yes and No. Yes, in that an R-1 development of the site would result in lot sizes similar to those immediately surrounding the site. No, in that it is likely only the lot size that would be consistent. The average year of construction for the roughly 135 homes within the project's notice area is 1971. The average floor area of these homes is 2,530 square feet. In 2018, the city issued 40 permits for new single-family homes on properties zoned R-1. These homes ranged significantly in size, but averaged 4,405 square feet in floor area.

It is staff’s opinion that – whether the property is zoned R-1, R-1A, R-2, or R-3 – the development of this site will not look or feel like neighborhoods surrounding it. This is simply because the site will be developed nearly 50 years after the surrounding area. Other areas in the community have experienced this same change/evolution larger estates properties have been sold and developed.

• Should the property be rezoned to R-2?

Yes. Maintaining the property’s existing R-1 zoning is highly unlikely to result in single-family construction consistent with the size and design of homes the surrounding area.

---

1 The survey for the site notes a total area of 6.44-acres. However, the southerly 10,460 square feet is considered a prescriptive roadway easement. Staff did not consider include this easement in the total area for subdivision review purposes.

2 Floor area is defined as the sum of the fully exposed gross horizontal area of a building, including attached garage space and enclosed porch areas, and one-half the gross horizontal area of any partially exposed level such as a walkout or lookout level.
Therefore, the city must determine what type of housing should be added to the Minnetonka community. In other words, the city must decide if more construction typified by the homes permits issues in 2018 is desired. If yes, the property’s R-1 should be maintained. If no, then a different zoning classification should be considered for the site.

In staff’s opinion, the latter is preferred. Staff supports adding variety/options to the city’s new construction that could be accommodated by R-2 zoning. Further, in recent years, staff has found that smaller lots lend themselves to association-maintained neighborhoods. An R-2 zoning would not be new to the area; the existing neighborhood between Williston Road and the subject property is zoned R-2.

- **Are the requested variance reasonable?**

  Yes. Lot area and dimension requirements are outlined in the city’s subdivision ordinance. The proposal requires several variances to R-2 standards:

<table>
<thead>
<tr>
<th></th>
<th>AREA</th>
<th>WIDTH</th>
<th>DEPTH</th>
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<tbody>
<tr>
<td></td>
<td>Total</td>
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<td>REQUIRED</td>
<td>12,500 sq.ft.</td>
<td>2,400 sq.ft.</td>
<td>55 ft</td>
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<td>4,220 sq.ft.</td>
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<tr>
<td>Lot 2</td>
<td>8,810 sq.ft.</td>
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<td>125 ft</td>
</tr>
</tbody>
</table>

\(^v\) = requires variance

All numbers rounded down to nearest 5 ft or 5 sq.ft.

- **Lot Area and Dimensions.** The property could be divided into 14 lots meeting all minimum R-2 standards. Such subdivision would require a slightly longer cul-de-sac and – in some cases – oddly angled lot lines. The requested area and dimension variances are reasonable, as they would not result in more lots than could otherwise be achieved with R-2 zoning. Rather, the variances would result in less impervious surface and more intuitive lot lines.

In addition to the area and dimensional standards, the applicant is requesting variances to allow construction of detached structures and to establish a maximum floor area ratio (FAR) based on average lot size. The type of construction and FAR standards are outlined in the zoning ordinance.
Detached Structures. The intent of the R-2 ordinance is to allow for locations within the community where twinhomes can be constructed. The proposed detached structures are not contrary to this purpose. The arrangement of a twinhome development on the subject site would be slightly different than the proposed site arrangement. However, the difference in site design would result in very little – if any – difference in overall site impact. Given this, the requested variance is reasonable. It is important to note that the zoning ordinance does not contain a district/classification that specifically accommodates villa-style homes.

FAR. Within the R-2 zoning district, the maximum FAR per lot is 0.25. Floor area ratio is defined as the total floor area of a structure divided by lot size. In Minnetonka, floor area includes all above grade enclosed spaces – including garage area and screened porches – and one-half the area of any lookout or walkout space. Applying the 0.25 FAR to the individual lots would result in varying maximum floor areas on each lot, given the varying sizes of each lot. Instead, the applicant has requested that the 0.25 FAR be applied to the average lot size. This would result in a maximum floor area of 4,384 square feet per lot. (0.25 x 17,535 square feet) As the total square footage of building area within the development would not differ under these two methodologies, the requested variance is reasonable.

Are the anticipated on-site impacts reasonable?

Yes. Significant grading would occur to accommodate the proposed public street, installation of required public utilities, and construction of new homes. The level of site work is not entirely a function of the number homes proposed. Rather, the primary influence is the site’s existing topography.

As proposed, the soil would generally be removed from the east side of the site and added to the west side. This “leveling” of the property would result in “cut” of up to 12 feet in depth on the east. The current plans illustrate the base of a two-tier retaining wall would be located in the rear yards of the new homes situated east of the new cul-de-sac. The tiers would each range in height from two feet to six feet and be separated by a roughly 4-foot wide horizontal area within which new landscaping would be planted. Up to 10 feet of fill would be added on the west side of the site. The top of a two-tier retaining wall would be located in the rear yards of the new homes on this side of the development. Similar to the east, tiers would be separated by a roughly 4-foot wide landscape area. Each tier would range in height from two to four feet.

Though considerable grading is proposed, the submitted plans illustrate removal or significant impact just eight – or 22 percent – of the site’s high-priority trees would be removed or significantly impacted. This would be under the 35 percent threshold established by the tree protection ordinance.

Are the anticipated off-site impacts reasonable?

Yes. The proposal’s impact on Orchard Road and area drainage patterns have been evaluated. Staff finds the impacts would be reasonable.

3 All 14 lots were included when calculating average lot size.
Traffic

Orchard Road is classified as a local street; local streets comprise the majority of Minnetonka roadways. Generally, two-lane local streets can accommodate up to 3000 vehicle trips per day while still operating as a Level of Service A.4 Orchard Road, between Williston Road and Hopkins Junior High School, currently experiences an average of 700 vehicle trips per day. Though the development of the subject property would certainly result in more daily vehicle trips on Orchard Road, the local street has the capacity to accommodate these trips.

The width of Orchard Road, between Williston Road and the crossing of I-494, varies between 23 feet and 30 feet. The grade of the roadway varies significantly more, with a 13 percent grade near Williston Road to a less than one percent grade adjacent to the subject property. A new roadway of this width and grade would not be constructed today in Minnetonka. However, Orchard Road is not entirely unique to the community. The grade of the street at the proposed connection is constant; it would not be impacted by the proposed development. Neither planning nor engineering staff is of the opinion that 14 new lots would exacerbate the existing functionality of the roadway.

The width and grade of roadways can be changed. It is important to note that these changes may require significant grading and/or construction of retaining walls. Such activity frequently results in tree removal or impact.

Stormwater

Several area residents have raised concerns about existing drainage issues in the Orchard Road/Westmark Drive/Sunrise Drive area and how the proposal would impact the existing situation. Public storm sewer exists in only a very few locations in the area. The lack of infrastructure is primarily due to the age of the developments. Westmark Estates, west of the property, was developed in 1977. Sunrise Ridge, to the east, was platted in 1952. The city did not have stormwater management rules in place at the time those developments were approved. In older neighborhoods, large scale drainage improvements may be made in conjunction with street reconstruction projects. Small-scale improvements can be made in unique and emergency situations. The city’s capital improvement plan (CIP) does not call for the reconstruction of surrounding roadways within the next five years.

Today’s developments must meet specific stormwater management rules which include runoff rate control, runoff volume control, and water quality treatment. Best Management Practices (BMPs) are incorporated into the stormwater management plan to control the volume of water leaving the site while improving water quality by reducing pollutant loading. Further, the rate of stormwater runoff leaving a site “post-development” must be less than or equal to the rate of runoff leaving the site “pre-development.” Essentially, the rule requires that new development not exacerbate any existing situation.

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4 Level of Service (LOS) indicates how well an intersection operates from a capacity perspective. Intersections are given grades between LOS A, best operation, through LOS F, when capacity is exceeded.
As proposed, runoff from the new street and all but the rear yards of the northerly lots would be directed to two infiltration basins along Orchard Road. The original designs of the site included emergency overflows from these basins to the south. However, the submitted plans include a piped emergency overflow to the north. This new storm sewer would connect through the Williston Center site to the existing storm sewer in Westmark Drive. City engineering staff, as well as staff from Barr Engineering, have reviewed the proposed stormwater management plan and find that it is acceptable.

Summary Comments

The subject property is many times larger than the properties surrounding it. It is inevitable the site will be developed. In staff’s opinion, this future development will not look or feel like surrounding neighborhoods, most of which were developed 50 or more years ago. Given this, staff is also of the opinion that it is not necessary to maintain the property’s existing R-1 zoning. Variety/options in new construction could be accommodated by rezoning the property to R-1A or R-2, which would allow for smaller lot size. The requested variances would not allow for the creation of more lots or total floor area that would otherwise be allowed under R-2 zoning. Rather, they would facilitate the development of villa-style homes, which are not specifically accommodated in any of the city’s existing zoning districts.

Staff Recommendation

Staff recommends the city council adopt the following, pertaining to HIGHCROFT MEADOWS at 14410 Orchard Road:

1) An ordinance rezoning a portion of the property to R-2, low-density residential; and

2) A resolution approving the preliminary of HIGHCROFT MEADOWS, with variances.

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

### Surrounding Land Uses

<table>
<thead>
<tr>
<th>Direction</th>
<th>Description</th>
<th>Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Williston Center, zoned PUD</td>
<td></td>
</tr>
<tr>
<td>South</td>
<td>Single-family homes, zoned R-1</td>
<td></td>
</tr>
<tr>
<td>East</td>
<td>Single-family homes, zoned R-1</td>
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</tr>
<tr>
<td>West</td>
<td>Single-family homes, zoned R-2</td>
<td></td>
</tr>
</tbody>
</table>

### Planning

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

### Introduction

The rezoning ordinance was introduced to the city council on Feb. 25, 2019. Councilmembers noted concerns related to topography, grading, stormwater, snow storage, and the safety of Orchard Road. Meeting minutes are attached.

### Subdivision History

The 6.19-site is located on the north side of Orchard Road 1000 feet east of the Orchard Road/Williston Road intersection. City records indicate that a home was constructed in 1949. Over the following 60 years, the site has remained relatively unchanged as the properties surrounding it have been developed.

### Site Conditions: Topography

The highest point of the site is located along the east property line. The property slopes generally downward in all directions from this point. Part of this downward slope – located in the northern portion of the site – is defined as steep slope by city code.

A steep slope is one that: (1) has an average grade of 20 percent or more; (2) that covers an area at least 100 feet in width; and (3) that rises at least 25 feet above the toe – or bottom – of the slope to the top of the slope. The code goes on to define how the toe and top of the slope are determined, which may or may not correspond to the visual bottom and top of the slope. The proposed development generally avoids impact on the steep slope.
Trees

The property does not include a defined woodland preservation area, but does contain a total of 203 regulated trees.

Site Conditions:

Topography/Grading

See Primary Question on page 4 of this report.

Trees

The proposed grading plans would result in the following:

<table>
<thead>
<tr>
<th></th>
<th>Existing</th>
<th>Removed*</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Priority</td>
<td>36</td>
<td>8 or 22%</td>
</tr>
<tr>
<td>Significant</td>
<td>167</td>
<td>55 or 33%</td>
</tr>
</tbody>
</table>

** By city code, a tree is considered removed if 30 percent or more of the critical root zone is compacted, cut, filled or paved.

By city code, up to 35 percent of a site’s high-priority trees may be impacted during development/construction activities. For the subject property, ordinance would allow removal of 12 high-priority trees. As such, the proposed removal/impact of eight high-priority trees would be permitted.

Natural resources staff note that the amount of tree removal/impact shown on the plans is based on relatively “tight” grading limits, particularly on proposed Lots 5 and 6. While it may be possible to protect all of the trees shown, actual home design and the ability to maintain access around the homes during construction would dictate impact. To ensure compliance with the ordinance, a condition of approval is included in the staff-drafted resolution outlining the maximum number of high-priority trees allowed to be removed/impacted per lot:

<table>
<thead>
<tr>
<th>R-2 (Block 1)</th>
<th>Allowed High-Priority (HP) Tree Removal</th>
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<tr>
<td>Lot 1</td>
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<tr>
<td>Lot 2</td>
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<td>Lot 4</td>
<td>N/A</td>
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<tr>
<td>Lot 5</td>
<td>No more than 2 HP trees</td>
</tr>
<tr>
<td>Lot 6</td>
<td>No more than 3 HP trees</td>
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</tbody>
</table>
Utilities

As proposed, a new sewer main would be extended into the site from the existing public sewer in Orchard Road. A new public water would be “looped” between existing mains in Orchard Road and Cardinal Road to the east. Storm sewer would be directionally-drilled from the westerly infiltration basin to the north and west, connecting with existing infrastructure in Westmark Drive.

Homes

The applicant’s proposal is for subdivision of the property. The city can influence the design aesthetic of single-family homes only when PUD zoning is use. Home design within traditional zoning districts – like R-1, R-1A, and R-2 – is controlled by required minimum setbacks, maximum heights, and maximum floor area ratios in the R-1A and R-2 districts.

The following apply to R-2 zoned properties:

| Min. Front Yard Setback | 25 ft |
| Min. Side Yard Setback | 10 ft |
| Min. Rear Yard Setback | 30 ft or 20% of lot depth, whichever is less |
| Max. Height | 35 feet, except if the building includes a walkout or lookout elevation, in which case the maximum height is 25 feet. |
| Max. FAR | 0.25 |

Electrical Concerns

The city has received several complaints about power outages in the Orchard Road/Westmark Drive/Sunrise Drive area. City staff has passed on these concerns to Xcel Energy as recently as Feb. 7, 2019.
Small Lot Discussions

In 2013 and 2014, the planning commission and city council spent considerable time discussing changes to the subdivision and zoning ordinances. The impetus for those discussions was a desire to understand if such lots could contribute to the variety of housing options in and around existing neighborhoods. The outgrowth of those discussions was the R-1A ordinance, which adopted in September 2014. The R-1A zoning classification, which allows for 15,000 square foot lots in certain circumstances, is intended for the construction of “smaller than typical” single-family homes. It was not intended for villa-style homes.

During the review the drafting and consideration of the R-1 ordinance, staff conducted several exercises to understand existing lot size in the community and to determine how many lots in could potentially be subdivided under the R-1A ordinance. Though five years old, the numbers continue to be illustrative. They tell a story that is contrary to many perceptions of Minnetonka.

Objective exercises involved review of existing area lots sizes.

In 2014, of the privately-owned, residentially-zoned, low-density properties in the city that are not encumbered by wetlands or woodland preservation areas:

- 51% were over 22,000 sq.ft.
- 49% are under 22,000 sq.ft.

Of those under 22,000 square feet in size, 26% are less than 15,000 square feet in area.

![RESIDENTIAL LOTS]

![LOTS LESS THAN 22,000 sq.ft.]
Subjective analysis involved reviewing existing roadway access and excluding those properties that are located on low volume or no-outlet streets. Given the subjectivity of some of the analysis, the number of properties that could be subdivided was not definitive; it was an estimate only.

In 2014, of the privately-owned, residentially-zoned, low-density properties in the city that are not encumbered by wetlands or woodland preservation areas:

- 14 could be split into two, R-1A lots
- 15 could be divided into four or more R-1A lots
- 38 could be combined with other adjacent properties and divided into four or more lots

The 67 lots that could potentially be subdivided under the R-1A ordinance, represented less than 1% of the privately-owned, residentially-zoned, low-density properties in the city.

The numbers continue to suggest that there are not many areas in the community where smaller lots can be achieved.

**Pyramid of Discretion**

**Voting Requirement**  The planning commission will make a recommendation to the city council; a recommendation requires only a majority vote of the commission. Final approval requires an affirmative vote of five council members.

**Neighborhood Comments**  The city sent notices to 137 property owners. Several written comments have been received related the original concept plan and later iterations. All received to date are attached.

**Deadline for Action**  June 3, 2019
Narrative

Rezoning, Preliminary Plat and Variances
Narrative

Highcroft Meadows
Minnetonka, MN

LANDFORM
Revised April 5, 2019
<table>
<thead>
<tr>
<th>TABLE OF CONTENTS</th>
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<tbody>
<tr>
<td>Introduction and Project Overview</td>
<td>2</td>
</tr>
<tr>
<td>Rezoning</td>
<td>3</td>
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<tr>
<td>Preliminary Plat</td>
<td>3</td>
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<tr>
<td>Variances</td>
<td>5</td>
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<tr>
<td>Summary</td>
<td>6</td>
</tr>
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<td>Contact Information</td>
<td>7</td>
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Introduction and Project Overview

On behalf of Rachel Development and Charles Cudd Companies, Landform is pleased to submit this application for rezoning, preliminary plat and variance approval to allow construction of 13 single-family villa homes and one custom home estate lot at 14410 Orchard Road. Our proposal and vision for this beautiful property is to create a luxury villa neighborhood consisting of 13 homes built by the Charles Cudd Company. The proposed development plan has been prepared and refined over the past few months with input from staff, Planning Commission, City Council and residents. An initial concept plan showing 19 lots was presented at a heavily attended neighborhood meeting, Planning Commission meeting and City Council meeting. The comments received in these meetings were largely related to concerns about the density/number of lots, stormwater, tree preservation and traffic. The team took into consideration the various comments received in these meetings to make significant changes to the development plan and reduced the number of lots to 14.

An additional neighborhood meeting was held in January to get feedback on the plan and discuss the neighborhood stormwater concerns. As a result of this discussion, we redesigned the stormwater plan to direct the water to the northwest instead of going to the southeast. All of the drainage is currently running uncontrolled off this site and development allows us to manage the drainage and direct it away from the adjacent homes.

The neighborhood sits high up on a hill off Orchard Road and is proposed to be named “Highcroft Meadows”. The villa home concept works well on this site as a transition between traditional single family and higher density attached townhomes. By proposing villa homes on the site, we can keep more than 2 acres on the back (north) portion of the site natural and save most of the trees and natural topography. We will also be able to minimize the impact to the surrounding neighborhood by keeping the villa homes roof lines lower than building traditional 2- or 3-story single family homes.

This neighborhood will be designed to attract the “empty nester” buyer which is typically the 50 plus age group. The villa homes will all be designed for main level living by keeping the master bedroom and primary living spaces on the main floor. We intend to offer six or seven of the 13 lots with a slab on grade foundation, which features no steps from the garage and front entry into the home. There will also be an option, if the buyers choose, to finish an upstairs bedroom/recreational room area that would be built into the roof lines as a 1 ½ story, which would keep the lower profile of a ranch look throughout the neighborhood.

All of the homes in Highcroft Meadows will be association maintained, with the exception of the custom home lot, which would allow buyers to eliminate the need for storing equipment to do yard work and snow and removal.

The Charles Cudd Company has many years of experience designing and building for this luxury, empty nester villa buyer. There is an excellent market demand for a better designed and detailed and more luxuriously appointed villa home than is currently offered by some of the large regional and national builders. That is the more discerning buyer that we intend to attract to the Highcroft Meadows neighborhood. The buyers here are looking for a well-designed, reasonably priced and more manageable size home that they can enjoy with the maintenance advantage which allows
them more leisure and travel opportunities. Our homes will provide desirable new housing options in the community.

This unique Minnetonka property is close to shopping, dining, recreation and easily accessible to the freeway system. Highcroft Meadows also offers one of the last opportunities to build a new home in the Minnetonka community. We are excited about the improvements proposed for this site.

Rezoning

We are requesting City approval of a rezoning from R-1 Low Density Residential District to R-2 Low Density Residential District for the villa home lots. The estate lot will retain the current R-1 zoning and an exhibit has been included that shows the existing and proposed zoning change. This property is the transitional property between the existing R-1 zoned property on the east and the existing R-2 zoned property on the west. The requested zoning amendment simply shifts that zoning district boundary from our west property line to our east property line to allow the addition of new villa homes.

There is an existing demand for this detached villa home product in Minnetonka, but there is no existing zoning district that specifically allows this desired home style. The proposed R-2 zoning is the best fit for the proposed development and is consistent with the Comprehensive Plan. The property is guided Low Density Residential in the adopted Comprehensive Plan which allows for residential development at 2-4 units/acre. The proposed plan is at the lower end of the required density range at 2.18 units/acre. The development also meets the comprehensive plan goal to provide, “Innovative new housing development that meets residential density requirements, complements future regional demographics, and broadens housing choice will be encouraged on appropriate properties in the city.”

The site would continue to serve as a transitional zone between a variety of differing zoning districts – R-1 with an institutional use to the north, R-2 to the west and R-1 to the south/east. We believe it’s important to note, that while the current zoning is R-1, this is not a function of intentional R-1 zoning but is likely a result of the existing single-family home on this 6.44-acre site. Up to this point, zoning it anything other than R-1 would have created a nonconforming use for that home. Given the abutting uses and preservation of sensitive areas within the site, we believe the proposed R-2 zoning is appropriate and consistent with the Comprehensive Plan. The rezoning will allow development of a single family home style that is limited in the City. The neighborhood has been thoughtfully designed to transition to the existing homes, work with the existing grades, preserve significant trees and slopes and address existing drainage concerns.

Preliminary Plat

The proposed development plan will create 13 single family villa lots and one estate lot from the existing 6.44-acre parcel. The single estate lot will be developed at a later date as a custom home lot. The development is requesting some variation from the R-2 standards for the villa home lots in order to preserve the 2-acre woodland on the northern portion of the site; however, the density of the development is consistent with the R-2 design standards.
Traffic

Traffic along Orchard Road was a concern raised by the residents. Orchard road is classified as a neighborhood collector which has a daily capacity of 8,000 – 10,000 vehicles. The average daily traffic volumes taken in 2016 show an average of 590 vehicles per day using Orchard Road. While we certainly understand concerns about traffic in any neighborhood, the road has additional capacity available.

The Institute of Transportation Engineers (ITE) trip generation guidelines show a single family detached villa home generates fewer trips per day than the average single family home due to the reduced number of people per home and different lifestyles. The few added trips from the development are well within the planned capacity for the roadway.

Parking/Snow Storage

The site plan depicts the parking available for guest parking in the proposed development. There is space to park two to three vehicles in each driveway in addition to the parking available on the east side of Bensman Cove, which provides roughly 14 additional parking spaces. This exceeds City parking requirements.

Snow storage is available between the units with additional space provided between the cul-de-sac units. In years of greater snowfalls, the stormwater ponds can be used as larger snow storage areas for both Bensman Cove and Orchard Road.

Stormwater Management

A major concern raised by the neighbors surrounding the Bensman property is the amount of rainfall water that currently flows onto/through their properties during large rain events. Currently water runs untreated off the Bensman property based on the existing slopes and drainage patterns on the property. The proposed stormwater plan for this project will control all water that falls onto the property by directing the water into the two rain gardens located on the south side of the property, where the water will be absorbed into the ground. In the event of a large rainfall, the excess water will drain through a pipe that connects into the existing stormwater system to the northwest of the site. The proposed stormwater system will greatly improve the current condition for the surrounding properties by capturing and redirecting this water.

Tree Preservation and Protection

The Bensman property is wooded property with several trees designated as high quality. The development team has taken great efforts to preserve the maximum number of trees possible. We have clustered the development to the south where most of the open land is located. This allows us to preserve the northern portion of the site where the vast majority of the high-priority and significant trees. A tree inventory was completed for the property that shows there are 167 significant trees and 36 high-priority trees.

We are proposing to remove 8 high-priority trees to allow for the construction of the infrastructure and homes. This is 22% of the high-priority trees, which is less than the 35% removal allowed by Section 300.28.19(3) of the City Code.
Landscaping

We have prepared a landscape plan that includes a variety of planting types distributed throughout the site to create an attractive development. The retaining walls on the east and west sides of the site have been tiered to reduce the visual impact. Plantings consisting of small shrubs and natural grasses have been included on each tier of the wall to enhance the visual aesthetic of the wall and create a natural looking wall. We heard concerns about the appearance of the wall and have developed plans to address this concern with this combination of tiered walls and landscaping to create an attractive feature for residents and neighbors alike.

Variances

We have included Concept Plan E-2 which shows a 14-lot compliant R-2 plan for the property. Concept E-2 impacts the natural areas of the site to a greater extent than our current development proposal. Therefore, we are requesting City approval of variances to allow a detached villa home in the R-2 district, a reduced lot width at the right-of-way, a reduced lot size and an increase in the floor area ratio.

The proposed development has been clustered on the south side of the Bensman property to preserve the natural environment on the northern portion of the site and requires variances because of the clustered layout. The site is a total of 6.44 acres, which would allow an average lot size of 20,038 square feet if the layout were not clustered to preserve the natural environment. This average lot size exceeds the 12,500 square foot size required in the R-2 district. Using the average lot size, the allowed floor area ratio (FAR) for a lot would be 5,009 square feet. All of the proposed detached villa homes will have a floor area that is smaller than this average. Lastly, we are requesting approval of the reduced lot width on Lots 8 and 9, which exceed the minimum lot width requirement at the building setback line, but because of the cul-de-sac do not meet the lot width requirement at the right-of-way.

We have reviewed the requests in accordance with the variance standards in Section 300.07 of the Zoning Ordinance and find that the ordinance standards have been met, specifically;

1. The proposed variance is in harmony with the general purposes and intent of the zoning ordinance;

The proposed plan is to develop the property for the use of detached villa homes which are not currently allowed in any zoning district but are anticipated as part of the Comprehensive Plan strategies to broaden housing choice in the city. Therefore, we are using the existing R-2 zoning district which provides the best fit for the proposed home type. While the R-2 district provides the best fit, it does not account for the proposed villa use and as such there are some minimum requirements that cannot be met. We believe that the proposed variances are in harmony with the purpose and intent of the zoning ordinance which is, “encouraging development in accordance with the city's comprehensive plan;” and “conserving the natural beauty and environmental assets of the city including areas of steep slopes, mature trees, and wetlands”.

2. The proposed variance is consistent with the comprehensive plan;

The proposed development is consistent with the City's Comprehensive Plan. The land use chapter identifies the following as a goal in their growth strategy, “Innovative new housing development that meets residential density requirements, complements future regional demographics, and
broadens housing choice will be encouraged on appropriate properties in the city." Additionally, the plan identifies a goal while reviewing developments to, “encourage clustering of buildings and uses to preserve woodland preservation areas, high priority and significant trees, and other resource areas on properties.” Our proposed development plan is consistent with these goals and the larger Comprehensive Plan.

3. The proposed variance establishes that there are practical difficulties in complying with the ordinance standard from which they are requesting a variance. Practical difficulty means:
   a. The proposed use is reasonable

The proposed use of a residential subdivision with detached villa homes is reasonable for the site. The proposed homes will transition from the two-family dwellings on the west to the single-family homes on the east. The detached villa homes provide a housing type that is currently underrepresented in Minnetonka. The proposed use is within the density range allowed by the Comprehensive Plan.

   b. 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 consideration;

The proposed development plans need for variances is caused by the unique natural environment on the north side of the property. Saving this natural environment, including trees and slopes, requires clustering of the structures to the south and variances from some of the minimum standards. We could develop the plan to eliminate the lot variances, but it would have a more significant impact on the trees and slopes.

   c. The proposed use would not alter the essential character of the surrounding area.

The proposed use of the property is consistent with character of the surrounding neighborhood. The homes to the west are two family dwellings while the homes to the south and east are single family dwellings. The proposed 1 ½ story single family detached villa home offers increased diversity in the housing products currently offered and provides a middle ground between the existing home types that will preserve the character of the area.

Summary

We respectfully request approval of the preliminary plat, rezoning and variances to allow construction of 13 single-family villa homes and one custom home estate lot.

We understand that the applications will be heard at a public hearing at the Planning Commission meeting on April 25th and City Council action on May 6th.
Contact Information
This document was prepared by:

Kendra Lindahl, AICP
Landform
105 South Fifth Avenue, Suite 513
Minneapolis, MN 55401

Any additional questions regarding this application can be directed to Kendra Lindahl at klindahl@landform.net or 612.638.0225.
LEGAL DESCRIPTION

The herein described property of the herein described property of the herein described property, as shown and located on the herein described property plan, is situated in Hennepin County, Minnesota. On the herein described property plan, at a point on the herein described property line known as the herein described property corner, the herein described property line and corner herein described property are herein described property.

Lot 5, Block 2, - the herein described property

RIGHT OF WAY AREA: 37,909 S.F. = 0.87 AC.

CURRENT ZONING: R-1 LOW DENSITY RESIDENTIAL DISTRICT

MINIMUM LOT DEPTH - 125 FT. (AVG.)

MINIMUM LOT WIDTH AT ROW - 48.1 FT.

FRONT - 25 FT.

PROPOSED SETBACK INFORMATION:

That part of the Southeast 1/4 of the Southeast 1/4 of Section 16, Township 117, North Range 22 West of the 5th Principal Meridian thereof and situate in Hennepin County, Minnesota.

TOTAL SITE AREA: 280,416 S.F. = 6.44 AC.

WETLAND AREA: 0 S.F. = 0 AC.

CURRENT LAND USE: COMMUNITY RESIDENTIAL

LAND USE DENSITY RANGE: LOW DENSITY RESIDENTIAL

PROPOSED NUMBER OF LOTS: 14

PROPOSED DENSITY: 2.18 U/A

Net Area: 242,507 S.F. = 5.57 AC.

Lot Area Table:

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</tbody>
</table>
LANDFORM

CITY OF MINNETONKA

EXISTING

BUILDING

BUILDING

33

155

126.1

668.90

177

158

66.0

61.8

173

201

194.5

191

190

169

200

178

180

28

0.38 Ac.

66.0

0.20 Ac.

106.9

0.20 Ac.

133.5

0.39 Ac.

317.0

8810 SQ. FT.

8810 SQ. FT.

13932 SQ. FT.

37909 SQ. FT.

21186 SQ. FT.

16493 SQ. FT.

12562 SQ. FT.

12094 SQ. FT.

10836 SQ. FT.

10350 SQ. FT.

10172 SQ. FT.

9780 SQ. FT.

9631 SQ. FT.

9600 SQ. FT.

9224 SQ. FT.

9200 SQ. FT.

9052 SQ. FT.

9038 SQ. FT.

8810 SQ. FT.

8810 SQ. FT.

8620 SQ. FT.

8600 SQ. FT.

8480 SQ. FT.

8456 SQ. FT.

8450 SQ. FT.

8176 SQ. FT.

8160 SQ. FT.

8100 SQ. FT.

8090 SQ. FT.

8000 SQ. FT.

7800 SQ. FT.

7788 SQ. FT.

7774 SQ. FT.

7700 SQ. FT.

7600 SQ. FT.

7550 SQ. FT.

7500 SQ. FT.

7470 SQ. FT.

7400 SQ. FT.

7350 SQ. FT.

7300 SQ. FT.

7250 SQ. FT.

7200 SQ. FT.

7000 SQ. FT.

7000 SQ. FT.

6800 SQ. FT.

6800 SQ. FT.

6600 SQ. FT.

6600 SQ. FT.

6500 SQ. FT.

6500 SQ. FT.

6400 SQ. FT.
LANDSCAPE NOTES

1. LANDSCAPE CONTRACTOR SHALL COORDINATE INSTALLATION WITH GENERAL CONTRACTOR TO ENSURE THAT DESIGN GRADES FOR INFILTRATION BASINS ARE SPECIFIED ON GRADING PLAN.

2. CONTRACTOR IS RESPONSIBLE TO MAINTAIN INFILTRATION BASINS FREE FROM WEEDS AND OTHER INVASIVE PLANT DISFIGURATION.

3. LANDSCAPE CONTRACTOR SHALL FOLLOW SEEDING METHOD, SEEDING INSTALLATION, AND SITE PREPARATION MATERIAL.

4. CONTRACTOR IS TO SUPPLEMENT WATER IF THERE IS INSUFFICIENT RAINFALL PER WEEK (ONE INCH PER WEEK). CONTRACTOR IS RESPONSIBLE TO MONITOR AND CONTROL SEDIMENTATION IN PRE-TREATMENT AREAS (TURF) AFTER FIRST GROWING SEASON CONTRACTOR IS RESPONSIBLE TO REMOVE ALL DEAD PLANT DEBRIS FROM OVERALL CONDITION OF PLANTINGS, INDICATION OF ANY WEEDS, AND MONITORING OF ANY SEDIMENTATION.

5. LANDSCAPE CONTRACTOR SHALL FOLLOW ALL LANDSCAPE DETAILS AS SHOWN, UNLESS OTHERWISE NOTED OTHERWISE ON THE LANDSCAPE PLANS OR IN THE CONTRACTOR IS TO MAINTAIN INFILTRATION BASINS FREE FROM WEEDS AND OTHER INVASIVE PLANT.

6. LANDSCAPE CONTRACTOR SHALL VISIT THE SITE PRIOR TO SUBMITTING A BID TO BECOME FAMILIAR WITH SITE PREVIOUS GROWING SEASON.

7. LANDSCAPE CONTRACTOR SHALL FOLLOW SEEDING METHOD, SEEDING INSTALLATION, AND SITE PREPARATION MATERIAL.

8. CONTRACTOR IS TO MAINTAIN INFILTRATION BASINS FREE FROM WEEDS AND OTHER INVASIVE PLANT DISFIGURATION.

9. CONTRACTOR IS RESPONSIBLE TO MONITOR AND CONTROL SEDIMENTATION IN PRE-TREATMENT AREAS (TURF) AFTER FIRST GROWING SEASON CONTRACTOR IS RESPONSIBLE TO REMOVE ALL DEAD PLANT DEBRIS FROM OVERALL CONDITION OF PLANTINGS, INDICATION OF ANY WEEDS, AND MONITORING OF ANY SEDIMENTATION.

10. LANDSCAPE CONTRACTOR SHALL FOLLOW ALL LANDSCAPE DETAILS AS SHOWN, UNLESS OTHERWISE NOTED OTHERWISE ON THE LANDSCAPE PLANS OR IN THE CONTRACTOR. CONTACT ENGINEER FOR ANY PRIOR HISTORY.
Zoning - Existing and Proposed

HIGHCROFT MEADOWS • Minnetonka, MN
04.05.2019
Staff-drafted Exhibits
Floor Area is defined as the sum of the fully exposed gross horizontal area of a building, including attached garage space and enclosed porch areas, and one-half the gross horizontal area of any partially exposed level such as a walkout or lookout level.
Public Comments
Susan,

Thank you for attending the meeting last Thursday about the development in our neighborhood. I would like to provide feedback that while I believe their work is beautiful, 19 homes is too many and if the land is to be developed, improvements to Orchard Road must be considered.

Thank you,
Jenna Berneck
Mrs. Thomas,

My name is Matt Desmond and I live at 14306 Orchard Road in Minnetonka. I'm writing to you as a neighbor of the proposed development at 14410 Orchard Road. My wife Beth and I have lived here for 6 years. I'm a lifelong resident of Minnesota and grew up in St. Louis Park.

I'm not against development of the property. I do want to make sure that the city does not make a mistake in allowing this development as it is submitted. Allowing a very dense (4-5 single family homes per actual acre!) build inside a community with an average density of 2 homes per acre sets a dangerous precedent. The submitted development is much too dense and does not fit in with the established neighborhood.

On top of that, Orchard road is not safe enough to handle a development of this size. It may be classified as a collector road, but as you may know, it has many dangerous blind crests and steep grades with no sidewalks or street lights. We already risk our lives trying to back out of our driveway with folks speeding through. With 19 more homes on our street, you can bet that the traffic generated will cause serious problems like lack of parking space and winter low traction accidents.

Please take a look at the attached graphics that illustrate the proposed development density. We have developed an alternate plan for the neighborhood that fits in with the surrounding properties and their density. Ask yourself which of the options looks like it fits into the Minnetonka city plan for 2030 and beyond.

I think that the property at 14410 can be developed while respecting the neighborhood and current residents. I would welcome 8 new single family homes with comparable lot sizes to the existing neighborhood. I will miss the horse farm at the Bensman property, but things do and will change.

There are not many acres of residential property left to develop in Minnetonka. How the city handles the last of these properties shows the true character of our community. I hope we can do it with class and not jam as many homes as possible into every acre. If I wanted to live 12 feet from my neighbor, I would have stayed in South Minneapolis.

Regards,
Matt

--
Matt Desmond

--
- 19 homes built on 4.2 or less acres of the total 6.2 acre property
- .18 acres (~8000 sq ft) per lot, which is not compatible with city planning guide
- Surrounded by primarily .5 acre+ single family housing
- Street setback must be 76 ft from center

- No more than 8 homes built on 4.2 or less acres of the total 6.2 acre property
- .53 acres (22,000 sq ft) per lot
- Continue city land use plan, Preserve existing neighborhood pattern & density
- No ponds! Tie roof drains to sewer to alleviate water problems
- Add lilacs/trees or similar to entrance for natural look
Hi Susan,

Thanks for speaking with me today. Here are the photos of the current drainage situation on Sunrise Drive East when heavy rains occur. I live at 3635 Sunrise Drive West and these photos were taken this fall. Water not only flows from Woodhaven road but also from Orchard running onto Sunrise Drive East and West but mostly EAST.

In the winter the situation was even worse. The quick thaw we had in December caused Sunrise Drive East to be a skating rink once the temperatures dipped below zero. It was unsafe for walking and difficult to drive on. I have students that need to walk to the bus stop on Orchard and also to West Junior high and there are not adequate sidewalks to make their trek safe when the roads are frozen. The side walk from Woodhaven to West junior high is a joke with no raised curb so things just puddle causing students to walk in the road.

I believe without addressing this current situation, the housing proposal by Cudd builders for the property off Orchard would further add to an already dangerous, and undesirable situation.

If you have any questions please reach out and please forward these concerns to anyone who can address this issue before it gets worse.

Thank you,
Heather Sterner
From: Brad Wiersum <bwiersum@eminnetonka.com>
Sent: Sunday, February 24, 2019 4:32 PM
To: AMY O'BRIEN
Cc: Geralyn Barone <gbarone@eminnetonka.com>
Subject: Re: Highcroft Meadows/Orchard Road Proposed Development

Dear Ms. O'Brien:
Thank you for sharing your point of view regarding the Highcroft Meadows proposal with me.
Sincerely,
Brad Wiersum
Mayor
City of Minnetonka
Sent from my iPad

On Feb 24, 2019, at 2:46 PM, AMY O'BRIEN wrote:

I am writing today to let you know that I am among the many residents opposed to the Cudd development plan for the Bensman property on Orchard Road. There are a multitude of reasons that I am against this:
First of all, it is zoned R1. What is the point of there being zoning rules if pretty much all the developers are able to change them at will? It seems each and every time the neighbors have concerns about over-development the builders drop one of two houses out (or in this case four) and the project is approved when it is still too many.
Secondly, it is completely out of character for the neighborhood to shove 15 homes on six acres. The street is narrow, it is highly trafficked during the school year and the majority of the homes are ramblers with what used to be Minnetonka sized lots.
I live on Baker Road, a road that will be impacted by this development. We have churches, a women’s shelter, a junior high and businesses on our road and apparently little to no say in traffic input. I rarely see police do a thing about the multitude of speeders that regularly drive down my street which is disheartening to say the least.
I am also unimpressed by the current thought process of turning Minnetonka into a cookie cutter suburb by reducing lot sizes and thereby destroying the very thing that made Minnetonka special. I also thought affordability was suppose to be a concern? If so, why is it that all the new projects are luxury or high end? Including the Bensman property plan. It seems the city’s idea of affordability and
mine are quite different. It’s very sad to me that short-sighted greed has become the modus operandi for development in Minnetonka. There is a reason there are television shows and books galore about Lost Minneapolis. Now it looks like Lost Minnetonka will be next in the series.

Amy O’Brien
3514 Baker Road
Minnetonka MN 55305
Hi Geralyn,

My neighbor resent her comments on Orchard Rd. Please share with the rest of council. Deb

Sent from my iPhone

Begin forwarded message:

From: Randy & Kim Bartz
Date: March 18, 2019 at 5:14:56 PM CDT
To: Deb Calvert
Subject: Orchard Road Property

Hi Deb!

I have been meaning to send an email about the whole Orchard Road rezoning issue, since I know you are on the city council. I’m fine with development, but 15 houses on four acres is ridiculous and out of character with the neighborhood. I think they should stick with the current zoning of the property and not change that. There will be a developer who will make it work, if this one feels he cannot. Please don’t let the developer scare you with threats of being forced to build $1,000,000 houses that he knows won’t sell in that location anyway! Also, please don’t let him bully you guys around! Orchard road is way too narrow and already has its own problems without adding fourteen additional houses in that location! With any type of development they should widen that road and add a sidewalk. I have to think the number of 55+ people moving in who will want to take walks or walk their dogs will be high. I probably drive that stretch of Orchard Road around four times each day and much more in the summer. I often take Woodhaven Road when possible just to avoid those hills, since you can’t see what lies ahead. Then, of course, you can’t stop going down the hills in the Winter. That is obviously more concerning heading toward Williston. We carpool to school with a family right at the top of the hill. My husband slid down that hill recently toward
Williston and had to drive into the snowbank to stop for fear of sliding onto Willston and being hit. I guess he nearly took out a mailbox. I have started sliding back down it toward Willston backwards a couple times this Winter, and I have four wheel drive with bigger tires. Obviously that doesn’t matter much on ice though. I can remember at least twice where I couldn’t stop at all coming toward Willston and was relieved there wasn’t a car right there ready to hit me. Recently, I was sliding down it praying the car at the bottom went before I got there. Thankfully he did, or I would have hit him for sure. I probably drive Woodhaven Road six to ten times per day, especially in the Winter, just to avoid Orchard Road when I can. Anyway, added cars, pedestrians, and animals will not be good, nor is that road meant to handle that capacity. I’m pretty sure it is already seeing much more use than it was originally meant to see anyway.

My larger problem with the development comes in looking at the development approved on Groveland Lane. I think that development looks awful, and I can’t believe the city council of a few years ago approved that many houses crammed in that location. It looks awful and out of character with the neighborhood, hence why they are having so much trouble selling those houses. The other development approved on Williston at Excelsior Boulevard is going to look just as bad once all five houses are built. That one will be more in your face, because we will actually have to drive by all of them. These dense developments need to stop. We moved out of Southwest Minneapolis in search of more yard and more space. I do wish there were more sidewalks out here, but my understanding is that we don’t put more sidewalks or curbs in to keep the area feeling more natural. Density is going to take that feel away more than sidewalks will. Sorry this might be a little late, but hopefully it can still have an impact!

Kim
Josh & Jen Rutz  
14401 Orchard Rd  
Minnetonka, MN 55345  
4/17/2019  

Mayor, City Council, & Planning Commission  
14600 Minnetonka Blvd  
Minnetonka, MN 55345  

Dear Mayor, City Council, & Planning Commission:

We write this letter to offer our perspective about the proposed development of the Bensman property. Let us start by saying we want that property to be developed! We would love to see 8-10 homes there. The idea of a cul-de-sac right across the street from us, with new families and more neighbors, is so appealing! We have three young children ages 6, 4, and 1 and we look forward to new friends and a safe place for a short walk while sticking close to home.

For a bit of background about us: we are a new family to Orchard Rd. We bought this home in May 2018, took the time to bring it down to the studs and remodel it with blood, sweat, and tears to be our forever home because we love the area, the neighborhood, and the people. The older homes, large wooded lots, and lack of “cookie cutter” developments are exactly what drew us here. We moved here from Eden Prairie, just 4 miles south of where we are now. Eden Prairie is also a great place to live but it lacks so much of the character that we sought and found in Minnetonka.

So, what is the issue with the proposed plan? Charles Cudd Company’s proposal is simply not in line with the Comprehensive Plan nor does it reflect the character of the neighborhood. They desire to have the Minnetonka City Council rezone the property to R-2 to be “consistent with the Comprehensive plan” (See p. 3 of their Narrative) but this is in direct contrast to their hope to build “luxury homes” that happen to be unaffordable for the majority of people who want to live in Minnetonka. At the neighborhood meeting Cudd hosted back in October 2018, the suggested price point of homes was $685,000. While we understand their target-market is a growing elderly population, we suggest you consider growing Minnetonka’s population by welcoming families with children to live, work, play, and eventually grow old in Minnetonka in homes that are actually affordable.

We would like to provide some additional thoughts for your consideration regarding Cudd’s narrative within their Proposed Plan:

- **Rezoning Request.** The 6.4 acre property has 4 acres of what Cudd considers to be viable for development due to the steep grade on the north side of the property. As Cudd specifically states on page 3, the Comprehensive Plan suggests 2-4 units per acre for this area. Cudd argues that their proposed plan is on the “lower end” of this density range. This is false, as they admit that the north side is not buildable and to suggest that they can average out the lot size by factoring back in an unbuildable 2.4 acres is ridiculous.
  - Rezoning this property to R-2 will set a dangerous precedence. Some neighbors have unverified reports of Cudd offering a lot of money to other large-lot homeowners in the immediate vicinity...
of the Bensman property (e.g. 1-acre+). This desire to develop this 6-acre property is just the beginning of their end goal – to maximize profits and create mini sub-developments on every 1-acre lots Cudd can get its hands onto. As of this letter, we have two reports of such offers to purchase.

- **Traffic & Stormwater Management.** As new neighbors we cannot comment much as to the impact the development may have on stormwater drainage and utility infrastructure. We can, however, comment on the traffic. Cudd suggests that the traffic volumes are much lower than the actual capacity of the road. That is not the real issue, however. For our family and for many others who enjoy walking the neighborhood, the issue is the speed of traffic and pedestrian safety on the road. We suggest that whomever ends up developing this property is required, in conjunction with the city, to put in sidewalks along the north side of Orchard Rd from Williston Road to the bridge over I-494. Furthermore, we strongly urge the Planning Commission and City Council to put a stop sign in right at the entrance to this development.

- **Variance Request.** Cudd’s narrative responds to Section 300.07 of the city zoning ordinance regarding variance requests and suggests that the variance would not alter the essential character of the locality solely due to the fact that there are two family dwellings directly to the west. They fail to acknowledge that it is still zoned R-1 in that area, which weakens their argument for a R-2 zoning change. The main issue we take with the variance request is that it is not caused by the property itself – the variance is requested because of the nature of the development. As we stated at the beginning. We want this lot to be developed in a way that keeps with the character of the neighborhood and also keeps in line with the Comprehensive Plan.

- **Planning Commission’s Role.** Section 300.04.2.b of the Zoning Ordinance states, in part, that “the powers and duties of the planning commission is to hear requests for variances from the literal provisions of this ordinance in instances where their strict enforcement would cause undue hardship…” I hope the planning commission asks Cudd to explain what the undue hardship is specific to this property, other than profitability. There are 4 buildable acres (in Cudd’s own words). Cudd has every opportunity to request a variance for a detached Villa-style home in an R-1 zone without needing a reduced lot size.

We are all aware that Cudd is a well-known developer with a fantastic reputation for high quality homes. We would love for this developer to be the one to build out the property, but their vision is not in line with the character of the neighborhood or the current zoning. Their representative stated at the first neighborhood meeting that “we could do a lot worse than Cudd”. We are willing to take our chances and work hard together to do better than what Cudd has proposed. We hope the Mayor, City Council, and Planning Commission will do the same. Thank you.

Josh & Jen Rutz
Hello Councilmember Happe,

I write this letter regarding my concerns with the most recently proposed development plan for the Bensman property. While our neighborhood group knows that the 2030/2040 land use plans for the City of Minnetonka suggest a higher density for the future, we also want to protect the integrity and character of our neighborhoods.

The neighborhood residents oppose Cudd Company’s most recent plans because of the density they have asked for. As a group, we have continued to ask them for alternate plans that would fit into the neighborhood in a more integrated way. We ask that the property not be rezoned and/or given the extra variances that would allow a much higher density of buildings than the rest of the surrounding properties.

We posted an online petition to support you and the Minnetonka City team’s vote of NO to the requested rezoning and variances. We have collected 222 signatures to date from local citizens, and many have provided additional comments encouraging that you not allow the plan to proceed as is submitted. I have included a file with those comments for the Planning Commission Packet. (I redacted the names of those who asked not to have their name shared.)

Below is a link to the petition site with names in support of your vote of NO, and comments. [https://www.thepetitionsite.com/takeaction/397/455/964/](https://www.thepetitionsite.com/takeaction/397/455/964/)

We would like to see Cudd Company reduce the number of homes further. At the initial Planning Commission meeting, we had suggested 8 homes would be perfect for the property. We believe that lots should remain at least 15000 square feet to better keep with the character of the neighborhood. I have created an illustration (attached) to show our neighborhood’s suggested new plan with 10 homes. The parcels they showed with less than 15000 square feet of land don’t fit on Orchard Road.

Thanks and Best Regards,
Elizabeth Desmond
Protect the Character of Minnetonka Through Considered Land Use

https://www.thepetitionsite.com/397/455/964/protect-the-character-of-minnetonka-through-considered-land-use/

Author: Elizabeth Desmond
Recipient: Minnetonka City Planning Commission and City Council

Petition:

The 2030/2040 land use plans for the City of Minnetonka suggest a higher density may be the new normal for our city. As residents, we respect the need to add new housing stock, yet also want to protect our established neighborhoods. Our city is building new living with higher density & new amenities - while we applaud progress, many residents would also like to see protection of the areas that offer more rural style. The wooded lots, rustic roads, and open spaces are why we chose to live in Minnetonka. Please sign with us to ask for protection of the character of those neighborhoods as we continue to evolve our community.

In the spring of 2019, the Minnetonka Planning Commission and City Council will vote on one developer’s proposal to build 15 luxury houses on the 4 Southern acres of a larger property within a neighborhood on Orchard Road. [https://eminnetonka.com/current-projects/planning-projects/2058-highcroft-meadows-14410-orchard-rd](https://eminnetonka.com/current-projects/planning-projects/2058-highcroft-meadows-14410-orchard-rd)

The neighborhood residents oppose the developer’s plans for the high density idea they have submitted, and as a group we have continued to ask for alternate plans that fit into the neighborhood in a more integrated way. We ask that the property not be rezoned from R1 to R2, and that no additional variances be granted. We ask for a more thoughtful development plan for this land that fits our neighborhood and that addresses the traffic and walk safety of this road.

Please sign our petition to support the Minnetonka Planning Commission’s recommendation and the City Council’s vote of NO to the requested rezoning and variances. With their vote of NO, this Orchard Road development plan will not move forward as submitted. We believe that this is not just an Orchard Road issue, but a City of Minnetonka issue.
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<tr>
<th>Name</th>
<th>From</th>
<th>Comments</th>
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<tbody>
<tr>
<td>Elizabeth Desmond</td>
<td>Minnetonka, MN</td>
<td>I’d like to see less density in the plan submitted...</td>
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<tr>
<td>Matt Desmond</td>
<td>Minnetonka, MN</td>
<td>Infrastructure in Minnetonka does support dense housing.</td>
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<td>Trish Gardiner</td>
<td>Minnetonka, MN</td>
<td>Safety</td>
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<tr>
<td>Molly Millard</td>
<td>Eden Prairie, MN</td>
<td>I live in this area and I’m not opposed to development, but we need one that fits this neighborhood!</td>
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<td>Mark Oslund</td>
<td>Minnetonka, MN</td>
<td>Changing from R1 zoning to R2 zoning is greatly changing the character of the neighborhood and only enhancing the developer</td>
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<tr>
<td>Jill Johnson</td>
<td>Minnetonka, MN</td>
<td>Taking away these wooded areas are ruining the character of Mtkka. No wonder why I like Afton, Mn...they are keeping Afton the way it should be.</td>
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<td>Sandra Jambeck</td>
<td>Minnetonka, MN</td>
<td>The proposal by Cudd is not appropriate for this site. It changes the character of the neighborhood and will not blend in with the surrounding homes. There are way too many houses for the property. A dangerous precedent is being set with rezoning the use of this property. Orchard Road does not support the new traffic that this development will bring. I am very disappointed in Minnetonka for considering this change.</td>
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<td>Lisa Sharp</td>
<td>Minnetonka, MN</td>
<td>I have lived here for years and love my neighborhood. Greed has taken over for these developers and their rezoning request are outrageous and they have no regard for the character, quality and way of life for the existing neighborhoods..</td>
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<td>Jerome Johanning</td>
<td>Minnetonka, MN</td>
<td>The Cudd rezoning project is totally out of character for the neighborhood. It would set a dangerous precedent for the City of Minnetonka. Vote NO.</td>
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<td>Patrick Montgomery</td>
<td>Minnetonka, MN</td>
<td>The density of the proposed development is out of character with the neighborhood and with Minnetonka as a whole. I understand that land will continue to be split for development, but unless parameters are put in place for how that can be done, every decision like this sets a precedent, and soon the thing that many of us value most in Minnetonka - green space and low density housing - will be gone, all so someone can make a buck. And I haven’t even mentioned the impacts on wetlands and traffic. This is zoned R1 for a reason; to jump from that to R2 plus is simply irresponsible.</td>
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<td>Minnetonka, MN</td>
<td>The infrastructure (roads, utilities, etc) can’t support that many new homes.</td>
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<td>Teresa Losch</td>
<td>Minnetonka, MN</td>
<td>We want to keep the property zoned R1. Keep the Minnetonka feel with large lots and plenty of tree coverage. We do not want the orchard road land rezoned to R2!</td>
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<tr>
<td>Ryan Shaughnessy</td>
<td>Minnetonka, MN</td>
<td>I agree with the original intentions of the zoning ordinance that is currently I’m effect. Assuming that exceptions are made to benefit the community I do not agree that an exception should be made.</td>
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<td>Minnetonka, MN</td>
<td>Don't rezone the property. Thanks.</td>
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<td>Minnetonka, MN</td>
<td>It should be purchased by the city and made into a park. The kids would love it. Not safe for additional traffic this would create.</td>
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<td>Hopkins, MN</td>
<td>Losing the nature to over population, traffic concerns, water drainage, high volume of people in a small area, 4-6 homes would be more appropriate for the Minnetonka location, I grew up down this road, and watched the horses on this land, and still near the area and one day hope to have kids attend the school that drives a lot of children down this road.</td>
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<td>Heidi Travis</td>
<td>Minnetonka, MN</td>
<td>I live on this road, and see firsthand the difficulty that already exists with lack of shoulders, no sidewalks (I had a junior high kid hit by a car and thrown into my yard) and excessive traffic already with the junior high and synagogue both having entranceways off of Orchard Road. With the steep hill at the western end at Williston, what is already too much traffic will have to flow towards Baker Road, making the situation even more dangerous. We cannot support high density housing on a road that was not built to accommodate it. Minnetonka is meant to be a SUBurban area, not urban. Higher density will do nothing to improve the city, rather with more people comes more problems, such as crime and traffic issues/accidents, not to mention the loss of the beautiful urban forest for which Minnetonka is known.</td>
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<tr>
<td>Sandy Syfko</td>
<td>Minnetonka, MN</td>
<td>I live here and 15 townhomes ..’villas’ call them what you want .. on 6 acres is ludicrous. Traffic, drainage, roads can’t accommodate all this splitting of land Minnetonka is allowing. Crime has gone crazy in last 18 months. Is the city prepared to expand roadways and infrastructure for Minnetonka Blvd. and Highway 7 to accommodate this development?! And all the others already underway.</td>
</tr>
<tr>
<td>Sandy Thielen</td>
<td>Minnetonka, MN</td>
<td>Safety is key with current traffic volume already too busy.</td>
</tr>
<tr>
<td>Ajda Mesic</td>
<td>Golden Valley, MN</td>
<td>Developers benefit from profits while our neighborhoods suffer from influx of new residents, car and truck traffic and change the make up of threaten the quiet and safe lifestyles we are used to. Not to mention demolition of natural resources caused by urbanization and overpopulation.</td>
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<tr>
<td>24. Kristin Harley</td>
<td>Minnetonka, MN</td>
<td>The site is zoned R1 residential and should retain this zoning designation. &quot;Special&quot; zoning designations are a recipe for disaster - I speak as someone who has been a recording secretary for Planning and Heritage Preservation commissions in other cities. &quot;Special,&quot; willy-nilly rezoning without considering process and larger context set a horrible precedent, and considering the site - a steep hill and pre-existing traffic problems - this development smacks of desperation. Minnetonka should not cram as many people in as possible merely to raise tax revenue. We risk losing what makes this community a desirable place to live in the first place.</td>
</tr>
<tr>
<td>25. Mary Desmond</td>
<td>Marietta, GA</td>
<td>Our son and his wife live in the neighborhood that would be heavily impacted by this development. It is NOT a high density area. People live there to enjoy nature and space and peace. The traffic would increase dramatically which would affect the noise level. There should be no special zoning designations for this property.</td>
</tr>
<tr>
<td>26. Elisa McBride</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>27. CareTwo Support</td>
<td>REDWOOD CITY, CA</td>
<td></td>
</tr>
<tr>
<td>28. Karen Schlichting</td>
<td>Minneapolis, MN</td>
<td>We need green space. Enough building new houses</td>
</tr>
<tr>
<td>29. Joseph Wenzel</td>
<td>LAKE ELMO, MN</td>
<td></td>
</tr>
<tr>
<td>30. Sarah Madsen</td>
<td>Chaska, MN</td>
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</tr>
<tr>
<td>31. Jackie Gardner</td>
<td>Urbdandale, IA</td>
<td>Our children live in the area and it will most likely cause traffic, utility, public sewer etc issues.</td>
</tr>
<tr>
<td>32. Tara Koenig</td>
<td>Minnetonka, MN</td>
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<tr>
<td>33. Alan Stone</td>
<td>Minnetonka, MN</td>
<td>Large treed lots are why we moved to beautiful Minnetonka. We live on the other end of Orchard and I cannot imagine 15 homes squeezed on that property. If you want to see an example of this type of density just look at the development on Minnetonka Blvd. East of 101 by Gonyea builders, the houses are extremely close together and run 700k and up, not what we expect for Minnetonka. Also, Orchard Road is a narrow road and is very dangerous in that area especially now with the snowbanks making it that much narrower.</td>
</tr>
<tr>
<td>34. Amy O'Brien</td>
<td>Minnetonka, MN</td>
<td>This road cannot support that much housing density. The zoning needs to remain R-1 and the city should stop kowtowing to every builder who wants to change zoning and alter neighborhoods.</td>
</tr>
<tr>
<td>35. Tammy Guderian</td>
<td>Minnetonka, MN</td>
<td>The proposal is too high density for the area and the city. It is currently zoned properly for the area and shouldnt be changed</td>
</tr>
<tr>
<td>36.</td>
<td>Minnetonka, MN</td>
<td></td>
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<tr>
<td>37. Ryan Nicholls</td>
<td>Minnetonka, MN</td>
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</tbody>
</table>
38. Hopkins, MN

Comments
Please do not rezone this property!! The development across the street from Groveland Elementary does not fit the surrounding area and looks horrible! The development at the end of Williston at Excelsior Boulevard also looks equally as bad. Both developments already are out of character with their neighborhoods. We don’t need another development like those! I live on Baker Road and drive on Orchard Road to Williston multiple times per day running kids to school, running errands, and running to various sporting events. I hate going up and down the hills on each side of that property! The road is already too narrow. If the city isn’t going to widen the road and put in a sidewalk, there is no way it should be rezoned for high density!! It would be great to put in some houses for 55+, but that age group is definitely going to want to go for walks, and that road is completely unsafe! We definitely don’t need to add any more cars than necessary to it. Please keep the density to a minimum that fits in with the surrounding neighbors!

39. Mary Davy
40. Kristin Baker
41. Emily Wallin

MINNETONKA, MN
MINNETONKA, MN
MINNETONKA, MN

Our cities infrastructure is quickly becoming overcrowded and this land should not support that many houses. It’s a disruption to the neighborhood and families that already live in the area.

42. Nikki Watson

MINNETONKA, MN

The development doesn’t fit the needs of the community. We need smaller more affordable one level homes for seniors. This proposal says it’s designed to attract seniors, yet none of the homes fit what most seniors are looking for.

43. Minnetonka, MN

MINNETONKA, MN

You may think I live too far away to actually care, but I don’t. This road is on my husbands and my regular walking route in nice weather, me and my children use this road on our bicycles, and this road is already a conduit between Williston Road and Baker Road. Please do not make changes to the zoning that can increase traffic risks on this busy enough, narrow road. I do not like the smoke being blown in our faces about the driving patterns of the proposed new residents. Unless it is in the mortgage that they legally promise to vacate their homes or not drive on the roads in the winter months you can not promise they will be snowbirds. The steep hill makes this road tricky enough already.

44. Sarah Steichen

MINNETONKA, MN

It is important to me to keep our road safe with less traffic going through and to preserve the esthetics of our neighborhood.

45. Minnetonka, MN

MINNETONKA, MN

Too much traffic on Orchard. Not safe to walk Orchard.

46. Janet Edwards
47. Adrienne Johnson
48. Karl Johnson

MINNETONKA, MN
MINNETONKA, MN
MINNETONKA, MN
49. Rey F  Minnetonka, MN
While I am far enough away not to be directly affected by this development (near Ridgedale), we agree with the issues being presented in the petition. Why the need for such density in property development? And Orchard road is not designed to support the traffic this would generate. Vote No.

50. Bruce Schultz  Wayzata, MN
Things change. Most understand that Minnetonka land is increasingly precious and preservation more problematic. I always support the rights of property owners to do what they will with their property, but here we have a request for rezoning that, if approved, will increase traffic and alter the character of neighborhood. In my view, the request is simply too dense for the available space and rezoning will set a negative precedent. Thanks!

51. Robert Bertelsen  Minnetonka, MN
This density changes neighborhood character and sets precedent that could affect many other Minnetonka neighborhoods. Developer claims they are not requesting a variance for economic reasons but that is not true—they are requesting much higher density than would be allowed on the full 6 acres, regardless of where it is placed and regardless of any natural resources protection.

52. Ann Bertelsen  Minnetonka, MN
More appropriate would be to retain the R1 zoning and consider a variance to allow the developer to put a little more density on the 4 southern acres to protect the natural features on the 2 northern acres. Why does the city okay rezoning on virtually EVERY project in Minnetonka? It's just a game to hide the real (and very large) variances that our elected/appointed city council members keep approving. REMEMBER THIS WHEN VOTING IN THE NEXT CITY ELECTION.

53. Jeff Mock  Hopkins, MN
I LOVE Minnetonka and how the housing is less dense than the surrounding suburbs. I have always wanted to live in Minnetonka due to the character of the larger lots and space between houses. Minnetonka is losing what makes it great by allowing smaller lots and subdivisions. This project is way too dense and proposals like these will turn Minnetonka into another nondescript suburb. Please vote "No" and stand with the original vision of such a great city.

54. Julie Milnes  Minnetonka, MN
I live on Orchard Road.

55. Jodi Schoenauer  Minnetonka, MN
That’s way to many homes for that space

56. Eric Thompson  Minnetonka, MN
Let’s preserve the unique characteristics of our city

57. Karen Hopp  Minnetonka, MN

58. Sandy Lubarski  Minnetonka, MN

59.  Minnetonka, MN
We don’t need all these houses in one area

60. Rita Sandstrom  Minnetonka, MN
61. Elizabeth Lindholm Minnetonka, MN This is way too many houses on the land proposed. By changing this to R2, the city should either allow all areas to be R2 or leave it as is. Allowing a developer to jam in housing with a special zoning is not right.

62. Kelly Hennessey Minnetonka, MN

63. Rachel Mein Minnetonka, MN

64. William Campbell Minnetonka, MN

65. Minnetonka, MN I agree that it is way too many homes on that piece of land. One of the main reasons we haven’t moved from our current Mtka home(that we are beginning to grow out of) is that it is hard to find the same privacy with mature trees that our current home offers. I really don't like what has happened to the area across from Groveland Elementary...it's so congested now.

66. Jennifer Indermaur Minnetonka, MN

67. Judy Miller Minnetonka, MN Does not fit in with the neighborhood and likely traffic issues

68. Kenneth Schindler Minnetonka, MN As a builder, I see these exceptions that the city is allowing as setting a precedence for future projects that the residents will also not be in favor of. Zoning should only be modified in cases of extreme undue hardship to the property owner.

69. Adam Celt Minnetonka, MN The feel of the neighborhood would be dramatically altered. Also, that section of Orchard road isn't designed to handle the current traffic load much less any additional traffic. Add to that, that there is only one outlet for the new development. Too many new houses crowded into an area that can't support it will impact the neighborhood negatively in multiple ways.

70. Josh Schlueter Minnetonka, MN Development is too dense for the area. No reason to change the zoning.

71. Jen Rutz Minnetonka, MN I love the plan for developing the area and the developer seems high quality but it is TOO DENSE.

72. Veronica Fashant Hopkins, MN I do not want density in this area with many stores and businesses

73. Chris Nelson Hopkins, MN I've spent 30+ years of my life living in Minnetonka, I grew up with the Minnetonka Horseman's Association, and live next door in Hopkins today. High density houses is important (& part of the reason we moved to Hopkins in 2018). However a high density housing on Orchard Rd is problematic since the road can't handle more traffic and this will not be a walkable development, so everybody will need to use a car to come and go. This will make for a significant change to Orchid Rd.
<table>
<thead>
<tr>
<th>Name</th>
<th>From</th>
<th>Comments</th>
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</thead>
<tbody>
<tr>
<td>Lisa Gose-Nelson</td>
<td>Hopkins, MN</td>
<td>I was a long time Minnetonka resident - the beauty of wooded, non-developed areas near my home adds value to my life when I bike, walk or drive through. It’s a developers money grab - take it someplace else.</td>
</tr>
<tr>
<td>Kristine Dezentje</td>
<td>Minnetonka, MN</td>
<td>I have lived out here for 31 years. I love the land and the character of the area. Please do not allow it to be commercialized for individual profits. Once it is gone, it is gone.</td>
</tr>
<tr>
<td>Heidi Hoy</td>
<td>Mound, MN</td>
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<tr>
<td>Ralph Dacut</td>
<td>Minnetonka, MN</td>
<td>Keeping high density housing low so it’s consistent w/ rest of neighborhood.</td>
</tr>
<tr>
<td>Del Sipma</td>
<td>Minnetonka, MN</td>
<td>This is completely unnecessary to the proposed extent. The Orchard Rd area does not need and cannot handle 15 homes. Preserving the suburban feel of our city and the safety of our community should be the utmost priority.</td>
</tr>
<tr>
<td>Deb P.</td>
<td>Minnetonka, MN</td>
<td></td>
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<tr>
<td>Sara Lovelace</td>
<td>Minnetonka, MN</td>
<td>We moved to Minnetonka because of the schools and the large lots. We love our neighbors, but don’t want to be looking into their windows from ours. Seeing these huge homes being built that take up most of the lot is disappointing.</td>
</tr>
<tr>
<td>Jennifer March</td>
<td>Minnetonka, MN</td>
<td>City governments should represent the citizens and uphold their rights. Increasing revenue generation by rezoning and increasing density is not what the citizens want nor is safe traffic wise nor environmentally better in this particular case. Even with 15 homes the real density will be closer to R3 or R4 not R2 as 2.2 acres will have no structures. The 2+ unbuildable acres are being incorrectly used in the math to make an R4 real density appear to be an R2. There is no justification to allow a real R4 density sub-neighborhood which does not have access to mass transit facilities, parking or access roads in the middle of a R1 zoned area as is the case here.</td>
</tr>
<tr>
<td>Lorna Levine</td>
<td>Minnetonka, MN</td>
<td>I live in the neighborhood, and it would change both the character and aesthetic as well as property values of surrounding homes.</td>
</tr>
<tr>
<td>Mara Korbmacher</td>
<td>Minnetonka, MN</td>
<td>We live near to the potential developed area. We bought our house this last July. The charm of this neighborhood is the large lots! Gorgeous homes being updated with beautiful lots. I’d hate to see the land be reduced per home. Also we have two curb/sewer runoffs which the city has yet to respond to us about. They are clogged and need to be addressed!!!</td>
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<tr>
<td>Jennifer Estrem</td>
<td>Tonka Bay, MN</td>
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<tr>
<td>Terry Devine</td>
<td>Minnetonka, MN</td>
<td>I have live on Woodhaven Road for almost 27 years and the problems that have been stated by residents are not new. Orchard is very dangerous. 20+ years ago, our children were required to cross Orchard road to get on the bus at Sunset. After obtaining residential support, we were successful in having the bus stop changed to Woodhaven Road due to safety concerns - slope, visibility, narrow road, etc. The city and state are continuing to dismiss all the concerns brought forth by the residents. SAFETY IS OF UPMOST IMPORTANCE.</td>
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<tr>
<td>Mark Oslund</td>
<td>Minnetonka, MN</td>
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<td>Minnetonka, MN</td>
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<tr>
<td>Kari Konopliv</td>
<td>Minnetonka, MN</td>
<td>Character of the neighborhood; too many houses clustered on a beautiful plot of land on an already troublesome road with no sidewalks.</td>
</tr>
<tr>
<td>Wendy Montoya</td>
<td>Minnetonka, MN</td>
<td>I do not support any new developments in Minnetonka. New construction should only happen on existing plots of land.</td>
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<tr>
<td>Dawn Crawford</td>
<td>Minnetonka, MN</td>
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<td>Dacut</td>
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<tr>
<td>Paul Lorinser</td>
<td>Minnetonka, MN</td>
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<tr>
<td>Monika Szilagyi</td>
<td>Independence, MN</td>
<td>The road is already old and narrow without walking paths. We moved to this area because of the large lots and mature trees. Building 15 homes on that one lot will change the look and feel of this neighborhood for worse. Do not rezone that lot from R1 to R2. The road can't handle the extra traffic. I live on Orchard Road, two houses down from the proposed rezoning. Please find a developer willing to abide by the R1 zoning, currently in place.</td>
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<tr>
<td>Geri Peterson</td>
<td>Minnetonka, MN</td>
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<tr>
<td>Amy Gibson</td>
<td>Minnetonka, MN</td>
<td>The road is already old and narrow without walking paths. We moved to this area because of the large lots and mature trees. Building 15 homes on that one lot will change the look and feel of this neighborhood for worse. Do not rezone that lot from R1 to R2. The road can't handle the extra traffic. I live on Orchard Road, two houses down from the proposed rezoning. Please find a developer willing to abide by the R1 zoning, currently in place.</td>
</tr>
<tr>
<td>Marcine Purinton</td>
<td>Minnetonka, MN</td>
<td>I'm extremely worried about the safety of our neighborhood children who must navigate on Orchard as they make their way to school, buses and to visit friends. As it stands, Orchard is dangerous to everyone Pedestrians and vehicles alike. The steep hills and narrow road coupled with the lack of a buffer (sidewalk) is a concern already! Please do not Make this situation worse by adding an additional number of homes with and traffic to add to the fray!</td>
</tr>
<tr>
<td>Kim Becquer</td>
<td>Minnetonka, MN</td>
<td>I live very near this proposed development - at the top of the large hill near Orchard Rd and Williston Rd. This is already a very unsafe area with many people passing through, most speeding, and no shoulder or sidewalk for pedestrians. After only living here a few months, I have already witnessed a handful of car on car and car on mailbox/trash can collisions! I see this high density development as not only a change of (continues on next page)</td>
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<tr>
<td>Katherine Brom</td>
<td>Minnetonka, MN</td>
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<tr>
<td>Name</td>
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<tr>
<td>Katherine Brom</td>
<td>Minnetonka, MN</td>
<td>(continued from previous page) neighborhood character (of typically larger sized lots), but also a danger to cars and potential pedestrians due to the added car traffic. Similarly, I wonder how this roadway will handle heavy machinary for construction/development? And how the neighborhood will take on the added stormwater runoff from impervious roofs, pavement, etc. My husband and I only recently bought our house in this neighborhood and we want to see this charming neighborhood flourish, not crumble under a major change in character and safety.</td>
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<tr>
<td>Andrew Swingley</td>
<td>Minnetonka, MN</td>
<td>Moved here for space not excited about higher density with out the right amount of space or infrastructure</td>
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<tr>
<td>Jen Hoiska</td>
<td>Minnetonka, MN</td>
<td>Come on minnetonka you’re better than this. This isn’t needed. Please don’t allow this to happen</td>
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<td></td>
<td>Minnetonka, MN</td>
<td>We moved to Minnetonka for its suburban wooded feel. We have continued watching the council make it look like Minneapolis</td>
</tr>
<tr>
<td>Judi Micoley</td>
<td>Wayzata, MN</td>
<td>The proposed land plans are not a good fit to the current neighborhood. Nor can Orchard accommodate the increase is traffic. It is a scary, dangerous road, without adding the traffic of 15 new homes.</td>
</tr>
<tr>
<td>Kerry Krueger</td>
<td>Minnetonka, MN</td>
<td>The proposed development is out of character for our neighborhood and presents significant safety issues for walking and biking on Orchard Road. To our Planning Commission and City Council, I urge you to vote NO.</td>
</tr>
<tr>
<td>Ronald Peterson</td>
<td>Minnetonka, MN</td>
<td>St. Louis Park, Edina, Golden Valley and other suburbs have overbuilt their communities. I live in Minnetonka because of the great green spaces, and quiet neighborhoods. Cramping this many homes on 4 acres is out of character for our community.</td>
</tr>
<tr>
<td>Ellen Sweetman</td>
<td>Minnetonka, MN</td>
<td>I don’t want huge house built right on top of each other. They all end up looking the same. The neighborhood turns into a non descriptive bunch of houses. All the mature trees get cut down. It’s ugly</td>
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<td>114.</td>
<td>Minnetonka, MN</td>
<td>because bit by bit of vacant land keeps being sold to developers who put up housing so close it’s ridiculous - the City of Mtka won’t be recognizable at the rate lots are being scooped up, trees torn down and big fat homes built. It’s sad. Not in the almost 30 yrs I’ve been in Mtka did I see this coming.</td>
</tr>
<tr>
<td>115. CHRISTOPHER</td>
<td>Minnetonka, MN</td>
<td>Stuffing a development like this into an already difficult roadway infrastructure with no sidewalks or other access is out of place with the neighborhood.</td>
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<tr>
<td>SPARGO</td>
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<td>116. Jon Bakken</td>
<td>Minnetonka, MN</td>
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<tr>
<td>117. Chjrtis Aanestad</td>
<td>Minnetonka, MN</td>
<td>Our Oak Drive Lane neighborhood went through the exact same ordeal regarding the Chalet Pizza building. We did petitions like this and fought it for 3 years. We sat down with several of the Planning Commission members individually. They all said they were on our side until it was time to vote and all flipped. My point here is that the Planning Commission and City Council will do what they want.</td>
</tr>
<tr>
<td>118. Heidi Gray</td>
<td>Minnetonka, MN</td>
<td>No need to rezone this as R2 or R3 as it is a great place for single family</td>
</tr>
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<td>119. Kris Falk</td>
<td>Minnetonka, MN</td>
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<td>120. Jeffrey Swanson</td>
<td>MINNETONKA, MN</td>
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<td>121. Cassidy Al-Kaissy</td>
<td>Minnetonka, MN</td>
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<td>122. Michael White</td>
<td>Minnetonka, MN</td>
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<tr>
<td>123. Eric Timba</td>
<td>Minnetonka, MN</td>
<td>We moved to Minnetonka 17 years ago because it was unlike most suburbs, an escape. Trees, large lots, not a cookie-cutter conglomerate. The city is failing to support its residents in favor of greed. I urge the city council/planners to think carefully about the longterm ramifications of overdevelopment.</td>
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<tr>
<td>124. Melissa M</td>
<td>Minnetonka, MN</td>
<td>No more traffic on dangerous road</td>
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<tr>
<td>125.</td>
<td>Minnetonka, MN</td>
<td>One of the reasons Mtka is a high demand suburb is for the large lots. It is great not having neighbors so close. I do not support rezoning this development. This will cause traffic issues for an area that is already congested. I can support this knowing it is only because the developer wants to make more money.</td>
</tr>
<tr>
<td>126. Christy M</td>
<td>Minnetonka, MN</td>
<td>No more traffic on dangerous road</td>
</tr>
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<td>Cekander</td>
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<tr>
<td>127.</td>
<td>Wayzata, MN</td>
<td>Too much development already. Just about the money</td>
</tr>
<tr>
<td>128. Jayme Neary</td>
<td>Minnetonka, MN</td>
<td>This is happening all over Minnetonka and has to stop. VOTE VOTE VOTE in November. Your Ward council member will be up for election as well as a special election for an at-large seat.</td>
</tr>
<tr>
<td>129. Adam Amato</td>
<td>Minnetonka, MN</td>
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</tbody>
</table>
130. Minnetonka, MN  
Road can not handle more traffic & parking issues for guests.

131. Minnetonka, MN  
We loved to Minnetonka from Minneapolis for the lower density, large lot sizes and connection with nature. Since moving here 4 years ago we have seen multiple large wooded lots in the community divided into Mpls sized parcels. None of these building sites are visible to me but I do not approve of the variances and resining that has been happening. We have a few very large lots near our home and I am concerned that this is becoming the new normal in Minnetonka and the 5 acre lot three doors down from me will soon suffer the same dire consequence of the actions of greedy builders and a city council that doesn’t have the neighborhoods and those that live in them in mind.

132. Minnetonka, MN  
It’s just up the road. We’ve lived here since 1984 and the traffic in Williston is outrageous! To add another 15 homes multiplied by more drivers/residents - overcrowding and dangerous!

133. Arin Olson  
Minnetonka, MN  
I think it is important to keep the character of the area as much as possible. We recently moved to this area and the character of the neighborhood is a large reason why we decided to live here. I have young children who go to school nearby and I worry about the increased traffic flow to this neighborhood as well. Please consider all factors in this decision.

134. Rich Martinson  
Minnetonka, MN  
It doesn’t conform to what Minnetonka is supposed to be. Large and spacious lots.

135. sonya tangen  
Minnetonka, MN  
We moved to Minnetonka three years ago because of the spacious lots, beautiful scenery and natural wildlife. Building multiple housing developments throughout the city will make me want to leave. Please don’t ruin this city’s natural beauty with housing developments that don’t even provide individuals with an outdoor space.

136. Mollie Harig  
Minnetonka, MN  
I’m worried about this in my neighborhood

137. Lindy Kreibich  
Wayzata, MN  
The neighborhood in consideration is valued because of a lack of dense development  
The quiet, large wooded natural lots are precisely why this area is so beautiful and special. Cutting it up on to small parcels does not serve anyone besides the developer...

138.  
Minnetonka, MN  
The proposed development is completely out of character with the immediate neighborhood and with greater Minnetonka.

139. Robert Gjengdahl  
Minnetonka, MN  
I understand there will be development there. But there’s no reason to rezone. Keep it at R1. Orchard traffic is so problematic already, don’t make it worse.
<table>
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<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>Ann Woodson-Hicks</td>
<td>Minnetonka, MN</td>
<td>I have lived in Minnetonka my entire life and do not like the high density developments that are being built, in quiet neighborhoods.</td>
</tr>
<tr>
<td>mark pearson</td>
<td>Minnetonka, MN</td>
<td>There is no reason to rezone our area</td>
</tr>
<tr>
<td>Mark Murphy</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>Summer Rischmiller</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>Alison Salita</td>
<td>Minnetonka, MN</td>
<td>Orchard Rd. is very busy already and when I back out of my sons place I can not see if a car is coming over the hill. I also have grandchildren on that road and by adding more traffic it makes Orchard that more dangerous. There are no side walks on Orchard either or bike trails...It's a narrow street. PLEASE use common sense when making decisions for this land.</td>
</tr>
<tr>
<td>Patricia Celt</td>
<td>Eden Prairie, MN</td>
<td></td>
</tr>
<tr>
<td>Christy Cekander</td>
<td>Minnetonka, MN</td>
<td>The local neighborhood and environment was not meant for this type of large-scale development, as it stands today. Our roads are not ready to handle this type of activity, and the plans do not support them.</td>
</tr>
<tr>
<td>Shannon DiMarco</td>
<td>Minnetonka, MN</td>
<td></td>
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<tr>
<td>Alyssa Rach-Nelson</td>
<td>Minnetonka, MN</td>
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<td></td>
<td></td>
<td>To big of a development for that area. To much traffic for Orchard rd!!</td>
</tr>
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<td></td>
<td></td>
<td>I want to maintain the general look and feel of the neighborhood. I choose to not live in a condensed new housing development and I fear that this new development will feel just like that. I'm also concerned with it depreciating the value of my home for the same reason</td>
</tr>
<tr>
<td>Rick Giovannetti</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>Tanya LeBeda</td>
<td>Minnetonka, MN</td>
<td></td>
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<tr>
<td>Ann Korando</td>
<td>Minnetonka, MN</td>
<td></td>
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<tr>
<td>Suzanne Williams</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>Amy Siggelkow Duffing</td>
<td>Minnetonka, MN</td>
<td>A huge part of why we love Minnetonka is that lot sizes are typically larger than other cities which makes it feel more spacious and less crowded.</td>
</tr>
<tr>
<td>Jennifer Doane</td>
<td>Minnetonka, MN</td>
<td>I would like to see this property remain zoned as R1 to keep in character with the rest of the neighborhood.</td>
</tr>
<tr>
<td>briana bers</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>Nicole Baumel</td>
<td>Minnetonka, MN</td>
<td></td>
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<tr>
<td>Colette Kastner</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>Mckaya Kastner</td>
<td>Plymouth, MN</td>
<td></td>
</tr>
<tr>
<td>Katie Born</td>
<td>Minnetonka, MN</td>
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</tbody>
</table>
163. Richard Graft  Minnetonka, MN
   My feelings are the same as many of my neighbors. I too respect the need to add new housing stock, and this property is available. But it should allow for much less density and not necessarily "luxury" houses. We need housing which is reasonably priced. Orchard is a very dangerous road, with hills, no sidewalks, and cars going faster than they should. My driveway is at the top of the first hill coming up from Williston. I am experiencing an increase in traffic coming east, and need to look more than once. I see school buses, walkers, and runners. With winter conditions, I am challenged to make it up the hill with my Chevy Cuze, and often take my 4 wheel drive Suburban. Going down requires caution so as to not slide into Williston. In fact, when it was very icy, they blocked the road - a wise decision. And turning left on Williston requires great patience. Approving what this developer is proposing makes no sense for this property.

164. Sarah LaFrance  Minnetonka, MN
   I believe strongly in people being able to maintain the neighborhood style they invested in.

165. Elizabeth Mohr  Minnetonka, MN
   Those people that want new luxury houses can choose a different suburb. Let’s keep Minnetonka the way that it is. These new houses are such an eyesore, with no yards and no character.

166. Alice Cho  Minnetonka, MN
   I love the green space!

167. Hannah Daniels  Minnetonka, MN
   Keep the rural wooded large lots, oppose big development and re zoning to high density spaces

168. Jena Ziegler  Minnetonka, MN
   Decent lot size and mature forested greenery is what makes Minnetonka desirable. Without it, we are just like any other over built suburb. No character, no brand.

169. Mike McCalla  Shorewood, MN
   This is a DRASTIC change from the character of the neighborhood. Will this be the beginning of the end of the large lots and distinctive homes with character?

170. Minnetonka, MN
   Want to keep the open spaces and rural look of Minnetonka.

171. Linda Whitteaker  Minnetonka, MN
   Traffic is already fast and busy on Orchard.

172. Kelly Menth  Wayzata, MN
   We moved to Minnetonka for the larger lots and open spaces, not sure letting developers drastically change the land is good for anyone. Keeping the zoning as is with a few
178. Minnetonka, MN

(continued from previous page)

homes would be the best option. Keep the nature that's been here long before any of us

179. Val Q Minnetonka, MN

This is happening again and again all throughout Minnetonka -- cutting larger lots into shreds of land and it needs to stop. We live in this neighborhood, and aside from the fact that adding that much housing and traffic in an already dangerous area because of the steep hills is ridiculous, the city cost to put in the additional infrastructure is on the taxpayers shoulders, shifting the money from the developers to me. We moved to Minnetonka for the large lot sizes, and anything zoned R1 should remain so. A developed can still make plenty of money with the appropriate amount of houses on the land. Just not greedy amounts of money. Minnetonka has worked hard through the years to develop its unique character, and it's a shame to see what the current city council and planning commission is doing to ruin that.

180. Kris Jackson Minnetonka, MN

This is too many houses and I am concerned about the repercussions of building so many houses on top of hill. The water run off on the properties east and north of the proposed site already have issues with drainage with heavy rains and snow melt. More concrete would exaggerate an already existing problem. Not to mention the influx of increased traffic from so many home on already unsafe congested road.

181. Heather Sterner Minnetonka, MN

I really enjoy the less density character of Minnetonka. When homes are built like this proposal, we lose mature trees, traffic patterns change (usually for the worse) and above all, Minnetonka loses it's core identity! We need to keep our precious space!

182. Mike Colehour Minnetonka, MN

Ridiculous amount of homes for the space. Hipocracy with rezoning just for a developer. Seems disrespectful to the neighboring homes for ignoring issues with traffic, possible issues with water run off, etc.

183. Minnetonka, MN

184. Stephanie Herrick Minnetonka, MN

Wouldn’t be as opposed if it wasn’t so many houses for such a tight space. Just absurd!

185. Davaid Birrow Minnetonka, MN

186. Holly Ricke Minnetonka, MN

187. Brent Westbrook Minnetonka, MN

188. William Carter Minnetonka, MN

189. Ben Marks Minnetonka, MN

I drive Orchard Rd every day. This road can be especially treacherous during the winter. Adding a development with 15 homes would increase traffic and make this route even more dangerous.
<table>
<thead>
<tr>
<th>Name</th>
<th>From</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lisa Kuehn</td>
<td>Minnetonka, MN</td>
<td>I feel that this is too many homes for Orchard road to support. I do not feel it is safe to have all these houses to exit onto Orchard.</td>
</tr>
<tr>
<td>Rebecca Nealy</td>
<td>Minneapolis, MN</td>
<td>As a zoning inspector for a small city in a different state, I had to balance development and tax base and quality of life for new developments. The density for this development is too much for the 4 acres being developed. Zoning areas are established to maintain the quality of local life and the requested density does not maintain that quality. Keep the number of houses in line with the area density.</td>
</tr>
<tr>
<td>Linda Baule</td>
<td>Minnetonka, MN</td>
<td>I am in agreement that this is too large of a development for this neighborhood.</td>
</tr>
<tr>
<td>James Crowe</td>
<td>Minnetonka, MN</td>
<td>The proposed small lots don’t fit the character of the neighborhood. It appears the plan was to cram in many expensive homes rather than develop a thoughtful plan that preserves land space and views.</td>
</tr>
<tr>
<td>Meagan Gustafson</td>
<td>Minnetonka, MN</td>
<td>The health, safety and aesthetics of the community will be affected by this outrageous change to the neighborhood.</td>
</tr>
<tr>
<td>Cindy Ische</td>
<td>Minnetonka, MN</td>
<td>As a lifelong resident of Mtka, my family and I cherish Mtka’s open spaces and nature. Mtka is rapidly losing its reputation for beautiful neighborhoods due to too much building and density. One its gone, we can’t get it back...</td>
</tr>
<tr>
<td>Sue Sachetti</td>
<td>Minnetonka, MN</td>
<td>Minnetonka has a history of always, always changing the zoning codes. I don’t know why they pretend to have a comprehensive plan at all. It’s time to put a stop to that.</td>
</tr>
<tr>
<td>Sarah Dibble</td>
<td>Minnetonka, MN</td>
<td>Increase Traffic and loss in traditional housing in the area.</td>
</tr>
<tr>
<td>John Jambeck</td>
<td>Minnetonka, MN</td>
<td>Increase in traffic and loss of traditional community and housing.</td>
</tr>
<tr>
<td>Kathy Ellefson</td>
<td>Minnetonka, MN</td>
<td>As lifelong resident of Eden Prairie, MN, Tax payers have the right to protect their neighborhood and decide to keep views, traditions, green areas whatever they chose to.</td>
</tr>
<tr>
<td>Beverly G.</td>
<td>Minnetonka, MN</td>
<td>Increase in traffic and loss in traditional housing in the area.</td>
</tr>
<tr>
<td>Melissa Block</td>
<td>Minnetonka, MN</td>
<td>Increase in traffic and loss of traditional community and housing.</td>
</tr>
<tr>
<td>Megan Rosvold</td>
<td>Plymouth, MN</td>
<td>Tax payers have the right to protect their neighborhood and decide to keep views, traditions, green areas whatever they chose to.</td>
</tr>
<tr>
<td>Whitney Frisch</td>
<td>Minnetonka, MN</td>
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</tr>
<tr>
<td>Name</td>
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<td>Comments</td>
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<tr>
<td>Padma Chintapalli</td>
<td>Minnetonka, MN</td>
<td>Highcroft Meadows is literally in my backyard. I am very concerned about: Increased traffic (Orchard is not a very safe road even now, the increase in traffic will make it further dangerous, especially for children). Destruction of natural beauty. More pollution. Over taxed infrastructure.</td>
</tr>
<tr>
<td>Becky Elston</td>
<td>Minnetonka, MN</td>
<td>Takes away from the charm of our small neighborhood, more clutter, parking issues, more traffic and we already have too much, more drivers and already an issue. Cause drop in value of property. Wildlife issues. Etc...</td>
</tr>
<tr>
<td>Terry Danielson</td>
<td>Minnetonka, MN</td>
<td>High density housing on such a road is ridiculous and just shows that money can buy anything. This is a travesty!</td>
</tr>
<tr>
<td>Mark Nelson</td>
<td>Minnetonka, MN</td>
<td>A large development doesn’t belong on this land. It will change flow of traffic and space for the Jr. High and surrounding area.</td>
</tr>
<tr>
<td>Andrew Kalman</td>
<td>Minnetonka, MN</td>
<td>The existing zoning should be upheld for this property. The current proposal has too many houses for a street that already can be dangerous.</td>
</tr>
<tr>
<td>Rebecca Lahr</td>
<td>Minnetonka, MN</td>
<td>This development doesn’t fit the character of Minnetonka (particularly this neighborhood) and presents all kinds of issues for transportation in this area.</td>
</tr>
<tr>
<td>Dakotah Woller</td>
<td>REDWOOD FALLS, MN</td>
<td>We moved from SW Mpls to Minnetonka to get away from high density housing, the increased traffic, etc. Minnetonka is beautiful because of its spacious feel and the nature around us.</td>
</tr>
<tr>
<td>Debra Gartley</td>
<td>Minnetonka, MN</td>
<td>Larger lot size is what makes Minnetonka so special.</td>
</tr>
<tr>
<td>Robyn Barton</td>
<td>Minnetonka, MN</td>
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<tr>
<td>Adam Pohle</td>
<td>Minnetonka, MN</td>
<td>I oppose changing the character of Minnetonka by making tiny treeless lots the norm compared to the lot sizes of existing neighborhoods.</td>
</tr>
<tr>
<td>Barry Svee</td>
<td>Minnetonka, MN</td>
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<tr>
<td>Name</td>
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<td>Comments</td>
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<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>224. Judith P</td>
<td>Minnetonka, MN</td>
<td>We are getting way too much high density building in Minnetonka. Many people move here for somewhat country feel which we are losing</td>
</tr>
<tr>
<td>225.</td>
<td>Minnetonka, MN</td>
<td>This development doesn’t fit with the look and feel of our Minnetonka lifestyle.</td>
</tr>
<tr>
<td>226. Judy Ramsey</td>
<td>Minnetonka, MN</td>
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</table>
Cudd's April 2019 Proposal

Orchard Road Neighbors Group Suggestion

Created April 18th, 2019
City Council Minutes
B. Items concerning HIGHCROFT MEADOWS at 14410 Orchard Road

City Planner Loren Gordon gave the staff report.

Happe stated he was in an uncomfortable position given the fact staff was recommending approval of an item the Planning Commission has denied. He asked if there was a difference of opinion between staff and the Planning Commission. Gordon reported there was a difference of opinion on how the commission views the development of this site, noting the commission did believe this development matched the character of the neighborhood. Staff's opinion was that character change would occur because of the topography and grade change on the property.

Schack questioned why an R-2 development was being considered versus a PUD. Gordon explained in 2014 public purpose measures were written into the PUD requirements and that the proposed development would not satisfy those requirements. He reported commercial projects tended to gravitate to PUD's versus residential projects since this change was made.

Bergstedt commented the rezoning requires four votes and the preliminary plat will require five votes. He asked what would happen if the rezoning received four votes, but the preliminary plat could not get five votes. Gordon explained the proposed preliminary plat with the variances was provided to put regular lot lines in place. He indicated the preliminary plat could be approved without variances if the lot lines were reconfigured and the cul-de-sac were extended slightly. He stated it was staff's opinion the applicant could come back with a conforming R-2 plat without variances.

Barone questioned if the council were to approve the rezoning, would the project be contingent upon the R-2 zoning. Gordon reported if the parcel was rezoned but the plat was not approved, there was no clause in place that would require the plat to occur. He stated a condition could be added to state the rezoning was only valid if the plat were approved.

Bergstedt indicated a number of residents have brought up the fact that the Planning Commission recommended denial of this request. He explained these residents are questioning why the council was even considering this request. He reported the city has very professional staff, as well as intelligent commission members, and the council values all of the recommendations that are made. He commented in the end, the council makes its own decision and was not locked into making a recommendation based on the vote of an advisory group.
Calvert inquired what the acreage was for this lot and requested further information regarding the topography. Gordon stated the lot was six acres in size. He commented further on the topography of the lot, noting there was a steep slope between Lot 7 and Lot 1.

Calvert questioned how much of the lot had buildable area. Gordon explained he would have to look this up. Further discussion ensued regarding the amount of property that was buildable.

Calvert commented on the proposed density for the new plat compared to the adjacent lot sizes. She thanked staff for providing this visual for the council.

Gordon commented the proposed ordinance and resolution have language in place that would tie one to the other. This would mean that the rezoning could only be approved if the plat were approved.

David Stradtman, Rachel Development, thanked the council for their time and consideration. He discussed how he has worked with staff to meet the concerns of the city for this project. He stated the two main concerns at this time were the character of the neighborhood and density. It was his opinion the character of the neighborhood was subjective. He commented this property was surrounded by R-1 single family homes, twin homes and the Williston Fitness Center. He explained his project with the 13 villas was 3.3 units per acre. He noted the five homes along Westmark had a density of 3.25 units per acre. He reported his development was very much in alignment with the Westmark neighborhood. He commented that several of the twinhomes within Westmark were smaller than the lots he was proposing to construct.

Mr. Stradtman reported this neighborhood was a melting pot and had a wide variety of housing types. He noted the surrounding neighborhoods were created two or three generations ago. He discussed how housing has changed over time and noted his project could not match the existing housing given the change in infrastructure and design standards.

Mr. Stradtman commended staff for putting an objective lens on this project. He understood the council had to consider if this project was within the Comprehensive Plan for the city. He noted the property was zoned R-1 Low Density, which meant no more than four units per acre. He explained his project met those standards. He stated the next question was if the rezoning to R-2 was reasonable. He was of the opinion this was a reasonable request given the fact this property had R-2 zoned property adjacent to it. He indicated his original request was for 19 villas and staff has pushed him to reconsider his request.
Mr. Stratman reported he had villa projects being completed all throughout the metro area and some had five foot setbacks between the units. He stated he was requesting 65 foot wide lots, which were typical suburban single family lot widths. He understood the council had to consider if his request was in alignment with the Comprehensive Plan and if the request was reasonable. He explained it was his opinion the answer to both of these questions was yes.

Mr. Stradtman commented he understood the neighbors were concerned because this would be a change. He stated he was proposing to build a new housing product that had evolved when compared to the existing neighborhoods. He questioned how the neighborhood was being harmed by 13 villas and a one and one-half acre single-family lot when the site was currently being used for six acre horse farm. He noted the twinhomes in Westmark were very comparable to the detached villa homes he was proposing to build. He reported adjacent property values would not be decreasing.

Mr. Stradtman explained the proposed variances would allow him to have consistent lot lines. In addition, he was proposing to shorten the cul-de-sac in order to save significant trees. He reiterated that he was proposing to have 20 feet between the villa structures, which was a great deal of space. He discussed how hard he had been working with staff on this project and stated he believed his request was reasonable. He requested the council support his project.

Rick Denman, Charles Cudd Company, discussed the numerous meetings he had attended with the city, neighbors and planning commission. He described how housing had evolved over time and noted his proposal was a great fit for this property. He stated he was proposing to build large, single-story villas on 65 foot lots. He explained there was a demand for these types of units. He understood the neighbors were having a hard time with the proposed change but believed he was proposing the highest and best use for this property. He thanked staff for all of their assistance with this project.

Wiersum opened the meeting to the public for comments.

Jennifer Rutz, 14401 Orchard Road, stated she was before the council to express her opinions and the thoughts of the majority of her neighbors. She explained she moved to Minnetonka recently from Eden Prairie. She reported she did not care about the property being developed, but noted she was concerned with the proposed density. She commented she did not want to see a cookie-cutter development on this lot. She thanked city
staff for doing a thorough job and taking a good hard look at this project. However, she respectfully disagreed with their recommendation. She stated her neighborhood welcomed development that was appropriate. Her main concern was Cudd wanted too many homes.

Ms. Rutz indicated there were many great developers in the metro area and perhaps another developer would bring in an even better option for this land. She believed that Cudd was asking too much of the city and of the neighbors. She was of the opinion city staff had a difference of analysis when considering what the council could do with this property. She noted rezoning was a legislative function of the city council, but just because the council could do something doesn’t mean it should. She encouraged the council to consider the precedent that could be set by rezoning this property to R-2. She commented on the character of the neighborhood and understood this was subjective. She indicated one side of the development had R-2 homes while the other had 44 R-1 single-family homes.

Ms. Rutz discussed the requested variances. She noted the city had very clear standards with respect to lot sizes. She reported variances were only to be approved if there was an undue hardship or practical difficulty that are not related to economic considerations. She explained the proposed use must be reasonable, caused by circumstances unique to the property and would not alter the character of the surrounding area. She indicated Cudd is stating they would not alter the neighborhood given the style of homes to the west. She noted the Westmark twinhomes have large lots with space between the units, which Cudd was not proposing. She was of the opinion Cudd’s proposal did not align with the character of the neighborhood.

Ms. Rutz questioned what the practical difficulties and undue hardships were for this project. She reported the Cudd lots would be half the size of the R-1 zoning requirements. She commented further on the FAR requirements the city has in place. She stated the neighborhood would welcome development on this property that aligns with current zoning regulations that add to the character of this neighborhood. Lastly, she commented on how this development would increase traffic in the neighborhood. She recommended a stop sign be considered at Orchard Road for pedestrian safety or speed bumps in order to slow the speed of traffic. She respectfully requested the council deny the plat, variance and rezoning for Highcroft Meadows.

Beth Desmond, 14306 Orchard Road, stated she created a petition in support of a “No” vote from the council. She reported her petition was intended to create community support against the rezoning and variance
requests. She noted 201 of the signers were Minnetonka residents and 124 left comments. She explained she opposed the rezoning and variances. She reviewed a plan of what R-1 homes would look like on this property and encouraged the council to require the applicant to rethink this development. She indicated the first eight homes in the project were simply too close and dense.

Ms. Desmond indicated she recently visited three different Cudd developments and shared pictures from these developments with the council. She requested the council not support the proposed request and that the developer reconsider his plat as it was not there just yet.

Greg Raetz, 14523 Orchard Road, thanked the council for allowing him to speak. He stated he understood that villa homes were becoming more popular in the metro area. However, he indicated Minnetonka was not “the metro area” but rather was in the top 9%. He explained he was not anti-development, but rather was against the project being proposed. He understood his neighborhood could be considered transitional, but did not support this being further expanded when this property could be preserved. He encouraged the council to hold onto its existing character, to try and find better and recommended the proposed density for this project be reduced.

Don Lucia, 4209 Lindsey Lane, commented he has been a Minnetonka resident for the past six years. He explained he has been looking for villa housing and noted Cudd builds a fantastic product. He indicated he did not want to move to Woodbury or Medina but rather would like to remain in Minnetonka. He requested the council offer their support to the proposed project noting the density would not be a concern as the units would be filled with empty nesters.

Dale Thielen, 14309 Orchard Road, stated he was amazed by the fact staff did not bring up any of the opposition or discussion that was held at the planning commission meeting last week. For the record, he explained he would like to make his neighborhood better too. He indicated he would be moving out of the neighborhood sooner rather than later given his age. He encouraged the council to consider the recommendation of the planning commission noting it was based on the feedback received from the public.

Chris Osgood, 3604 West Sunrise Drive, reported he moved into his home in 1999. He explained he and his wife enjoy walking the neighborhood. He expressed concern that 28 trees would be removed for the 14th home. He stated he also feared how the lot would be impacted after being regraded given the steep slope on the property.
Brent Hislop, representative of the Bensman family, thanked the council for their time and consideration. He provided the council with a handout and stated he was of the opinion the proposed plat meets the city’s housing regulations. He requested the council review the plan objectively. He commented on the city’s variance process noting the proposal with the lot count can be submitted without variances. However, this would mean additional trees would be lost. He reviewed the variety of homes that were available in the surrounding neighborhood noting the average age and square footage. He reported the proposed villas were akin to the surrounding homes versus a traditional R-1 single-family neighborhood.

Mr. Hislop commented on the petition that had been signed opposing his project. He stated after reviewing the signatures and based on his calculations, 80% of the adjacent neighbor’s had not signed the petition. He reiterated that the proposed plan would save 37% more trees than was required by city ordinance.

Brian Weisberg explained he was an attorney who had been asked to appear by the owner of the property, his aunt. He commented on how the neighborhood had changed over the past 40 years noting his aunt and uncle used to ride their horses to Dairy Queen. He explained that the family had chosen a high quality developer that would provide a housing product that was needed in the community. He indicated family members were not trying to damage this neighborhood but wanted a high quality housing product that would benefit the entire community.

Wiersum reported he knew Allen and Carol Bensman and they were great champions of this city.

Mark Osland, 14409 Orchard Lane, commented on the nature of the neighborhood and stated he did not support the proposed density of the Cudd development. He feared that if this development were approved it was set a dangerous precedent.

Wiersum closed the public comment portion of the meeting.

Happe stated he watched the entire planning commission meeting. He noted the city had a high quality developer for this project and noted adjustments had been made to the project bringing the density down from 19 units to 14 units. He thanked the neighbors for articulating their concerns and explained he found the petition to be highly persuasive. He indicated he placed a high value on the planning commissions decision. He stated he had a hard time going against this group. He was of the opinion the density was still too high and there were too many homes
within the development. Therefore, he would not be offering his support to the project.

Schack reported there were two lines of reasoning to consider. She commented one line would be to have R-1 single family homes on this property which would create very high end homes. Another option would be zone the property consistent with the property to the west. He indicated this would create smaller homes, smaller footprints and a more manageable price point. She stated she respected the survey results and noted 13% of the city's housing was on lots smaller than 15,000 square feet. She commented on the importance of the city having diverse housing. She believed that if the council were to approve R-2 zoning on this parcel, future developers could not assume the same approval. For this reason, she stated she could support the R-2 zoning.

Schack explained she did have concerns with the requested variances. In addition, she stated she was not comfortable with the “averages” being discussed by the developer. She anticipated that the developer and the city could come together to create a plat that was reasonable and met the city's R-2 housing regulations.

Calvert indicated she was conflicted by this request. She reported it would be very difficult for her to go against staff’s recommendation as she respected their opinion. However, she also respected her former colleagues on the planning commission. She explained the council was not taking into consideration revenue generation with this request but rather was considering land use and zoning. She discussed how difficult it was to find one-story homes in Minnetonka stating the proposed villas were needed. She noted she was very familiar with this property and the neighborhood. She reported she was pleased the wooded slope was being protected. She indicated she supported the proposed development versus an R-1 single family development as this would lead to high end, high value homes. She commented she was looking for flexibility in the style of homes being built in the city. She understood this development would add traffic to an already busy street. She explained if this was a flat parcel, she would offer her support immediately. However, given the topography of the land she would not be able to support the proposed development and density.

Ellingson stated he had concerns with the high density and how there would be no room for on-street parking within the proposed development. Barone stated the proposed plat had room for on-street parking on one side of the street.
Ellingson indicated there had not been much discussion about the variance request. He noted the neighbors have addressed this concern but stated he would like to hear more from the council regarding this matter.

Carter explained she appreciated all of the comments received from the public. She reported this development would change the walkability of her neighborhood along with the traffic patterns. She understood Cudd made a beautiful villa product and noted the city needed more housing options. However, she believed the city should not just settle for good enough. Rather, she recommended the city work with the developer to make adjustments to the existing plan to come up with an even better design. She stated at this time she would not be able to support the rezoning.

Bergstedt indicated he appreciated all of the comments received from the public. He explained this parcel was going to be developed with either smaller lots for villas or with McMansions. He stated the topography of this parcel has created water runoff issues that had to be addressed, which meant large retaining walls would be installed. He was of the opinion the villa homes would have less traffic than McMansions. He reported the applicant could come back to the city with the same plan without variances, but noted more trees would be lost.

Bergstedt commented he supported the five homes around the cul-de-sac and the single-family home. He noted his only concern was with the first eight homes as it may look cookie cutter. He feared this portion of the project could look like the Groveland Homes development. He stated he understood the city could benefit from having this type of housing, but expressed concern with the first eight lots and how this would look visually. He suggested two of the lots be eliminated to improve the aesthetics and side yard setbacks. He explained he would not be able to support the request as submitted but could support the project if two lots were eliminated. He reported Minnetonka did not need anymore McMansions, but rather could benefit from having one-story villas.

Wiersum explained this has been a challenging conversation. He stated he respected the recommendation from staff, the recommendation from the planning commission and the comments made by both the neighbors and developer. He indicated he did not see a path forward for this project as proposed. He appreciated the fact that the developer had already reduced the density and stated he was pleased Charles Cudd was working with the city on this project.

Wiersum commented villa style homes were very popular and there was a market in Minnetonka. He feared if the council were to deny this project,
Charles Cudd would walk away from the city. He noted he had downsized his home to single-level living. He reported the aging baby boomers in Minnetonka were looking to downsize and this project would meet that need. He stated if the number of villa units were reduced the price of the units would increase. He indicated the proposed villas would not be affordable houses and if R-1 housing was to locate on this property the homes would be even more expensive. He summarized again for the record that this project did not have the votes at this time, but stated he believed villa style homes made the most sense for this property. He commented he understood the traffic along Orchard Road was a concern, but stated this did not have to do with the request before the council.

Wischnack recommended the council ask the applicant how he would like to proceed.

Wiersum questioned what the deadline was for this request. Barone reported the deadline was June 3.

Mr. Stradtman stated he could support the council tabling this matter. He indicated he was fairly dejected by the conversation that was held this evening. He commented he believed the project before the council was viable.

Wiersum asked how the council wanted to proceed.

Bergstedt indicated he believed tabling the project made the most sense.

Calvert suggested the density be revisited by the developer. She noted the first eight homes in the development do not have the look and feel of Minnetonka. She stated she really respected the developer and their great housing products, but recommended the request be tabled for further consideration.

Schack moved, Bergstedt seconded a motion to table action on this item with a decision to be made by June 3 unless the council were to receive an extension from the applicant. All voted “yes.” Motion carried.

15. Appointments and Reappointments: None
Planning Commission Minutes
building-to-parking variance and sign plan for Walser Nissan Development at 15906 Wayzata Blvd. with modifications provided in the change memo dated April 25, 2019.

Hanson voted yes. Powers, Sewall, Henry, and Kirk voted no. Knight and Luke were absent. Motion failed.

Powers moved, second by Hanson, to recommend that the city council deny an application for an ordinance approving a master development plan and final site and building plans with a setback variance and a resolution approving a conditional use permit and building-to-parking variance and sign plan for Walser Nissan Development at 15906 Wayzata Blvd. with modifications provided in the change memo dated April 25, 2019.

Powers, Sewall, Hanson, Henry, and Kirk voted yes. Knight and Luke were absent. Motion carried.

Chair Kirk noted that this item is tentatively scheduled to be reviewed by the city council on May 6, 2019.

B. Items concerning Highcroft Meadows, a 14-lot residential subdivision at 14410 Orchard Road.

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

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

Hanson liked the pie-graph slide. It provided great information.

In response to Hanson’s question, Thomas referred to the staff report that detailed that of the 49 percent of the lots less than 22,000 square feet in size in Minnetonka, one fourth of those are less than 15,000 square feet in size.

Chair Kirk thought the lots on the west side of Westmark Drive appeared small. They were all at least 11,000 square feet to 13,000 square feet.

Sewall asked what the density would be if the unbuildable area to the north would be excluded from the calculation. Thomas responded 2.85 units per acre which would still be within four units per acre.

Rick Denman, co-owner of Charles Cudd, Co., applicant, stated that:

- The site is a great piece of property. There is a big demand for the villa-style project. There is very little of that type of housing in Minnetonka.
• The site is adjacent to an R-2 neighborhood. It seems logical that the density would work on the site.
• The original plan included 19 houses. It was reduced to 17 houses. The current proposal includes 13 lots zoned R-2 and one lot that would meet R-1 ordinance requirements.
• The applicant addressed questions received from neighbors related to drainage, parking, and snow removal.
• There is a lot of interest in the location and good demand for the proposed product. The villas would be detached and association maintained.
• There are multiple examples of similar projects the applicant has completed.
• The lot sizes would be extremely generous for the type of product. The lots would normally have seven-foot-side setbacks.

Powers asked why a seven-lot plat that meets R-1 requirements was not submitted. Mr. Denman stated that there are plenty of large lots with large houses to purchase in Minnetonka. There are very few similar to the proposal. Because of the price point that a large lot would have to be at, that type would not fit with the applicant’s objectives. The main reason is that the R-1-sized lots would be too expensive. There is a demand for detached-villa houses.

Sewall asked about the snow removal plan. Mr. Denman stated that there would be places at the end of the cul-de-sac to store snow. An infiltration basin and pond would be located at the entrance. Snow could also be stored at that location. Both of the two areas in the front would be 150 feet by 100 feet. The lots would be deep enough to handle snow storage.

Randy Hedlund, with Landform Professional Services, engineer for the applicant, stated that the pond on the east side would be six feet deep. The pond would store sentiment, handle runoff from the road, and flow to a structure that would allow clean water to travel to the infiltration area on the west. The ponds would be located well below the road to prevent runoff from extending into the street. If the north lot and right away would be removed from the calculation, then the average lot size would be 13,150 square feet.

Henry asked under what circumstances he would expect the drain feature from the south to the north to be utilized. Mr. Hedlund said that the site would be designed to hold water for a 100-year event, 7.4 inches of rain over 24 hours is the standard. The total impervious area would equal 1.7 acres. There would be no overflow. Right now the water flows through the second lot on the west. Henry thought it would be a good feature. Mr. Hedlund explained that there would still need to be an outlet.

The public hearing was opened.

Richard Graft, 14617 Orchard Road, stated that:
The issues with Orchard Road need to be addressed. There are no sidewalks, vehicles seem to be going faster, there is an increase in traffic, and there is a crest that blocks the view. There is a school bus that stops at the crest. In the winter, he has a tough time scaling the crest with his Chevy Cruise. The road was closed this winter due to ice.

He asked what it would cost to make it a standard road.

Marcine Purinton, 3706 Westmark Circle, stated that:

- She was concerned with the safety of the children forced to walk in the street to get to the bus stop or school.
- She liked the reduction in density.

Jennifer Rutz, 14401 Orchard Road, stated that:

- She cannot wait for the property to be developed. A cul-de-sac with more families and neighbors is appealing.
- Charles Cudd is a well-known developer with a reputation for high-quality houses. She would love for the developer to be the one to build out the property. The vision is still not in character with the neighborhood, comprehensive plan, or current zoning.
- She opposed the density. There would be too many houses.
- The developer has worked with neighbors.
- It is the nature of the development, not the property itself, that is causing the applicant to request rezoning and variances.
- She requested the current zoning ordinance be followed.
- There is no undue hardship.
- There is no practical difficulty to develop the property.
- The proposed, detached, villa-style houses would be beautiful. There would be too many.
- The proposed lots would be more than two times smaller than the current R-1 zoning and half of the lot size required by R-2 zoning requirements.
- She disagreed that the proposal would be more in line with preserving the natural environment of the area and the comprehensive guide plan.
- She did not think the request is reasonable. It is in contrast to the ordinance.
- She opposed changes in zoning.
- She would accept minimal variance allowances as needed.
- She hoped for eight houses.
- She provided an alternative to villa-style houses using R-1 zoning ordinance requirements.
- A precedent would be set and result in chopped-up, mini developments.
- She requested verifiable data to show that the houses would sell.
• R-2 zoning would allow 10 houses without additional variances for reduced lot sizes.
• There are two twin houses on the west with large lots.
• The speed of the traffic impedes on pedestrian safety.
• She requested sidewalks and a stop sign at the entrance of the proposed development.
• The lot sizes and FAR would be reduced.

Elizabeth Desmond, 14306 Orchard Road, stated that:
• She submitted a petition in opposition to the proposal. One hundred and ninety-eight of the signers live in Minnetonka.
• She supports R-1 zoning.
• She provided an example of lots that meet R-2 standards.
• There is an issue with the density of the front eight lots. It would be too dense.
• She welcomed development.
• She opposed how compact the development would be and the lack of yard space between houses.

Shannon Paradis, 3610 Sunrise Drive East, stated that:
• She was concerned with her kids’ safety. She requested sidewalks be constructed.
• She opposed the tree removal.

Chris Osgood, 3604 West Sunrise Drive, stated that:
• He was concerned with the loss of trees created by the 14th house.
• He appreciated the opportunity to speak.

Greg Raetz, 14523 Orchard Road, stated that:
• His calculations determined that half of the lots would exceed the acceptable FAR. By averaging the whole site together, it makes it sound like it fits, but it would result in oversize houses on small lots. That did not seem right to him.

No additional testimony was submitted and the hearing was closed.

Sewall asked if there are plans to improve Orchard Road. Thomas answered that Orchard Road is not currently included in the city’s five-year capital improvement plan. Changing the grade of a road can result in a lot of grading, the addition of retaining walls, tree removal, and impact to properties.
Wischnack explained that residents could petition the city council for improvements to a city street. Orchard Road will come up for reconstruction at some time, but is currently not scheduled to do so in the near future.

Thomas explained that MNDOT regulates installation of signs. Orchard Road is a through street, so MNDOT would probably not allow a sign on Orchard Road, but could, possibly, on the cul-de-sac. She will request the city engineer address that area specifically.

Thomas said that Mr. Raetz is correct. FAR is applied by lot. The proposal includes a requested variance to calculate the FAR by using average lots size instead of calculating the FAR per lot. The square footage, whether based on each individual lot or on the average lot, including the north property, would equal an FAR of .25 if zoned R-2.

Chair Kirk noted that the proposal would meet the required FAR without a variance if the cul-de-sac would be moved further north. Chair Kirk asked if that would cause additional tree loss. Thomas explained that the proposal would have 22 percent tree loss right now. Twelve trees could be removed and the proposal would still meet tree protection ordinance requirements.

Chair Kirk commented that allowing an average FAR would allow the lots to be condensed towards the south. Not allowing a variance would require development to extend further north.

Thomas clarified that:

- The language “undue hardship” and “practical difficulty” are applied only to variances to show findings needed to approve a variance.
- Rezoning is a legislative function of the city. There is no checklist that needs to be met. The city only has to find that a rezoning request would be consistent with the safety and welfare of the community.

In response to Powers’ question, Thomas stated that Park Valley Estates and Highview Place are examples of smaller-lot developments.

Chair Kirk stated that 20,000-square-foot lots would end up with houses that would appear to be more like 4,500 square feet in size than a standard three-car garage and two-story house. Gordon added that the Woods at Fairfield have large lots compared to the neighboring lots. There is a variety of lot and house sizes in Minnetonka. The average house built last year in Minnetonka was 4,600 to 4,800 square feet. Thomas pointed out three examples of building permits provided in the staff report for single-family houses issued in 2018 that were 4,800 square feet, 6,600 square feet and 7,040 square feet in size.

In response to Chair Kirk’s request, Thomas provided examples of three villa-style subdivisions that were approved by the city in the last five years. Legacy Oaks consists
of lots mostly under 10,000 square feet in size, Groveland Pond on Minnetonka Blvd., and a subdivision for four villa-style homes in the Glen Lake area. Wischnack added that diversity of housing type is a priority for the city. Minnetonka has 5,214 households with residents 55 years to 60 years of age.

Chair Kirk asked how long it would take to complete construction. Mr. Denman estimated two years. The two front lots could be used as staging areas. The price point would be $600,000 to $800,000.

Henry asked why the house that would meet R-1 ordinance requirements was included in the proposal. Mr. Denman explained that the lot would be very nice and adjacent to a conservation area. The grades would meet city ordinance requirements.

Thomas clarified that the street would be public and public works staff had no concern with snow storage for the proposal.

Chair Kirk noted that the existing neighborhood has smaller lots. If the site would be subdivided into lots that would meet R-1 requirements, then the new houses would be larger than the existing houses and out of character with the neighborhood.

Hanson viewed the proposal as an opportunity to provide housing for residents who have reached the age where they wish to move into this type of housing and stay in the city. This would free up single-family houses. He was comfortable with the proposed rezoning to R-2.

Sewall thought the rezoning would make sense. He agreed with Hanson. The property is not an island. It is adjacent to existing R-2, low-density housing.

Chair Kirk confirmed with Thomas that both sides of Westmark Drive are currently zoned R-2.

Henry considered the petition with 192 signatures that felt the density would be too high. The neighbors would prefer to have large lots with large houses rather than smaller lots with smaller houses. An R-3 residential development was approved in the Glen Lake area. He agreed with having a diversity of housing to allow residents to age in the same place. He thought the majority of the neighbors are single-family houses and the proposal would not be in character with the rest of the neighborhood. He did not support rezoning the site to R-2.

Powers lived near Groveland Ponds when it was rezoned to R-2. He felt that the proposal would change the character of the neighborhood by changing the zoning from R-1 to R-2. He found in the Rainbow Drive area that large houses maintain the continuity of a single-family neighborhood. He was undecided.

Chair Kirk was impressed by the petition and turnout. He felt like there would be a greater opportunity for a mistake by rezoning. He favored smaller lots, in the low teens.
He did not like lots below 10,000 square feet in size. He understood the reason was to allow the lots on the north to be larger on the cul-de-sac. The cul-de-sac looks appropriately placed. He did not want those lots to be crowded. The eight units on the south end seem too close together and would go against the character of the adjacent R-1 lot. He struggled to rezone now because he did not see a clear solution that would meet the applicant’s intent. He did not support rezoning.

*Henry moved, second by Hanson, to recommend that the city council deny an application for an ordinance rezoning a portion of the property to R-2, low density residential, and a resolution approving the preliminary plat of Highcroft Meadows with variances pertaining to Highcroft Meadows at 14410 Orchard Road.*

Sewall agreed that the eight lots on the south would be better if two lots would be removed and the remaining lots spread out.

Hanson thought the proposal would not fit with the character of the neighborhood.

Powers thought the proposal would have too many lots and would not work right for the area.

Chair Kirk stated that he has friends who moved out of Minnetonka to move into villa-style housing. He would support lots smaller than 22,000 square feet, but in the 15,000 square-foot range.

*Powers, Hanson, Henry, and Kirk voted yes. Sewall voted no. Knight and Luke were absent. Motion carried.*

9. **Adjournment**

*Sewall moved, second by Hanson, to adjourn the meeting at 10 p.m. Motion carried unanimously.*

By: ____________________________

Lois T. Mason
Planning Secretary
City Council Introduction Minutes
Wiersum had also attended the legislative conference as well as the newly elected officials’ meetings where he had the opportunity to meet new council members from other cities.

8. Citizens Wishing to Discuss Matters not on the Agenda

No one appeared.

9. Bids and Purchases: None

10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolution approving a conditional use permit for an accessory apartment at 13615 Spring Lake Rd.

Ellingson moved, Calvert seconded a motion to adopt resolution 2019-017 approving a conditional use permit for an accessory apartment at 13615 Spring Lake Rd. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances:

A. An ordinance rezoning the property at 14410 Orchard Road from R-1, low density residential district, to R-2, low density residential district

City Planner Loren Gordon gave the staff report.

Happe asked how many residents or properties would be notified. Gordon answered it was an extended notification area, but he did not have the exact number.

Ellingson asked how many homes could be built if the property were subdivided into one-half acre lots. Gordon answered 12-units if the road were not factored in; however, he said closer to eight or nine units with R1 zoning.

Calvert asked for an image with the proposed lot lines drawn on the map of the property. Community Development Director Julie Wischnack said staff would prepare one prior to the Planning Commission meeting.

Wiersum explained the council would not take public comment because this was an introduction. There would be a public hearing at the Planning Commission meeting.

Calvert noted several concerns including the topography and grading.

Happe wanted a clear plan for ground water and was concerned with safety on Orchard Road.
Wiersum asked for a plan for snow placement before the application returned to the council.

Gordon answered an earlier question noting that 137 people were included in the mailing.

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

13. Public Hearings:

A. Off-sale intoxicating liquor license for Tonka Bottle Shop LLC (DBA Tonka Bottle Shop), at 17616 Minnetonka Blvd.

Barone gave the staff report.

Wiersum opened the public hearing at 7:04 p.m.

Calvert moved, Happe seconded a motion to continue the public hearing to Apr. 1, 2019. All voted “yes.” Motion carried.

B. Resolutions supporting applications to the Department of Employment and Economic Development (DEED) and Hennepin County for funds from the Minnetonka Investment Fund, Job Creation Fund, and Economic Development Investment Fund

Wischnack gave the staff report.

Bill Wentink, PeopleNet, introduced himself and stood for question.

Wiersum stated that he was excited to have jobs coming to Minnetonka.

Wiersum opened the public hearing at 7:09 p.m. No one spoke. Wiersum closed the public hearing at 7:09 p.m.

Happe moved, Calvert seconded a motion to adopt:

1) Resolution No. 2019-018 supporting the submittal of a job creation fund application to the Department of Employment and Economic Development in connection with PeopleNet Communications Corporation

2) Resolution No. 2019-019 supporting the submittal of an application to Hennepin County for economic development infrastructure funds for PeopleNet Communications Corporation

All voted “yes.” Motion carried.

C. Public hearing related to tax increment financing for Marsh Run and update on development

Wischnack gave the staff report.
Concept Plan and Minutes
Fine Architectural Homes

We design and build fine homes for discerning people. They seek a home of artful composition, yet warm and comfortable to really live in. We work closely with them from start to finish to achieve a truly outstanding result.

For decades, the principals of Charles Cudd Co LLC have been responsible for the creation of some of the Twin Cities' most distinctive and sought after homes.

Our work is our passion and the vast number of enthusiastic client testimonials, show it. Every one of us is deeply committed to the highest standards of principled architecture, craftsmanship and customer service. We want to exceed our customers' expectations and achieve an outstanding result that we can be proud of. Charles Cudd Co. LLC sets the standard of excellence.
THE VILLAS AT BASS CREEK
10345 56TH AVE N, PLYMOUTH, MN
ARCHITECTURALLY DESIGNED DETACHED VILLAS
MAIN LEVEL LIVING
ASSOCIATION MAINTAINED
$695,800
OTHERS FROM $600’S

charlescudd.com
BUILDER LICENSE #BC635245
SHADYWOOD VILLAS
SHADYWOOD CIRCLE, ORONO, MN
ARCHITECTURALLY DESIGNED DETACHED VILLAS
MAIN LEVEL LIVING
ASSOCIATION MAINTAINED ($175 MONTHLY)
STARTING FROM $800’S
MODEL HOME NOW SHOWING

VILLAS AT MEDINA COUNTRY CLUB
4172 FAIRWAY DRIVE, MEDINA, MN
ARCHITECTURALLY DESIGNED DETACHED VILLAS
MAIN LEVEL LIVING - ASSOCIATION MAINTAINED
MODEL AS BUILT $925,800 - OTHERS FROM $800’S

charlescudd.com
BUILDER LICENSE #BC635245
WATERFORD LANDING
ON SCHUTZ LAKE IN VICTORIA, MN

ARCHITECTURALLY DESIGNED DETACHED VILLAS
MAIN LEVEL LIVING
ASSOCIATION MAINTAINED ($195 MONTHLY)
COMMUNITY PONTOON & PRIVATE BEACH
MODEL AT $968,000 OTHERS FROM THE $800’S
14. Other Business:

A. Ordinance repealing and replacing City Code 325, Sign Regulations

Gordon gave the staff report.

Calvert asked when the ordinance would go into effect. City Attorney Corrine Heine explained that an ordinance was published within ten days and then effective upon publication. This ordinance fell within an exception in the charter because it was related to land use which would become effective immediately. Calvert asked if it would be applied on county roads. Gordon answered that the county enforced its signage rules on county rights-of-way.

Happe moved, Schack seconded a motion to adopt ordinance 2018-17 repealing existing sign ordinance and adopting new sign ordinance. All voted “yes.” Motion carried.

B. Resolution authorizing the certification of delinquent water and sanitary sewer charges to the Hennepin County Auditor

Barone gave the staff report.

Wiersum commented that there were more delinquent accounts this year than any year in the previous nine and asked staff if there were any trends or concerns. Finance Director Merrill King shared that the number of accounts and dollar amount was pretty stable in terms of the numbers and partly due to the annual fee increase. She noted that approximately half were repeat offenders.

Calvert moved, Bergstedt seconded a motion to adopt resolution 2018-144 authorizing the certification of delinquent water and sanitary sewer charges to the Hennepin County Auditor. Bergstedt, Schack, Acomb, Happe, Calvert, and Wiersum voted “yes.” Ellingson abstained. Motion carried.

C. Concept Plan for redevelopment of the property at 14410 Orchard Rd.

Gordon gave the staff report.

Acomb asked if the 17-lot proposal met the requirements of R-1A zoning. Gordon said that it probably did not.

Happe noted that the 75 people in attendance at the neighborhood meeting were mostly against the project from a density standpoint and that the planning commission seemed to mainly agree with that. He said that the project had 2.75 units per acre and asked what the average was for the existing neighborhood. Gordon shared some of the ranges in the area, but said that there was a transition and 2.75 units per acre fits with what staff would expect for the area. Happe asked staff to talk about the impact on property taxes and whether that factored into the equation. Gordon answered that financial impact was not factored in at all and was not material to the land use decision. Happe discussed
his main concerns including the character of the neighborhood and additional traffic.

Calvert shared that she lived in this neighborhood and that there was a lot of topography. She talked about the two storm water management ponds and asked how much grading would be needed. Gordon discussed the side to side grading on smaller lot projects like this one.

City Engineer Will Manchester explained that the city examined how each project lined up with the water resources management plan and the watershed rules.

Rick Denman, Charles Cudd Co., said he understood the neighbors' concerns, but referenced the current price of land versus the cost when the neighboring homes were built. He showed a picture of the street scape and extra parking that had been added. He talked about the green space, grading, and storm water management.

Tricia Gardiner, 14409 Orchard Road, shared about the camaraderie that existed among the current neighbors and how the existing homes were being remodeled instead of torn down. She said that the neighbors were not anti-development, but did not have the infrastructure to support 17 homes.

Marcine Purinton, 3706 Westmark Circle, said that she lived in the last high-density housing that was built in the 1980s. She talked about traffic concerns on Orchard Road.

Heather Sterner, 3635 Sunrise Drive East, talked about safety issues due to more traffic. She was also concerned with storm water management.

Beth Desmond, 14306 Orchard Road, said that the neighbors were asking for a development that felt more congruent with the current neighborhood. She said the planned development was aimed at a demographic that prioritized indoors over outdoors. She was also concerned about tree loss.

Kara Celt, 14116 Orchard Road, talked about Orchard Road and traffic concerns. She said that it was narrow and very hilly.

Dale Thielen, 14309 Orchard Road, asked the council to protect the neighborhood’s interests including the ability to walk down the street.

Janet Larson, 3614 Westmark Drive, shared that she lived in the twin homes and that the twin homes were supposed to be the buffer between the industrial area and the single-family homes. She talked about the current neighborhood and how it was diverse in age and culture.

Jennifer Hutchison, 3611 Westmark Drive, discussed a concern over run off from the second pond and wildlife in the pond.
David Olson, 3817 Williston Road, lived in one of the oldest homes in the area on just over one-acre. He was concerned about the current infrastructure and especially electricity.

Ravindra Chintapalli, 3711 Westmark Drive, was also concerned with electricity. He shared that his yard had been excavated three times in four years because of difficulties with sustaining the current load.

Ron Peterson, 14615 Orchard Road, challenged the applicant’s position that a person could no longer purchase a 22,000 square-foot lot in Minnetonka and provided an example.

Brent Hislop, Synergy Land Company, shared that he worked for the Bensman family who had lived there for 45 years. He said that the family had a lot of interest in the property, but went with Charles Cudd Co. because of its reputation and quality homes. He talked about density, storm water management, and pond placement.

Dennis Scherber, 14605 Orchard Road, discussed traffic concerns. He asked if there would be a traffic study and if it was possible to have access to the property from Cardinal Road.

Wiersum answered that staff would later determine if a traffic study was required after a proposal was made.

Calvert shared that she walked the property over the weekend. She thought the homes were beautiful and the scale of the homes was needed in Minnetonka. She mentioned that if the lot size was increased then the home size would probably increase. She suggested grouping the homes differently to add green space. She talked about traffic and sidewalks on Orchard Road.

Schack noted that this was a big density change and agreed that if the lot size increased the home size would increase. After driving the area, she wasn’t convinced that 17 homes would have a big impact on traffic. She was pleased with the type of development and the size of the home, but suggested scaling down the density a little bit.

Acomb said that development in Minnetonka over the last ten years had been mainly larger homes. The council had pushed for and developed R-1A zoning to encourage modest size homes. She said that 19 homes were too many and encouraged the developer to propose something that would fit R-1A.

Happe noted that the parcel was going to be redeveloped and that Charles Cudd Co. was an excellent builder with a great reputation. But he agreed that density was too high and didn’t fit with the character of the neighborhood.

Bergstedt agreed with his colleagues and was more comfortable with a proposal that would fit R-1A zoning.
Calvert also agreed with R-1A zoning.

Ellingson worried about lack of parking and losing the natural topography.

Wiersum agreed that 17 homes were too dense, but he commented on the many positives including the high-quality builder. He said that the Bensman family had the opportunity as a land owner to find the highest and best use for its property. He thought that the property would be redeveloped and it would be more dense than classic R-1 zoning. He was hopeful that something would work out and thought the potential owners would be great neighbors.

D. Lake Minnetoga pond and lake management petition

Manchester gave the staff report.

Sig Birkeland, 5301 Rogers Drive, shared that he was the president of the Minnetoga Lake and Wetlands Association. This petition was one of many projects that had been completed over the years in an effort to keep the lake clean and healthy. The petition requested that the city fund 15 rain gardens to help maintain or improve the water quality. Lake Minnetoga had a trophic state index average of 52 for the last 15 years. The city’s goal was to be less than 50.

Calvert applauded the association for its wonderful work.

Acomb hoped other associations would follow in step and wished them luck.

Wiersum asked Birkeland to come back and visit the council when the index dropped below 50.

Acomb moved, Bergstedt seconded a motion to adopt resolution 2018-145 approving the petition. All voted “yes.” Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Calvert moved, Schack seconded a motion to adjourn the meeting at 9:09 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
Ordinance No. 2019-

An ordinance rezoning the property at 14410 Orchard Road from R-1, low density residential district, to R-2, low density residential district

The City Of Minnetonka Ordains:

Section 1.

1.01 A portion of the subject property at 14410 Orchard Road is depicted on Exhibit A of this ordinance is hereby rezoned to R-2, low-density residential district.

1.02 The property is legally described as:

That part of the Southeast 1/4 of the Southeast 1/4 of Section 16, Township 117, North Range 22 West of the 5th Principal Meridian described as follows: Beginning at the Southeast corner of said Section 16; thence North along the East line of said Section 16 to a point 197.5 feet North of the Southeast corner of the North 1/2 of the Southeast 1/4 of the Southeast 1/4 of said Section 16; thence West parallel with the South line of the North 1/2 of the Southeast 1/4 of said Section 16 a distance of 634 feet; thence South parallel with the East line of said Section 16 a distance of 197.5 feet to the South line of said North 1/2 of the Southeast 1/4 of the Southeast 1/4; thence East along said South line 317 feet; thence South parallel with the east line of said Section 16 to the South line of said Section 16; thence East along said South line 317 feet to the point of beginning. Except that part described as follows; Commencing at the Southeast corner of said Section 16; thence North along the East line of said Section 16 to a point 197.5 feet North of the Southeast corner of the North 1/2 of the Southeast 1/4 of the Southeast 1/4 of said Section 16; thence West parallel with the South line of the North 1/2 of the Southeast 1/4 of the Southeast 1/4 of said Section 16 a distance of 357 feet to the point of beginning; thence continue West on said parallel line 277 feet; thence South parallel with the East line of said Section 16 a distance of 197.5 feet to the South line of said North 1/2 of the Southeast 1/4 of the Southeast 1/4; thence East along said South line 297 feet; thence Northerly to the point of beginning, according to the United States Government Survey thereon and situate in Hennepin County, Minnesota.

Section 2.

2.01 This ordinance is based on the following findings:

1. The rezoning would be consistent with the intent of the zoning ordinance and the comprehensive guide plan.

2. The rezoning would be consistent with the public health, safety, and welfare.

2.02 This ordinance is subject to the following conditions:
1. The site must be developed and maintained in substantial conformance with the following plans:

- 12-lot Preliminary Plat, dated April 16, 2019
- 11-lot Villa Lot Layout Exhibit, dated May 20, 2019
- 11-lot Villa Lot Layout-Grading Exhibit, dated May 20, 2019
- Drainage, and Erosion Control Plan, dated April 5, 2019
- Utilities Plan, dated April 5, 2019
- Landscape Plan, dated April 5, 2019

2. The development must further comply with all conditions outlined in City Council Resolution No. 2019-____, adopted by the Minnetonka City Council on July 8, 2019.

Section 3. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on July 8, 2019.

________________________
Brad Wiersum, Mayor

Attest:

________________________
Becky Koosman, City Clerk

**Action on this ordinance:**

Date of introduction: Feb. 25, 2019
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 regular meeting held on July 8, 2019.
Becky Koosman, City Clerk
Resolution No. 2019- 
Resolution approving the preliminary plat of HIGHCROFT MEADOWS 
at 14410 Orchard Road

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

Section 1. Background.

1.01 The subject property is located at 14410 Orchard Road. It is legally described as:

That part of the Southeast 1/4 of the Southeast 1/4 of Section 16, Township 117, North Range 22 West of the 5th Principal Meridian described as follows: Beginning at the Southeast corner of said Section 16; thence North along the East line of said Section 16 to a point 197.5 feet North of the Southeast corner of the North 1/2 of the Southeast 1/4 of the Southeast 1/4 of said Section 16; thence West parallel with the South line of the North 1/2 of the Southeast 1/4 of the Southeast 1/4 of said Section 16 a distance of 634 feet; thence South parallel with the East line of said Section 16 a distance of 197.5 feet to the South line of said North 1/2 of the Southeast 1/4 of the Southeast 1/4; thence East along said South line 317 feet; thence South parallel with the east line of said Section 16 to the South line of said Section 16; thence East along said South line 317 feet to the point of beginning. Except that part described as follows: Commencing at the Southeast corner of said Section 16; thence North along the East line of said Section 16 to a point 197.5 feet North of the Southeast corner of the North 1/2 of the Southeast 1/4 of the Southeast 1/4 of said Section 16; thence West parallel with the South line of the North 1/2 of the Southeast 1/4 of the Southeast 1/4 of said Section 16 a distance of 357 feet to the point of beginning; thence continue West on said parallel line 277 feet; thence South parallel with the East line of said Section 16 a distance of 197.5 feet to the South line of said North 1/2 of the Southeast 1/4 of the Southeast 1/4; thence East along said South line 297 feet; thence Northwesterly to the point of beginning, according to the United States Government Survey thereof and situate in Hennepin County, Minnesota.

1.02 On April 25, 2019, the planning commission held a hearing on a proposed 14-lot subdivision of the property. 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 deny the 14-lot plat.

1.03 On May 6, 2019, the city council considered and tabled the 14-lot proposal.

1.04 Rachel Development has since submitted revised plans for the city’s consideration. The plans illustrate a 12-lot subdivision. Eleven homes would be constructed around a new, public cul-de-sac and one home would be constructed with access to Cardinal Road. The revised plan requires:

- Rezoning a portion of the property from R-1 to R-2;
• Preliminary plat, with the following variances:

<table>
<thead>
<tr>
<th>Lot Width At Right-of-Way</th>
<th>Required</th>
<th>Variance to</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot 6</td>
<td>55 ft</td>
<td>45 ft</td>
</tr>
<tr>
<td>Lot 7</td>
<td>50 ft</td>
<td>50 ft</td>
</tr>
</tbody>
</table>

• Variance to allow construction of detached structures; and
• Variance to establish maximum floor area ratio based on average lot size.

Section 2. Standards

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

2.02 By City Code §400.055, variances to subdivision standards may be granted, but are not mandated, when an applicant meets the burden of proving that: (1) the proposed variance is a reasonable use of the property, considering such things as functional and aesthetic justifications for the variance and improvement to the appearance and stability of the property and neighborhood; (2) the circumstances justifying the variance are unique to the property, are not caused by the landowner, are not solely for the landowner's convenience, and are not solely because of economic considerations; and (3) the variance would not adversely affect or alter the essential character of the neighborhood.

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

Section 3. Findings.

3.01 The proposal requires variances to lot area and width standards outlined in City Codes §400.030 and to structure type and floor area ratio standards outlined in City Code §300.11.

3.02 The requested variance would meet the variance standards as outlined in City Codes §400.055 and §300.07.

1. Comprehensive Plan. The requested variance would result in a residential development of 1.94 units per acre. This is within the one to four units per acre defined as low-density within the comprehensive plan.

2. Intent of the ordinances.
a) Lot width and floor area. The general intent of residential ordinance standards is to promote orderly development, compatible with adjacent property. Any development of the existing property will result in a visual change to the immediate area; the requested variances would not, in and of themselves. Further, as the variances would generally apply to the new development as a whole, they would establish a new order and consistency along the newly created street.

b) Detached Structures. The intent of the R-2 ordinance is to allow for locations within the community where twinhomes can be constructed. The proposed detached structures are not contrary to this purpose. The arrangement of a twinhome development on the subject site would be slightly different than the proposed site arrangement. However, this difference in site design would result in very little – if any – difference in overall site impact.

c) Floor Area. Applying the maximum 0.25 FAR to individual lots would result in varying maximum floor areas on each lot, given the varying sizes of each proposed lot. This is generally contrary to an association-maintained development, in which dwellings are similarly sized. Average lot size within the 12-lot proposal is 20,206 sq.ft. This would result in a maximum floor area of 5,050 square feet per lot. (0.25 x 20,206 sq. ft.). Whether FAR is based on average lot size or individual lot size, the total square footage of building area within the development would essentially be the same. Given that the total square footage of building area within the development would not differ under these two methodologies, the requested variance is reasonable.

3. Unique Circumstance. The subject property is unique to the neighborhood. It is four times larger than the next largest lot in the project notice area. The northerly one and half acres of the property is encumbered by a steep and wooded slope. This encumbered area itself is larger than the next largest lot in the project notice area.

4. Character of Locality. The subject property is a six-acre site surrounded by properties that developed roughly 50 years ago. It is highly unlikely that any development of the site would result in construction consistent with the size and design of homes in the surrounding area. The requested variances would not, in and of themselves, impact the character of the locality. Rather, any development of the site would result in a visual change to the immediate area.

Section 4. City Council Action.

4.01 The above-described preliminary plat is hereby approved, subject to the following conditions:
1. Final plat approval is required.
   a) A final plat will not be placed on a city council agenda until a complete final plat application is received. The following must be submitted for a final plat application to be considered complete:
      1) A final plat drawing that clearly illustrates the following:
           a. Minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way(s) and minimum 7-foot wide drainage and utility easements along all other lot lines.
           b. Utility easements over existing or proposed public utilities, as determined by the city engineer.
           c. Drainage and utility easements over stormwater management facilities, as determined by the city engineer. Note, the easement over the storm sewer line must be twice as wide as the pipe is deep.
      2) Documents for the city attorney’s review and approval. These documents must be prepared by an attorney knowledgeable in the area of real estate.
           a. Title evidence that is current within thirty days.
           b. A conservation easement on Lot 1, Block 2 depicted as a large drainage and utility easement on a preliminary plat dated April 16, 2019. The easement may allow removal of hazard, diseased, or invasive species and installation and maintenance of public utilities. The easement must be recorded in conjunction with the final plat.
   b) Prior to final plat approval, the documents outlined in section 4.01(1)(a)(2) above must be approved by the city attorney.
   c) Prior to the release of the final plat for recording, submit the following:
      1) Two sets of mylars for city signatures.
      2) An electronic CAD file of the plat in microstation or DXF.
      3) Park dedication fee of $55,000.

2. Subject to staff approval, HIGHCROFT MEADOWS must be developed
and maintained in substantial conformance with the following plans, except that the plans must show a total of 12-lots and except as modified by other conditions below:

- 12-lot Preliminary Plat, dated April 16, 2019
- 11-lot Villa Lot Layout Exhibit, dated May 20, 2019
- 11-lot Villa Lot Layout-Grading Exhibit, dated May 20, 2019
- Drainage, and Erosion Control Plan, dated April 5, 2019
- Utilities Plan, dated April 5, 2019
- Landscape Plan, dated April 5, 2019

3. A grading permit is required. This permit will cover grading and installation of sewer and water mains, stormwater facilities, and retaining walls. Unless authorized by appropriate staff, no site work (including tree removal) may begin until a complete grading permit application has been submitted, reviewed by staff, and approved. This permit does not cover grading or any other site work on Lot 1, Block 2, which can only be done in conjunction with an approved building permit for the lot.

   a) The grading permit application must be submitted through the city’s online ePermits system. A complete application must include:

      1) Street and utility specifications.

      2) A utility exhibit. The exhibit must show only property lines, and sewer, water and, stormwater facilities. The exhibit must clearly note which lines are public and which are private.

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

         a. Final grading plan. The plan must:

            - Include a suitable access route to allow maintenance vehicles to traverse the storm sewer alignment on the western property line.

            - Illustrate no more than 12 high-priority trees to be removed over the entirety of the plat. A tree is considered removed if 30 percent or more of the critical root zone is compacted, cut, filled or paved.

            - In Block 1, as depicted on the preliminary plat dated April 16, 2019:
• No more than two high-priority trees may be removed from Lot 4.

• No more than three high-priority trees may be removed from Lot 5.

• No more than three high-priority trees may be removed from Lot 6.

b. Final utility plan. The plan must:

• Reevaluate basement floor elevations to determine if sanitary sewer run between MH1 and MH2 can be increased beyond a minimum grade.

• Note 8-inch DIP CI 52 water main.

• Illustrate directional-drilling of the storm sewer line to the north and west to avoid tree, slope, and potential wetland impacts.

• Not include any wetland impact. If work is proposed in areas of potential off-site wetlands, adequate information must be provided and confirmed to verify those areas are incidental prior to beginning work, or the work must be relocated to avoid potential wetland areas.

c. Final stormwater management plan is required for the entire site’s impervious surface. The plan must demonstrate conformance with the following criteria:

• Rate. Limit peak runoff flow rates to that of existing conditions from the 2-, 10-, and 100-year events at all points where stormwater leaves the site.

• Volume. Provide for on-site retention of 1-inch of runoff from the entire site’s impervious surface.

• Quality. Provide for all runoff to be treated to at least 60 percent total phosphorus annual removal efficiency and 90 percent total suspended solid annual removal efficiency.

In addition:
• Provide detail of drainage improvements on 14509 Minnetonka Drive (Williston Center).

d. Final landscape plan. The plan must:

• Meet minimum landscaping and mitigation requirements, as outlined in the ordinance. Note, only small shrubs, perennials and grasses may be located in public easements.

• Not include any trees within the public right-of-way. Newly planted deciduous trees must be located at least 15 feet from pavement edge and coniferous trees at least 20 feet from the pavement edge.

NOTE: Soils on Lots 1 through 11, Block 1 must be decompacted, amended with compost, and inspected prior to final landscaping for each unit.

e. Tree mitigation plan. The plan must:

• Meet mitigation requirements, as outlined in the ordinance. However, at the sole discretion of staff, mitigation may be decreased. Based on the submitted plans, the mitigation requirements would be 57 inches plus seven two-inch trees.

b) Prior to issuance of a grading permit:

1) The final plat must be recorded at Hennepin County.

2) Any outstanding assessments or fees must be paid.

3) Submit the following documents:

a. A development contract in a city-approved format for review and approval of city staff. The document must include coordination with the city on drainage improvements on the city property to the north. This document must be fully executed prior to issuance of the permit.

b. A legal agreement pertaining to future costs of maintenance/repair of the directionally-bored storm sewer line for the review and approval of the city attorney. This document must be fully executed prior to issuance of the permit.
c. An encroachment agreement for retaining walls located within public easements.

d. A recorded copy of the conservation easement.

e. A stormwater maintenance agreement in a city-approved format for review and approval of city staff.

f. An MPCA NPDES permit.

g. An MPCA Sanitary Sewer Extension Permit or documentation that such permit is not required.

h. An MDH permit for the proposed water main or documentation that such permit is not required.

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

4) Submit the following:

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

b. All required administration and engineering fees.

c. Evidence that an erosion control inspector has been hired to monitor the site through the course of construction. This inspector must provide weekly reports to natural resource staff in a format acceptable to the city. At its sole discretion, the city may accept escrow dollars, an amount to be determined by natural resources staff, to contract with an erosion control inspector to monitor the site throughout the course of construction.

d. Individual letter of credit or cash escrow in the amount of 125% of an engineer’s bid cost or 150% of an estimated cost to comply with grading permit and landscaping requirements and to restore the site. The city will not fully release the letters of credit or cash escrow until (1) an electronic CAD file or certified as-built drawings of the public infrastructure in microstation or DXF format have
been submitted; (2) vegetated ground cover has been established; and (3) required landscaping or vegetation has survived one full growing season.

e. Cash escrow in an amount of $5,000. This escrow must be accompanied by a document prepared by the city and signed by the builder and property owner. Through this document, the builder and property owner will acknowledge:

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

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

5) Hold a preconstruction meeting with site contractors and city planning, engineering, public works, and natural resources staff. The meeting may not be held until all items required under 4.01 Subd.4(a), and Subd.4(b)(3) and (4) of this resolution have been submitted, reviewed by staff, and approved.

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

7) Permits may be required from other outside agencies. It is the applicant’s or property owner’s responsibility to obtain any necessary permits.

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

a) Submit the following:

1) Documents establishing a homeowners’ association. The association must be responsible for maintaining any common areas and required stormwater management facilities. Maintenance will include, but not be limited to, the periodic removal of sedimentation at the base of the pond, keeping approved vegetated or pearock cover within the pond, and removing any blockage that may impede the drainage of the site, as approved with the building permits.
2) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.

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

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

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

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

5. Except as otherwise approved by the resolution, structures on Lots 1 through 11, Block 1 are subject to all R-2 zoning standards. In addition:

a) Maximum floor area per lot is 5,050 square feet. Floor area is defined as the sum of the fully exposed gross horizontal area of a building, including attached garage space and enclosed porch areas, and one-half the gross horizontal area of any partially exposed level such as a walkout or lookout level.

6. Except as otherwise approved by this resolution, the home on Lot 1, Block 2 is subject to R-1 zoning standards. In addition:

a) No grading or tree removal may occur on this lot until a building permit has been issued for the lot.

b) The grading and tree preservation limits must be in general conformance with the grading plan dated April 12, 2019.
c) Construction must comply with steep slope ordinance.

d) No more than one high-priority tree may be removed from the lot. Additional high-priority trees may be removed if: (1) construction is completed on all lots in Block 1, (2) that construction resulted in saving additional high-priority trees such that a total of 12 is not exceeded for the whole development; and (3) removal is specifically approved by city staff.

7. All lots within the development must meet all minimum access requirements as outlined in Minnesota State Fire Code Section 503. If access requirements are not met, houses must be protected with a 13D automatic fire sprinkler system or an approved alternative system.

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

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 8, 2019.

_______________________________________
Brad Wiersum, Mayor

Attest:

_____________________________________________
Becky Koosman, 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 July 8, 2019.
City Council Agenda Item #14E
Meeting of July 8, 2019

Brief Description: Draft Affordable Housing Policy

Overview

On Feb. 4, 2019, the city council discussed affordable housing at the city council study session and directed staff to prepare items related to affordable housing for the Economic Development Advisory Commission (EDAC) to consider. In response, staff drafted an affordable housing work plan reviewed by the EDAC at its March 14, 2019, meeting. The housing work plan identified drafting an affordable housing policy as the priority action in 2019. The staff report outlines the background on the inclusion of affordable housing in multifamily and for sale housing and key components of the draft affordable housing policy (attached).

Background

Housing and the availability of affordable housing are directly related to the city’s part in accepting and managing regional growth. Housing also has a direct relationship to a city’s economic health. The ability of a city to attract talent and provide employment base to companies is a current and future issue for the city’s strategic plan.

The City of Minnetonka has a long history of promoting diversity in the types and size of housing units available in Minnetonka, including the production of new affordable rental and ownership opportunities. Over the past 20 years, the city has analyzed and implemented dozens of housing centric policies and programs to address the changing needs of the community. More recently, the draft 2040 comprehensive plan identified the development of an affordable housing policy as a strategy to create a variety of housing products at varying levels of affordability.

The draft affordable housing policy is consistent with the city council’s desire to continue to promote the inclusion of affordable housing in all new multifamily development projects and for-sale attached projects. At the Feb. 4, 2019, city council study session, the council directed staff to draft an affordable housing policy for EDAC to review to renew the city’s 2004 affordable housing commitment. The EDAC’s feedback from May 8, 2019, meeting is included in this staff report.

Affordable Housing Production

In 2004, the city’s Economic Development Authority (EDA) approved a resolution supporting the inclusion of 10%-20% of the total units in multi-family developments as affordable housing. At the time, the council and EDA asked staff to pursue this goal when meeting with developers proposing new multi-family developments including townhomes, apartments, and condominiums as a way to increase affordable housing in the city. This tool was critical to the production of hundreds of units of affordable housing in the city over the past 15 years, as it has provided flexibility through years of market volatility when affordable housing or mixed-income housing is more difficult to finance. If adopted, the Affordable Housing Policy would supersede the previous resolution adopted by the EDA on Feb. 3, 2004.
Because of the city’s prior efforts, Minnetonka has approximately 7,120 units of multi-family rental housing units (buildings with 6 or more units) that were built or approved for construction between 1969 and 2019. Of these units, 2,131 are naturally occurring affordable housing (NOAH) units and an additional 1,901 received city assistance in exchange for continued affordability. The policy was drafted to encourage the inclusion of a minimum of 5% of new multi-family rental units at 50% of the Area Median Income (AMI), as those units are most difficult to produce. Units at 30% AMI typically require partnerships with non-profit organizations as these units require support services. Therefore, the policy does not contemplate requiring developers to include units at 30% AMI. The chart below depicts the existing number of multi-family rental units and affordability range.

<table>
<thead>
<tr>
<th># of NOAH Units</th>
<th>Total Aff. Units</th>
<th># @ 30%</th>
<th># @ 50%</th>
<th># @ 60%</th>
<th>Mixed in Market Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,131</td>
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<td>288</td>
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<td>1,103</td>
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<table>
<thead>
<tr>
<th># of City Assistance Units</th>
<th>Total Aff. Units</th>
<th># @ 30%</th>
<th># @ 50%</th>
<th># @ 60%</th>
<th>Mixed in Market Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,901</td>
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<td>291</td>
<td>294</td>
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<td>100.00%</td>
<td>50.52%</td>
<td>44.44%</td>
<td>14.73%</td>
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</table>

For example, if a developer were to construct a 175-unit multi-family rental project without city assistance or zoning amendment, the city would require a minimum of 5% of the units (9 units) affordable at 50% AMI. The estimated cost to the developer to provide the affordable units would be $1,540,472 over the term of 30 years ($5,363 per unit/per year). As the affordability percentage increases, it becomes more difficult for the developer to include affordable units while maintaining a reasonable return. Many factors impact this assumption, such as soft costs, land costs, development costs, and labor. The attached Mixed-Income Housing Policy Analysis Chart illustrates the “gap” at differing levels of affordability.

Additionally, there are an estimated 188 contract based for-sale affordable housing units. The policy encourages the inclusion of at least 10% of the units affordable to households at or below 80% AMI. This policy would apply to an attached for-sale common interest or attached community developments (condominiums, townhomes, and co-ops).

The attached draft Affordable Housing Policy further defines the applicability and city requirements for new developments with at least 10 dwelling units. The goal of the policy is to encourage the inclusion of affordable housing in all new developments by providing developers with clear and consistent expectations of development in the community.

**Key components of the Draft Affordable Housing Policy**

**Applicability and Minimum Project Size**

This policy applies to all new multi-family rental developments with 10 or more dwelling units and all new for-sale common interest or attached community developments,
(condominiums townhomes, co-ops) with at least 10 dwelling units. This includes existing properties or mixed-use developments that add 10 or more units. The requirements also have a stepped approach, for developments with no changes to zoning or guiding and no city assistance requested, a smaller percentage of affordable units is required; for developments that request changes to zoning or guiding or city assistance, the percentage of affordable housing increases.

Affordability Requirements for Developers

General Requirements.

For projects not requesting a zoning change and/or comprehensive plan amendment and not receiving City assistance.

- In multi-family rental developments, at least 5% of the units shall be affordable to and occupied by households with an income at or below 50% of the AMI.

- In attached for-sale common interest or attached community developments (condominiums townhomes, co-ops), at least 10% of the units shall be affordable to and occupied by households with an income at or below 80% AMI.

For projects requesting a zoning change or comprehensive plan amendment without City assistance.

- In multi-family rental developments, at least 10% shall be affordable to and occupied by households with incomes at or below 60% AMI, with a minimum of 5% of the units at 50% AMI.

- In attached for-sale common interest or attached community developments (condominiums townhomes, co-ops), at least 10% of the units shall be affordable to and occupied by households with an income at or below 80% AMI.

For projects receiving City assistance.

- For multi-family rental developments, at least 20% of the units shall be affordable to and occupied by households with an income at or below 50% of the AMI; or at least 40% of the units shall be affordable to and occupied by households with an income at or below 60% AMI.

- In attached for-sale common interest or attached community developments (condominiums townhomes, co-ops), at least 10% of the units shall be affordable to and occupied by households with an income at or below 80% AMI.

Period of Affordability

In developments subject to the policy, the period of affordability for the affordable dwelling units shall be thirty (30) years. The city currently encourages 30 years of affordability.
Distribution of Affordable Dwelling Units

The affordable dwelling units shall be consistent with the market rate units in quality of construction of finish and intermixed within the same development.

Recorded Agreements, Conditions and Restrictions

A Declaration of Restrictive Covenants shall be executed between the City/EDA and Developer, in a form approved by the City’s EDA attorney, which formally sets forth development approval and requirements to achieve affordable housing in accordance with this policy and other city requirements.

EDAC Feedback – May 8, 2019

At the May 8, 2019, Economic Development Advisory Commission (EDAC) meeting the commissioners reviewed the draft Affordable Housing Policy. Below are the EDAC’s comments and findings from its review.

- Commissioners requested clarification on which scenarios may warrant a waiver of the affordable housing requirement.
  - Staff clarified that extraordinary development costs, such as clean up of contamination, high-water table mitigation, methane remediation, etc. could result in extraordinary development costs.

- Commissioners inquired about how the for-sale units would be required to comply with the policy.
  - Staff clarified that a covenant would be recorded with the property (similar to the indexed units in the city).

- Commissioners inquired about the option of payment-in-lieu.
  - Staff confirmed that payment-in-lieu would be researched at a later time.
  - Commissioner Cibulka expressed interest in exploring payment-in-lieu in the future.
  - The city’s financing advisor, Stacie Kvilvang, explained that utilizing a payment-in-lieu can be flawed because the fee developer pays does not cover the actual cost of building an affordable unit.

- Commissioners inquired about the tools cities are utilizing to obtain affordable housing.
  - Staff stated that there are several tools, including Tax Increment Financing (TIF), abatement, and land subsidies.

Commissioners Jacobsohn, Johnson, Johnston, and Yunker voted in favor of the policy. Commissioner Cibulka voted no. Commissioners Hromatka and Knickerbocker were not in attendance.
Recommendation

Staff recommends the city council adopt the attached resolution approving Council Policy 13.2 related to affordable housing.

Submitted through:
   Geralyn Barone, City Manager
   Corrine Heine, City Attorney

Originated by:
   Alisha Gray, EDFP, Economic Development and Housing Manager
   Julie Wischnack, AICP, Community Development Director

Attachments:

Draft Affordable Housing Policy

Mixed-Income Housing Policy Analysis

Affordable Housing Work Plan

Feb. 4, 2019: Staff Summary of City Council Study Session

2004 resolution recommending affordable housing

Supplemental Information

May 8, 2019 Unapproved EDAC Minutes (Affordable Housing Policy)

March 14, 2019 – EDAC Meeting (Draft Affordable Housing Workplan)

Feb. 4, 2019 – City Council Study Session

Jan. 7, 2019 – City Council Final draft of 2040 Comprehensive Plan

Sept. 4, 2018 – Joint Study Session – Comprehensive Plan Discussion

June 11, 2018 – City Council Study Session – Comprehensive Plan Housing Chapter

Aug. 23, 2017 – Comprehensive Guide Plan Steering Committee Meeting

2030 Comprehensive Plan
Policy Number 13.2  
Affordable Housing Policy

Purpose of Policy: This policy establishes general procedures and requirements to govern the City’s commitment to affordable housing.

Introduction

The City of Minnetonka has a long history of promoting diversity in the type and size of housing units in Minnetonka, including the production of new affordable rental and ownership opportunities.

This Policy recognizes the city’s commitment to provide affordable housing to households of a broad range of income levels in order to appeal to a diverse population and provide housing opportunities to those who live or work in the city. The goal of this policy is to ensure the continued commitment to a range of housing choices by requiring the inclusion of affordable housing for low and moderate-income households in new multifamily or for-sale developments.

The requirements in this policy further the Minnetonka Housing Action Plan and city’s Housing Goals and Strategies identified in the 2040 Comprehensive Plan.

Applicability and Minimum Project Size

This policy applies to all new multifamily rental developments with 10 or more dwelling units and all new for-sale common interest or attached community developments, (condominiums, townhomes, co-ops) with at least 10 dwelling units. This includes existing properties or mixed-use developments that add 10 or more units.

Calculation of Units

The number of Affordable Dwelling Units (ADUs) required shall be based on the total number of dwelling units approved by the city. If the final calculation includes a fraction, the fraction of a unit shall be rounded up to the nearest whole number.

If an occupied property with existing dwelling units is expanded by 10 or more units, the number of required ADUs shall be based on the total number of units following completion of expansion.

Affordable Dwelling Unit (ADU)

General Requirements.

For projects not requesting a zoning change and/or comprehensive plan amendment and not receiving city assistance.

- In multi-family rental developments, at least 5% of the units shall be affordable to and occupied by households with an income at or below 50% of
the AMI.

- In attached for-sale common interest or attached community developments (condominiums, townhomes, co-ops), at least 10% of the units shall be affordable to and occupied by households with an income at or below 80% AMI.

For projects requesting a zoning change or comprehensive plan amendment without city assistance.

- In multi-family rental developments, at least 10% of the units shall be affordable to and occupied by households with incomes at or below 60% AMI, with a minimum of 5% at 50% AMI.

- In attached for-sale common interest or attached community developments (condominiums, townhomes, co-ops), at least 10% of the units shall be affordable to and occupied by households with an income at or below 80% AMI.

For projects receiving city assistance.

- For multi-family rental developments, at least 20% of the units shall be affordable to and occupied by households with an income at or below 50% of the AMI; or at least 40% of the units shall be affordable to and occupied by households with an income at or below 60% AMI.

- In attached for-sale common interest or attached community developments (condominiums, townhomes, co-ops), at least 10% of the units shall be affordable to and occupied by households with an income at or below 80% AMI.

Calculation of AMI

For purposes of this policy, Area Median Income means the Area Median Income for the Twin Cities metropolitan area calculated annually by the Minnesota Housing Finance Agency for establishing rent limits for the Housing Tax Credit Program (multi-family ADU) and the Department of Housing and Urban Development (attached for-sale common interest or attached community developments, including: condominiums, townhomes, co-ops).

Rent Level Calculation (Multi-Family Rental Developments)

The monthly rental price for an ADU receiving city assistance shall include rent and utility costs and shall be based on fifty percent (50%) or sixty percent (60%) for the metropolitan area that includes Minnetonka adjusted for bedroom size and calculated annually by Minnesota Housing Financing Agency for establishing rent limits for the Housing Tax Credit Program. This does not apply to units not receiving city assistance.
For Sale Projects

The qualifying sale price for an owner-occupied dwelling unit shall include property taxes, homeowner’s insurance, principal payment and interest, private mortgage insurance, monthly ground lease, association dues, and shall be based upon eighty (80%) AMI for the metropolitan area that includes Minnetonka adjusted for bedroom size and calculated annually by the Department of Housing and Urban Development.

Period of Affordability

In developments subject to this policy, the period of affordability for the ADUs shall be thirty (30) years.

Location, Standards, and Integration of ADUs

Distribution of affordable housing units. Unless otherwise specifically authorized by this policy, the ADUs shall be integrated within the development and distributed throughout the building(s). The ADUs shall be incorporated into the overall project unless expressly allowed to be located in a separate building or a different location approved by the city council.

Number of bedrooms in the affordable units. The ADUs shall have a number of bedrooms proportional to the market rate units. The mix of unit types shall be approved by the city.

Size and Design of ADUs. The size and design of ADUs shall be consistent and comparable with the market rate units in the rest of the project.

Exterior/Interior Appearance of ADUs. The exterior/interior materials and design of the ADUs in any development subject to these regulations shall be indistinguishable in style and quality with the market rate units in the development.

Non-Discrimination Based on Rent Subsidies

Developments covered by this policy must not discriminate against tenants who would pay their rent with federal, state or local public assistance, including tenant based federal, state or local subsidies, but not limited to rental assistance, rent supplements, and Housing Choice Vouchers.

Alternatives to On-Site Development of an ADU

The city recognizes that it may not be economically feasible or practical in all circumstances to provide ADUs in all development projects due to site constraints resulting in extraordinary costs of development. The city reserves the right to waive this policy if the developer requests a waiver and can provide evidence of extraordinary costs prohibiting the inclusion of ADUs. The city will review on a case-by-case basis to determine if the waiver is justifiable and granted.
Recorded Agreements, Conditions and Restrictions

A declaration of restrictive covenants shall be executed between the city, EDA and developer, in a form approved by the city’s EDA attorney, which formally sets forth development approval and requirements to achieve affordable housing in accordance with this policy. The declaration shall identify:

- The location, number, type, and size of affordable units to be constructed;
- Sales and/or rental terms; occupancy requirements;
- A timetable for completion of the units; and
- Annual Tenant income and rent reporting requirements; and
- Restrictions to be placed on the units to ensure their affordability and any terms contained in the approval resolution by the city/EDA.

The applicant or owner shall execute all documents deemed necessary by the city manager, including, without limitation, restrictive covenants and other related instruments, to ensure affordability of the affordable housing unit within this policy.

The documents described above shall be recorded in the Hennepin County as appropriate.

Definitions

Affordable Dwelling Unit: A unit within a residential project subject to this policy that shall meet the income eligibility and rent affordability standards outlined in this policy.

Financial Assistance: Funds derived from the city or EDA, including but is not limited to fund from the following sources:

- City of Minnetonka
- Housing Redevelopment Authority (HRA) Funds
- Economic Development Authority (EDA) Funds
- Community Development Block Grant (CDBG)
- Reinvestment Assistant Program
- Revenue Bonds and/or Conduit Bonds
- Tax increment financing (TIF), TIF pooling, or tax abatement
- Land write downs
- Other government housing development sources

Adopted by Resolution
Council Meeting of:
## Assumptions:
1. Annualized rental income loss per applicable affordability requirement is discounted to present value based on affordability duration
2. Affordable rental rates are based upon 2018 max rents
3. Annual rental income reduction discounted at 5.5% for present value
4. Actual gap for proposed projects will vary depending on specifics
Affordable Housing Work Plan

<table>
<thead>
<tr>
<th>Topic</th>
<th>Type</th>
<th>EDAC</th>
<th>Council</th>
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<tbody>
<tr>
<td>Intro Mixed income policy</td>
<td>Policy</td>
<td>May 8, 2019</td>
<td>May/June 2019</td>
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<tr>
<td>2020-2024 EIP Review</td>
<td>Program</td>
<td>March 14 – EIP Preview</td>
<td>April 22 (Council review first draft at work session)</td>
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<tr>
<td>Intro Noah Strategies</td>
<td>Program</td>
<td>April 24 (EDAC review of draft EIP)</td>
<td>June 3 (Final adoption of EIP)</td>
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<td>• 4d Program (concept)*</td>
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<td>• Legacy Education Program Intro (concept)*</td>
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<td>• Multifamily Rehab Loan Intro (concept)*</td>
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<td>• Notice of Sale</td>
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<td>• 90 Day Protection</td>
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<td>• Relocation</td>
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<tr>
<td>Other</td>
<td>Research</td>
<td>Oct. 2019</td>
<td>Nov./Dec. 2019</td>
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<tr>
<td>• Senior Affordable Housing Exploration</td>
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<td>• Affordable Housing for Public Service</td>
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<td>• Research General Funding for Affordable Housing</td>
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<td>• Accessory Apartment (ordinance amendment)</td>
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<td>• Payment-in-lieu of affordability requirements</td>
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*Further development of conceptual programs would occur in Fall 2019.*
Council Present: Bob Ellingson, Rebecca Schack, Mike Happe, Tim Bergstedt, Deb Calvert, and Mayor Brad Wiersum.

Staff: Geralyn Barone, Corrine Heine, Perry Vetter, Julie Wischnack, Scott Boerboom, Kevin Fox, and Alisha Gray. City consultants John McNamara, Jake Wollensak and Paige Sullivan of WOLD Engineers and Architects were also in attendance.

Wiersum called the meeting to order at 6:00 p.m.

1. City Manager’s Report

   City Manager Geralyn Barone updated the council on the sustainability efforts staff has been working on in conjunction with the student group concerned about climate change.

   Ms. Barone asked if there was interest from the council to look at drafting a resolution requesting the legislature to have a discussion on statewide campaign finance reform. CM Calvert indicated that there is interest to look at the clean elections request at a future time. CM Schack again showed interest. CM Happe, CM Bergstadt, and Mayor Wiersum declined to look at the issue.

2. Public Safety Facilities Finishes Update

   Assistant City Manager Perry Vetter gave the staff introduction.

   John McNamara, Jake Wollensak and Paige Sullivan of WOLD Engineers and Architects presented the facility finishes and furnishing design for the Police and Fire Facility Project.

   CM Happe, asked if there would be solar panels on the roof rather than a white roof on the building. It was explained that the roof will be constructed to accept solar panels at a later time.

3. Diversity and Inclusion Update

   Vetter and Barone introduced the work the city is doing with diversity and inclusion efforts.

   Councilmember Schack requested we leverage volunteers and resources of the community to assist staff in this area.

   Councilmember Calvert requested a listing of topic from the Ideation Session held last fall and that future integration include elected officials so anyone in the community can become involved for feel they have appropriate representation. Establishing partnerships, and engaging neighborhoods were themes that were brought up at the session.
Mayor Wiersum supported the work and agreed with the other colleagues on the efforts conducted by the Police Department and specifically Officer Marks.

Ms. Barone presented some research on cities that have enacted Human Rights Commissions. Those cities suggested that there be clarity on policies that are enacted, and that there be budgeted amounts for events hosted by those groups. Ms. Barone did not make a recommendation on the creation of a commission.

CM Calvert asked what the reasons were on why the cities disbanded their human rights commissions, Ms. Barone responded that there was not council alignment with values of the human rights commissions.

4. Affordable Housing

Wischnack and Gray presented information about affordable housing.

Three key themes that emerged as leading efforts to pursue, they are:

- Renewing the 2004 resolution requiring affordable housing
- Preserving NOAH properties
- Minimizing displacement

Ms. Gray presented information on what peer cities are doing on this area.

- Bloomington is considering an ordinance that would require 9% of new multifamily construction is affordable or would pay in lieu.
- Eden Prairie would require that 20% of units be affordable if they were to get assistance
- Edina has payment in lieu ordinance in place.

2004 Resolution Renewal:

Ms. Wischnack asked the council if there was a desire to adopt a new resolution requiring 10% or 20% affordable housing to a project using city assistance.

CM Schack asked which projects were approved that do not have affordable housing. Ms. Wischnack listed off projects that do and do not include affordable housing. CM Schack continued that she is not convinced that the resolution is working as intended and would like to think about a policy that has some teeth to it. Would like to see the city not have such an “easy out” when it comes to affordability. Leverage resources for single family affordability.

CM Calvert believes that the resolution is working and wonders if there is a need to formalize into a policy or ordinance. Ms. Wischnack stated that it may be important to include as a policy.

CM Calvert continued that she believes that TIF usage should come under greater consideration and thought.
CM Ellingson believes that the city should have a policy rather than a resolution. Wants to see a city where people who work here can afford to live here.

CM Happe stated that he likes the range of affordability option, and does not want to see projects or developers tied down with a force of affordability.

CM Bergstadt believes that the current resolution is working for us. He spoke on projects that would not have been completed had the city required affordability. He continued that he would not support an ordinance, but is open to a resolution or policy.

Mayor Wiersum spoke to clarify the stance of the council on this topic. He continued to ask if there are creative ways to require developers to include affordable housing other than payment in lieu.

**Action Item**: Work on the language of the 10-20% requirement, and will structure a policy. Will do more research on payment in lieu and bring forward at another time. The council supported crafting a policy on the 2004 resolution. Will have a draft available in 1.5 months.

**Tenant Protection:**
Ms. Gray gave a report on tenant protection ordinances that are in place in peer communities. There are nearly 1500 units of NOAH housing in the city.

**Action Item**: Should the city consider drafting a tenant protection ordinance?
CM Happe: Y
CM Bergsted: Y
CM Calvert: Y
CM Ellingson: Y
CM Schack: Y

The Mayor asked if 90 day protection period is standard or if other cities have looked at longer. The Mayor then asked if staff is supporting implementing rental licensing or requiring self-reporting. Mayor Wiersum suggested that complaint based enforcement works well and that he would consider rental licensing if it becomes an issue.

**Preserving NOAH Properties:**
Ms. Gray presented a report on programs to preserve naturally occurring affordable housing units in the city. She mentioned the “4d” tax incentive program, Legacy Education Program, and create a rehab loan program for multifamily rental properties in exchange for affordable housing.

CM Bergstedt asked if there would be any staffing changes or increased staff time with the implementation of these programs. Staff responded that a loan rehabilitation program could cause some staff impact.
Mayor Wiersum stated that he supports the 4d classification, but has concerns that the
10 year period is too short and would like find out if it can be longer. He continued that
he needs to receive an analysis on the required staff time to implement any of these
programs.

**Action Item:** Council unanimously supported the creation of a 4d policy, supporting the
legacy education program, and research into a multifamily housing loan rehab program.

**Single Family Housing:**
Ms. Wischnack gave a report on the current single family housing makeup of the city.
She stated that single family homes make up 55% of the city’s entire housing stock. Half
of homes within Minnetonka valued above $300,000.

CM Happe spoke on Homes Within Reach, and stated that he has two concerns about
increasing funding for Homes Within Reach. He is concerned that city dollars are going
towards ownership of private property and that the affordability period is for 99 years.
Ms. Barone asked why the 99 year affordability is a concern. CM Happe stated that the
time period is too long due to market changes. He also reiterated his support for the
homestretch workshop.

CM Calvert asked a question on the issue of liability or regulation on condo buildings.
Ms. Wischnack stated that there are predatory liability issues towards condo
developments that hamper their development. CM Calvert asked what is an alternative
to not funding HWR? CM Calvert also spoke on the importance of the Homestretch
Workshop.

CM Bergstadt asked how the 99 year affordability was established for Homes Within
Reach. Ms. Wischnack stated that it was established because it is a land trust.

CM Schack stated that Homes Within Reach is addressing a different segment of the
population than the other two single family programs proposed and that all are important
to support.

Mayor Wiersum asked the question on what happens with the properties and the land
after the 99 year period is up.

Councilmember Ellingson stated that he is in favor of supporting WHALT funding
through city resources.

CM Bergstadt asked for more research into what impacts or options are on the table
related to Homes Within Reach at the EIP discussion.

The council showed general interest in supporting an increased loan program for homes
under the $300,000 valued existing homes and encouraging construction of other
ownership products (condo’s, townhomes, co-ops) as program opportunities. Mayor
Wiersum also indicated he would forward some additional ideas to the EDAC for other
items, including programs related to senior housing. There was general consensus with
having additional discussions and research on city support of Homes within Reach during the EIP discussion.

**Action Items:** Homes Within Reach expansion/funding items and the modification of our loan programs will happen with the development of the EIP. The encouragement of other types of affordable ownership product may have to be written into the policy.

**Other Ideas**

Councilmember Happe reiterated his interest in developing a program for city staff home affordability.

Councilmember Bergstadt requested information on staff concern related to the creation of a payment in lieu option. Wischnack indicated that there have been some discussions of a development that the variety of considerations with payment in lieu, the concept works best to be direct with the project, rather than wait to include with a project that might or might not occur or might have other impacts. Wischnack felt that the current versions do not include all the benefits of what the council desires.

Councilmember Schack supported additional research on the payment in lieu programs to potentially fund Homes Within Reach or other affordable housing programs. Ms. Wischnack stated that she will direct staff to research the topic.

Councilmember Calvert shared her interest in conducing additional interest in programs like accessory apartments, division of large homes without subdivision or tearing down of existing homes.

5. **Adjournment**

The study session adjourned at 8:44 p.m.

Respectfully submitted,

Perry Vetter
Assistant City Manager
RESOLUTION 2004-002

RESOLUTION APPROVING THE ECONOMIC DEVELOPMENT AUTHORITY’S RECOMMENDATION ON THE INCLUSION OF 10% TO 20% OF THE TOTAL UNITS IN MULTI-FAMILY DEVELOPMENTS AS AFFORDABLE HOUSING

BE IT RESOLVED by the Economic Development Authority of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. The City of Minnetonka and Metropolitan Council have worked together to create affordable housing goals for the development of new affordable housing units within the city.

1.02. The Economic Development Authority has been working to accomplish these goals and include affordable housing in new housing developments by recommending that 10% to 20% of the total units in a housing development be made affordable.

Section 2. Economic Development Authority Action.

2.01. The Economic Development Authority of the City of Minnetonka hereby affirms their recommendation that 10% to 20% of the total units in new multi-family housing developments be sold at an affordable price as set forth by the Metropolitan Council.

Adopted by the Economic Development Authority of the City of Minnetonka, Minnesota on February 3, 2004.

Peter Sf. Peter, President

ATTEST:

Ronald Rankin, Secretary
ACTION ON THIS RESOLUTION:

Motion for adoption: Duffy
Seconded by: Larson
Voted in favor of: Duffy, Larson, Robinson, St. Peter, Thomas, Wagner, Walker
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Economic Development Authority of the City of Minnetonka, Minnesota, at a duly authorized meeting held on February 3, 2004, as shown by the minutes of the said meeting in my possession.

Ronald Rankin, Secretary
Resolution No. 2019-
Resolution adding Council Policy 13.2 – Affordable Housing

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

Section 1. Background.

1.01 The City of Minnetonka and Metropolitan Council have worked together to create affordable housing goals for the development of new affordable housing units within the city.

1.02 The City of Minnetonka has been working to accomplish these goals to include affordable housing in new housing developments, by recommending that 10% to 20% of the total units in new multi-family housing developments be made affordable.

1.03 City staff has drafted an Affordable Housing policy that re-affirms the city’s commitment to affordable housing.

1.04 This policy establishes the criteria that the city will undertake to promote the production of affordable housing units in the city.

1.05 This policy supersedes Economic Development Authority Resolution 2004-002 related to affordable housing.

Section 2. Council Action

2.01 The city council hereby adopts Council Policy 13.2 Affordable Housing.

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 8, 2019.

Brad Wiersum, Mayor

Attest:

Becky Koosman, 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 July 8, 2019.

______________________________
Becky Koosman City Clerk