Agenda
Minnetonka City Council
Regular Meeting, Monday, May 6, 2019
6:30 p.m.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Carter-Happe-Bergstedt-Ellingson-Calvert-Schack-Wiersum
4. Approval of Agenda
5. Approval of Minutes:
   A. April 1, 2019 regular council meeting
   B. April 15, 2019 LBAE meeting
6. Special Matters:
   A. Recognition of 2019 Police Citizens Academy
      Recommendation: Recognize 2019 Academy Graduates
   B. Presentation of annual community survey results
      Recommendation: Receive the presentation
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases:
   A. Bids for the Carlson Parkway project
      Recommendation: Award the contract (Majority vote)
   B. Proposals for police and fire facility project
      Recommendation: Reject all proposals (4 votes)
10. Consent Agenda - Items Requiring a Majority Vote:
   A. Conditional use permit for an accessory structure exceeding 12 feet in height and 1,000 square feet in total floor area at 19100 Old Excelsior Blvd
      Recommendation: Adopt the resolution approving the conditional use permit (4 votes)
   B. Third Amended and Restated Lindbergh Center Joint Powers Ownership and Management Agreement
      Recommendation: Approve the agreement (4 votes)
   C. Hennepin County Urban Area Security Initiative (UASI) grant
      Recommendation: Authorize the fire department to accept the grant from Hennepin County and to act as a fiduciary agent for the purchase and distribution of equipment to other cities. (4 votes)

11. Consent Agenda - Items Requiring Five Votes: None

12. Introduction of Ordinances:
   A. Ordinance authorizing sale of city property adjacent to 3515 Park Valley Road
      Recommendation: Introduce the ordinance (4 votes)
   B. An Ordinance amending section 920.020, subdivision 2 of the Minnetonka City Code; amending the Minnesota state fire code; regulating storage and use of grills in apartment or condominium buildings two or more stories in height
      Recommendation: Introduce the ordinance (4 votes)

13. Public Hearings:
   A. Temporary on-sale liquor license for Adath Jeshurun Congregation, 10500 Hillside Lane W
      Recommendation: Hold the public hearing and grant the license (5 votes)
   B. Off-sale liquor license for Target Corporation, 4848 Co Rd 101
      Recommendation: Open the public hearing and continue to 06/24/2019 (4 votes)

14. Other Business:
   A. Items concerning the demolition and construction of a new automobile dealership at 15906 Wayzata Blvd.
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
   variance, and a sign plan.

Recommendation: Adopt the ordinance and resolution approving the proposal
(5 votes)

B. 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)

15. Appointments and Reappointments:

16. Adjournment
Minutes
Minnetonka City Council
Monday, April 1, 2019

1. Call to Order

Mayor Brad Wiersum called the meeting to order at 6:00 p.m.

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

Council Members Deb Calvert, Rebecca Schack, Susan Carter, Mike Happe, Tim Bergstedt, Bob Ellingson and Brad Wiersum were present.

4. Approval of Agenda

Bergstedt moved, Carter seconded a motion to accept the agenda, as presented. All voted “yes.” Motion carried.

5. Approval of Minutes: Feb. 11, 2019 and Feb. 25, 2019 regular council meetings

Calvert moved, Bergstedt seconded a motion to approve the minutes of the Feb. 11, 2019 regular council meeting, as presented. Calvert, Schack, Happe, Bergstedt, Ellingson and Wiersum voted “yes”. Carter abstained. Motion carried.

Calvert moved, Bergstedt seconded a motion to approve the minutes of the Feb. 25, 2019 regular council meeting, as presented. Calvert, Happe, Bergstedt, Ellingson and Wiersum voted “yes”. Carter and Schack abstained. Motion carried.

6. Special Matters: None

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on upcoming city events and council meetings. She explained leaves, yard waste and brush was now being accepted at the Minnetonka Public Works facility on Mondays and Tuesdays from 11 a.m. to 7 p.m. and on Saturday from 7 a.m. to 3 p.m.

Wiersum reported he would be heading to Ely, Minnesota with the League of Minnesota Cities on Tuesday, April 2 to recognize the current president of the League of Minnesota Cities.

8. Citizens Wishing to Discuss Matters not on the Agenda

Sheila Fredrickson, 2653 Plymouth Road, stated she purchased her property in 2016. She noted the purchase happened quite quickly and there were now problems with the
property that were not disclosed. She explained she was having problems with the grading on her property and reported water was draining into her home. She commented she has a driveway and noted two other neighbors were using her driveway. She indicated she was working to resolve the driveway issues with her neighbors.

Ms. Fredrickson stated that two weeks ago she was having some trees trimmed, when she received a visit from the city. She indicated she was presented with a number of legal documents from the city. She learned that her property was in a conservation easement and the trees could not be trimmed, the grading could not be fixed, and the problems on the property could not be addressed. She explained several trees have to be removed in order to properly address the grading issues on her property. She reported she was told the trees were more important than grading or water that was coming into her basement.

Ms. Fredrickson indicated if she were to remove the two trees, she would be faced with an $87,000 fine. She commented she and her husband were extremely upset about this and requested a member of the city council visit her property in order to better understand the disasters that have occurred. She reported she would like to have the problems on the site addressed so she could remain in her home.

Steve Fredrickson, 2653 Plymouth Road, thanked the council for their time and explained he respected the land. He explained he was not looking to decimate the land but rather needed to remove two trees so he could properly grade the site in order to keep water out of his basement.

Ms. Fredrickson reported she had purchased a sump pump and was draining thousands of gallons of water out of her driveway in order to keep it away from her home. She encouraged the city council to assist her with the problems on her property.

Wiersum stated the city council relies on staff to assist with these matters. He recommended staff follow up with the Fredricksons.

Gary Radziej, owner of Sir Knights Glen Lake Cleaners, stated he was a third generation family business owner in Glen Lake. He explained he has been involved in the community and has coached football for the past 32 years. He expressed concern with the safety and flow of commerce in the Glen Lake community. He reported the Glen Lake business community was special and he recommended the city council address pedestrian safety along Stewart Lane. He commented further on the parking variance that was approved for the Copper Cow, noting this has created concerns in the Glen Lake business community. He discussed how overflow parking from the Copper Cow was spilling into the Glen Lake shopping center and not the church. This was creating safety and parking concerns. He stated he wanted all businesses within his community to thrive but not at the expense of others. He requested the council investigate the parking situation at the Copper Cow and recommended all Copper Cow employees be required to park at the church. He commented further on the verbal abuse one of his employees endured from a Copper Cow patron.
Wiersum thanked Mr. Radziej for voicing his concerns to the city council. He stated he was excited about the changes that were occurring in Glen Lake but understood the city would have to work with the businesses in order to address the growing pains. He encouraged Mr. Radziej to follow up with staff.

9. Bids and Purchases:

A. Bids for Water Storage Tank Rehabilitation – Williston Hydropillar

City Manager Geralyn Barone gave the staff report.

Bergstedt noted this water storage tank was within his ward. He stated he looked forward to seeing this project complete with the new City of Minnetonka logo on the hydropillar.

Bergstedt moved, Calvert seconded a motion to award the contract to Central Tank Coatings, Inc. All voted “yes.” Motion carried.

B. Bids for the Plymouth Road Trail project (Amy Lane to Minnetonka Boulevard) and agreements with Hennepin County and Xcel Energy

City Engineer Will Manchester gave the staff report.

Schack moved, Carter seconded a motion to award the contract, amend the CIP and approve the agreements. All voted “yes.” Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote:

A. Conditional use permit for an accessory structure exceeding 1,000 square feet in area and 12 feet in height at 3000 Surry Lane

Ellingson moved, Carter seconded a motion to adopt resolution 2019-036 approving the conditional use permit. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances:

A. Ordinance regarding technical, non-substantive corrections to ordinances, resolutions, and policies

City Attorney Legal Intern Joe Sappe gave the staff report.

Schack moved, Calvert seconded a motion to introduce the ordinance. All voted “yes.” Motion carried.
B. Ordinance relating to small wireless facilities in public right of way

City Attorney Corrine Heine gave the staff report.

Calvert stated she was pleased local governments were able to push back on this issue in order to address aesthetics.

Wiersum thanked staff for addressing this issue. He also thanked the League of Minnesota Cities for helping address visual pollution concerns.

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

13. Public Hearings:

A. Public hearing approving vacation of easements at 10400, 10500 and 10550 Bren Road West

City Planner Loren Gordon gave the staff report.

Wiersum opened the public hearing at 6:47 p.m.

Claire VanderEyk, 3136 Grand Avenue South on behalf of Newport Midwest, thanked the Council for their consideration and noted she was available for comments or questions.

Wiersum closed the public hearing at 6:48 p.m.

Happe moved, Calvert seconded a motion to hold the public hearing, and adopt resolution 2019-037. All voted “yes.” Motion carried.

B. Off-sale intoxicating liquor license for Tonka Bottle Shop LLC (DBA Tonka Bottle Shop), at 17616 Minnetonka Blvd

City Manager Geralyn Barone gave the staff report.

Wiersum reported the public hearing was open.

Terry Bevins, the applicant, explained her husband, Tim Bevins, was the owner of Tonka Bottle Shop for 40+ years. Due to his recent death, she needed to change the ownership into her name.

Wiersum explained Tim Bevins was an inspiration in the community and stated he would be dearly missed.

Wiersum closed the public hearing at 6:52 p.m.
Happe moved, Carter seconded a motion to close the public hearing, and grant the license. All voted “yes.” Motion carried.

14. Other Business:
   
   A. Resolution supporting comprehensive transportation funding legislation including establishment of street improvement districts

   City Manager Geralyn Barone gave the staff report.

   Wiersum stated as a matter of transparency, in his duties as a member of the League of Minnesota Cities Board, he participated in a news conference that addressed this issue. He commented further on the need to receive greater funding assistance to assist with regional transportation issues.

   Calvert indicated she supported the idea of a street improvement district.

   Calvert moved, Schack seconded a motion to adopt resolution 2019-038. Calvert, Schack, Carter, Bergstedt, Ellingson and Wiersum voted “yes”. Happe abstained. Motion carried.

   B. Items related to a grant from the Metropolitan Council Livable Communities Demonstration Account – Transit Oriented Development for Dominium Apartments (11001 Bren Road East)

   Community Development Director Julie Wischnack gave the staff report.

   Carter asked if it was common practice for the city to act as the intermediary for this type of loan. Community Development Director Wischnack reported this was the case for this grant.

   Wiersum questioned if any city tax dollars were going towards this grant. Community Development Director Wischnack commented no city tax dollars were going towards this grant.

   Calvert moved, Bergstedt seconded a motion to approve the agreements and resolutions 2019-039 and 2019-040 in connection with a livable communities demonstration account grant from the Metropolitan Council with respect to Senior Housing Project and a Workforce Housing Project. All voted “yes.” Motion carried.

15. Appointments and Reappointments

   None.
16. Adjournment

Calvert moved, Happe seconded a motion to adjourn the meeting at 7:04 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Becky Koosman
Acting City Clerk
1. Call to Order at 6:00 p.m.

2. Roll Call: Schack-Carter-Happe-Bergstedt-Calvert-Wiersum were present, Ellingson was absent.

3. Approval of Agenda

Happe moved, Bergstedt seconded a motion to accept the agenda, as presented. All voted "yes." Motion carried.

Ellingson joined the meeting at 6:06 p.m.

4. Appeals to the board of review:

A. Valuation recommendations being brought by the City Assessor to the Local Board of Appeal and Equalization for action:

Wiersum read the following into the record:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>HMW, LLC</td>
<td>$7,200,000</td>
<td>$7,200,000</td>
<td>$7,200,000</td>
</tr>
<tr>
<td>10600 Wayzata Blvd Minnetonka, MN 55305 01-117-22-24-0030</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Glen Lake Village LLC</td>
<td>$6,081,000</td>
<td>$6,450,000</td>
<td>$5,900,000</td>
</tr>
<tr>
<td>14400 Excelsior Blvd Minnetonka, MN 55345 28-117-22-44-0526</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Buhl Investors Mtka I LLC</td>
<td>$5,436,600</td>
<td>$7,140,000</td>
<td>$5,967,000</td>
</tr>
<tr>
<td>6030 Clearwater Dr Minnetonka, MN 55343 35-117-22-33-0021</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>James Portilla</td>
<td>$90,000</td>
<td>$94,500</td>
<td>$94,500</td>
</tr>
<tr>
<td>Kristina Ericson</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>17024 Grays Bay Blvd Wayzata, MN 55391 17-117-22-21-0084</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Melvin Maisel</td>
<td>$162,600</td>
<td>$179,300</td>
<td>$179,300</td>
</tr>
<tr>
<td>Renee Maisel</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6085 Rowland Rd 301 Minnetonka, MN 55343 35-117-22-34-0037</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hanna Bekele</td>
<td>$333,500</td>
<td>$344,900</td>
<td>$344,900</td>
</tr>
<tr>
<td>4901 Acorn Ridge Rd Minnetonka, MN 55345 30-117-22-23-0062</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>----</td>
<td>------------------------------------------------</td>
<td>----------------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>7)</td>
<td>TC/P Island Venture LLC</td>
<td>$43,295,000</td>
<td>$44,857,000</td>
</tr>
<tr>
<td></td>
<td>501 Carlson Pkwy</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Minnetonka, MN 55305</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>04-117-22-14-0014</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8)</td>
<td>Joel Schumann</td>
<td>$328,900</td>
<td>$378,700</td>
</tr>
<tr>
<td></td>
<td>Joan Schumann</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>15525 Sussex Dr</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Minnetonka, MN 55345</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>16-117-22-33-0068</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9)</td>
<td>Mark Stageberg</td>
<td>$441,700</td>
<td>$507,500</td>
</tr>
<tr>
<td></td>
<td>5384 Waters Edge Dr</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Minnetonka, MN 55343</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>26-117-22-43-0083</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10)</td>
<td>Barbara Cohn</td>
<td>$658,600</td>
<td>$742,600</td>
</tr>
<tr>
<td></td>
<td>2643 Cedar Green</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Minnetonka, MN 55305</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>12-117-22-42-0285</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11)</td>
<td>Michael Hayes</td>
<td>$269,600</td>
<td>$302,000</td>
</tr>
<tr>
<td></td>
<td>Lori Wagner</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3811 Co Rd No 101</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Minnetonka, MN 55345</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>20-117-22-22-0046</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12)</td>
<td>John Alexander III</td>
<td>$1,000,700</td>
<td>$1,045,700</td>
</tr>
<tr>
<td></td>
<td>Ruth Alexander</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2447 Emerald Tr</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Minnetonka, MN 55305</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>11-117-22-23-0044</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13)</td>
<td>Reynold Lindquist</td>
<td>$265,600</td>
<td>$311,800</td>
</tr>
<tr>
<td></td>
<td>Lois Lindquist</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>12920 Excelsior Blvd</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Minnetonka, MN 55343</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>27-117-22-11-0026</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14)</td>
<td>Kevin Rolf</td>
<td>$550,000</td>
<td>$611,300</td>
</tr>
<tr>
<td></td>
<td>Tracy Rolf</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2008 Adeline Ct</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Wayzata, MN 55391</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>08-117-22-11-0053</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15)</td>
<td>Maurice Jamaleldin</td>
<td>$100,000</td>
<td>$212,400</td>
</tr>
<tr>
<td></td>
<td>9597 Sandra La</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Minnetonka, MN 55305</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>18-117-21-32-0242</td>
<td></td>
<td></td>
</tr>
<tr>
<td>16)</td>
<td>Eugene Bolgrean</td>
<td>$264,000</td>
<td>$349,600</td>
</tr>
<tr>
<td></td>
<td>Charmaine Bolgrean</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>15700 Robinwood Dr</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Minnetonka, MN 55345</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------</td>
<td>---------------------------</td>
<td>-----------------------------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td>16-117-22-33-0022</td>
<td>$1,159,400</td>
<td>$968,400</td>
<td>$800,000</td>
</tr>
<tr>
<td>17) Jennifer Paukert, Laura Paukert</td>
<td>$398,600</td>
<td>$420,200</td>
<td>$385,000</td>
</tr>
<tr>
<td>18) Gordon Baxter</td>
<td>$530,300</td>
<td>$570,100</td>
<td>$545,000</td>
</tr>
<tr>
<td>19) Thomas Calhoun Lopez, Heidi Calhoun Lopez</td>
<td>$837,100</td>
<td>$921,300</td>
<td>$921,300</td>
</tr>
<tr>
<td>20) Reeder Holiman, Paula Ramaley</td>
<td>$420,000</td>
<td>$452,100</td>
<td>$452,100</td>
</tr>
<tr>
<td>21) James Fredkove, Donna Falk Fredkove</td>
<td>$925,000</td>
<td>$946,300</td>
<td>$946,300</td>
</tr>
<tr>
<td>22) Barney Harris, Pamela Harris</td>
<td>$420,400</td>
<td>$430,200</td>
<td>$430,200</td>
</tr>
<tr>
<td>23) Narendra Garg, Sarita Garg</td>
<td>$400,000</td>
<td>$430,600</td>
<td>$430,600</td>
</tr>
<tr>
<td>24) Robert Callan</td>
<td>$259,000</td>
<td>$281,100</td>
<td>$270,000</td>
</tr>
<tr>
<td>25) Brian Noah, Dana Noah</td>
<td>$1,084,300</td>
<td>$1,079,000</td>
<td>$950,000</td>
</tr>
</tbody>
</table>
Bergstedt moved, Calvert seconded a motion to accept the advisors’ recommendations. All voted “yes.” Motion carried.

B. Petitions to the Local Board of Appeal and Equalization requiring advisors’ recommendation:

Wiersum read the following into the record:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Frank Spartz</td>
<td>$119,800</td>
<td>$134,200</td>
<td>$110,000</td>
</tr>
<tr>
<td>Kathleen Spartz</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10211 Cedar Lake Rd 118</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55305</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12-117-22-42-0171</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amie Bruneau</td>
<td>$395,000</td>
<td>$432,400</td>
<td>$419,500</td>
</tr>
<tr>
<td>491 Willoughby Way W</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55305</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>01-117-22-22-0212</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vladimir Eletsky</td>
<td>$425,000</td>
<td>$557,100</td>
<td>$530,000</td>
</tr>
<tr>
<td>Tatiana Eletsky</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2662 Cedar Green</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55305</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12-117-22-42-0279</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------</td>
<td>----------------------------</td>
<td>----------------------------</td>
<td>-------------------------------</td>
</tr>
</tbody>
</table>
| 4) Terry Lehman  
463 Willoughby Way W  
Minnetonka, MN 55305  
01-117-22-22-0210 | $401,100 | $430,100 | $419,500 |
| 5) Moved to Section A |
| 6) Matthew Michlin  
Kimberly Michlin  
5209 Forest Rd  
Minnetonka, MN 55345  
29-117-22-43-0025 | $309,900 | $319,200 | $285,000 |
| 7) Moved to Section A |
| 8) Moved to Section A |
| 9) Dennis Farder  
Sandra Farder  
12811 Sherwood Pl 6  
Minnetonka, MN 55305  
10-117-22-11-0036 | $479,600 | $513,400 | $513,400 |
| 10) Thomas Johnson  
Jill Johnson  
15001 Tammer La  
Wayzata, MN 55391  
04-117-22-43-0032 | $495,100 | $581,600 | $536,000 |
| 11) Guy Beck  
Tonya Beck  
18515 Cherry Tree Ct  
Minnetonka, MN 55345  
31-117-22-31-0094 | $241,600 | $260,000 | $255,500 |
| 12) A William Cherne Jr  
Mary Hardebeck  
5575 Bristol La  
Minnetonka, MN 55343  
35-117-22-21-0041 | $806,000 | $798,900 | $779,500 |
| 13) Moved to Section A |
| 14) Moved to Section A |
| 15) Michael Nyberg  
Becky Nyberg | $1,370,900 | $1,405,300 | $1,200,500 |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>4257 Lindsey La Minnetonka, MN 55345</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>19-117-22-42-0028</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>16) Norman Korn</td>
<td>$847,600</td>
<td>$897,300</td>
<td>$800,000</td>
</tr>
<tr>
<td>Bonnie Korn</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6075 Clarion Pass Minnetonka, MN 55343</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>35-117-22-44-0017</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>17) Moved to Section A</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>18) Ayman Ali</td>
<td>$755,000</td>
<td>$795,600</td>
<td>$760,000</td>
</tr>
<tr>
<td>Milly Ali</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6044 Clarion Pass Minnetonka, MN 55343</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>35-117-22-44-0008</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>19) Daniel Keegan</td>
<td>$386,900</td>
<td>$399,200</td>
<td>$380,000</td>
</tr>
<tr>
<td>Tanya Keegan</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5015 Westmill Rd Minnetonka, MN 55345</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>29-117-22-31-0049</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20) Moved to Section A</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>21) Stephen Rowland</td>
<td>$749,400</td>
<td>$760,600</td>
<td>$735,500</td>
</tr>
<tr>
<td>15709 Excelsior Blvd Minnetonka, MN 55345</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>33-117-22-22-0046</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>22) Sakya Dama</td>
<td>$850,000</td>
<td>$886,300</td>
<td>$850,000</td>
</tr>
<tr>
<td>Vandana Gorjala</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11444 Oberlin Rd Minnetonka, MN 55305</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>02-117-22-11-0054</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Happe moved, Calvert seconded a motion to accept the advisors’ recommendations on items #B1, #B3-B10, #B13-B22. All voted "yes." Motion carried.

Calvert moved, Schack seconded a motion to accept the advisors’ recommendations on item #B2 at 491 Willoughby Way W. Schack, Carter, Bergstedt, Calvert and Wiersum voted “yes.” Happe and Ellingson voted “No.” Motion carried.

Happe moved, Schack seconded a motion to accept the advisors’ recommendations on item #B11 at 18515 Cherry Tree Ct. All voted “yes.” Motion carried.

Calvert moved, Bergstedt seconded a motion to accept the advisors’ recommendations on item #B12 at 5575 Bristol La. All voted “yes.” Motion carried.

5. Adjourn
Happe moved, Schack seconded a motion to adjourn at 7:38 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

Becky Koosman
Acting City Clerk
City Council Agenda Item #6A
Meeting of May 6, 2019

Brief Description: Recognition of 2019 Police Citizens Academy

Recommended Action: Recognize 2019 Academy Graduates

Background

On April 9, 2019, the Minnetonka Police Department concluded its sixth police citizens academy. Twenty-six residents attended the eight-week session. The goal of the academy is to help participants understand law enforcement operations, strategies and challenges. It is hoped these residents will serve as our ambassadors, helping the police department strengthen relationships in the community in an effort to enhance public safety and reduce crime throughout Minnetonka.

The academy kicked off with an overview of the history and organizational structure of the Minnetonka Police Department by the chief of police. Topics of discussion in subsequent weeks included officer recruiting and training, crime analysis and prevention, community service officers and animal control, traffic enforcement and DWI, criminal/retail investigations, credit card fraud, honor guard and the opportunity to participate in use of force scenarios at the South Metro Public Safety Training Facility in Edina. Attendees were also introduced to the work of the Drug Task Force and S.W.A.T. team. The final session was highlighted with a presentation on the work of Minnetonka’s K-9 teams.

We are pleased to present the following academy graduates:

<table>
<thead>
<tr>
<th>Name</th>
<th>Last Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debra</td>
<td>Bank</td>
</tr>
<tr>
<td>Yvette</td>
<td>Baudelaire</td>
</tr>
<tr>
<td>Melissa</td>
<td>Broesch</td>
</tr>
<tr>
<td>Cindy</td>
<td>Brown</td>
</tr>
<tr>
<td>Dennis</td>
<td>Dickinson</td>
</tr>
<tr>
<td>Michelle</td>
<td>Engholm</td>
</tr>
<tr>
<td>Kristen</td>
<td>Heimerl</td>
</tr>
<tr>
<td>Matthew</td>
<td>Henry</td>
</tr>
<tr>
<td>John</td>
<td>Holden</td>
</tr>
<tr>
<td>Kathryn</td>
<td>Holmes</td>
</tr>
<tr>
<td>Tracy</td>
<td>Ingham</td>
</tr>
<tr>
<td>Pat</td>
<td>Kessler</td>
</tr>
<tr>
<td>Cheryl</td>
<td>Kramer</td>
</tr>
<tr>
<td>Steven</td>
<td>Leventhal</td>
</tr>
<tr>
<td>Jeffrey</td>
<td>Levine</td>
</tr>
<tr>
<td>Suzanne</td>
<td>Nemer</td>
</tr>
<tr>
<td>Harriet</td>
<td>Ohe</td>
</tr>
</tbody>
</table>
We congratulate these graduates and would like to present each with a certificate commemorating their accomplishment. We sincerely thank you all for your time, interest and active participation in the City of Minnetonka.

**Recommendation**

Recognize 2019 Academy Graduates

Submitted through:
  Geralyn Barone, City Manager

Originated by:
  Scott L. Boerboom, Chief of Police
City Council Agenda Item #6B
Meeting of May 6, 2019

Brief Description: Presentation of annual community survey results

Recommended Action: Receive the presentation

Background

Each year the city conducts a statistically valid telephone survey of residents on a variety of topics of interest. These topics range from demographic, quality of life, city services, public safety, natural environment, development and redevelopment, city parks and recreational facilities, public transit issues, city government and staff, local authority and communication issues.

Peter Leatherman, from the Morris Leatherman Company, will present the findings and conclusions from the 2019 survey.

Recommendation

Receive the presentation on the 2019 community survey results.

Submitted through:
Geralyn Barone, City Manager

Originated by:
Perry Vetter, Assistant City Manager
Residential Demographics:

The typical adult Minnetonka resident lived in the city for 10.3 years. Twenty-nine percent moved there during the past five years, while 23% resided there for more than twenty years. Twenty-four percent report they intend to move from Minnetonka during the next ten years, while 11% intend to do so during the next five. Thirty-six percent foresee no move during the next 30 years.

Twenty-three percent of the households contain seniors; in fact, 16% of the households are composed exclusively of senior citizens. Thirty-two percent of the households have school-aged children or pre-schoolers. The typical Minnetonka adult resident is 47.8 years old. Twenty-four percent are under 35 years old, while 36% are 55 years old or older. Women outnumber men by two percent in the sample.

Seventy-two percent own their present residences. The typical residential property has an approximate value of $321,250.00. Eight percent post values of under $200,000.00, while 22% estimate values between $200,000 and $250,000, 40% state values of between $250,000.00 and $400,000.00, and 27% estimate their residential property is over $400,000.00. Only five percent think the value of their home decreased during the past year; fifty-four percent see an increase in their home value. Twenty-six percent each live in Ward Three, while 25% percent each reside in Ward One or Ward Four, and 24% live in Ward Two.

Quality of Life Issues:

Sixty-two percent of the City rate their quality of life as “excellent,” while another 38% rate it as “good.” Only one percent rate their quality of life lower.

“Friendly people” is the top most liked aspect of the community, posted by 17% of the sample, followed by “quiet and peaceful,” “housing and neighborhood,” and “schools,” each at 10%. “Trees/Nature” or the “Lake” are posted by nine percent each. “Safe,” “open spaces,” and “parks” are posted by seven percent, six percent, and five percent, respectively.
An unusually high 40% report there is “nothing” they like least about living in the community. This level of civic boosters is the highest across the Metropolitan Area. Five issues emerge at moderate or low level of concern: “high taxes,” at 13%, “traffic congestion,” at 10%, “lack of sidewalks” or “no entertainment offerings,” at 10% each, and “too much development,” at five percent. Among the very small subgroup posting “lack of diversity,” only three percent of the overall sample, 77%, suggest nothing the City of Minnetonka can do to address the lack of diversity, and eight percent each suggest “more community events,” “more affordable rental housing,” or “encourage home buying among current city renters.”

If they were to describe the City of Minnetonka to a friend or relative, 25% would point to “friendly people,” 17% would say “quiet and peacefulness,” 10% would cite safe area,” and six percent would mention “good recreation opportunities.”

Ninety-nine percent feel accepted and welcomed in the City of Minnetonka, while 92% think the community of Minnetonka are welcoming and accepting of people of all colors, races and religions. The five percent who differ about the welcome and acceptance by the community point to “resistance to change” and “looking down on other cultures.”

**City Services:**

Minnetonka residents providing ratings award 12 of 14 city services a positive rating of 95% or higher, at the top of the Metropolitan Area: police services, trail maintenance, park maintenance, community planning, fire protection, recycling service, domestic animal control for dogs, water and sanitary sewer services, recreational services and programs, senior services, natural resources management, and residential assessing services. Two city services, “snow plowing” and “pavement repair and patching on city streets” receive lower positive ratings, at 86% and 81%, respectively. Two major suggested changes or improvements needed to raise service evaluations to either “excellent” or “good” are “fix potholes,” specified by 37% of residents, and “better snow plowing,” at 27%. The average positive rating awarded by residents holding opinions is a very high 96.0%, virtually unchanged from the 2018 study.

Residents were reminded the City offers the options of on-line billing and payment for water and sewer services. Fifty-six percent use the option of on-line billing, a six percent drop in one year, and 59% pay for their water and sewer services on-line. Thirty-nine percent, a six percent increase since the last study, do neither on-line, citing they are renters, or want a paper reminder of the bill, or simply distrust the Internet.

In rating the general value of city services in terms of property taxes paid, 16% give services a rating of “excellent,” a drop of 22% in two years, and 73% rate them as “good,” reflecting an 18% percent increase during the same time period. In total, 89% favorably rate the general value of city services. Critical judgments of “only fair” are eight percent. Residents still post a solid, albeit diminished, majority, 69%-15% in favor of an increase of city property taxes if needed to
maintain city services at their current level. This majority is among the highest level found in Metropolitan Area suburban studies conducted during the past five years. Among opponents, only one specific service emerges for potential cuts by a few residents, “park and trails,” chosen by 39%. However, ten percent of opponents believe services would not need to be cut at all to maintain them at current levels, through the elimination of wasteful spending.

If they could increase the budget by one percent, opinions again coalesce around street maintenance. Thirty-seven percent choose “street maintenance,” while 23% select “parks and trails,” 19% point to “police and fire services,” and three percent suggest “another service.” But, nine percent would not increase the budget for any city service.

Public Safety Issues:

Fourteen percent reports calling 9-1-1 during the past year. Fifty-eight percent, unchanged from the 2018 study, called because of a “medical emergency;” 24%, to report “an accident,” and seven percent, half of the 2018 level, to report “a crime.” Ninety-six percent of the callers rated the service favorably, while only two percent were more critical.

Eleven percent again report calling the Police Department for a non-emergency reason. Within this group, 36%, a 15% increase from the 2018 level, to request animal control services, 27%, down 24% from last year, called to report a “neighborhood disturbance,” and 14%, to report a “medical issue.” Ninety-five percent, an 11% increase in one year, rate the way the police employees handled the situation as either “excellent” or “good,” while only two percent, down 12%, are more critical in their evaluations.

Thirty-three percent, a 14% decrease from the 2018 level, report household members had contact with the Minnetonka Police Department through community programs, such as Night for Neighborhoods, Summer Festival, city open house, citizen’s or police academy, or the school liaison program. A near-unanimous 99% again rate their interaction favorably. This year, 11%, a one-third decrease from the 2018 level, think there are unsafe areas in the community. Areas with no sidewalks and busy intersections are the major concerns of this group. They feel unsafe because of “no room to walk,” “traffic speeding,” or “darkness.” This group of residents would feel safer if there were “more sidewalks,” “more police patrols,” and “street lights” in these areas.

Eighty-five percent say there are no streets in the city where they feel unsafe walking. But, seven percent, one-half of the 2018 level, point specifically to “Minnetonka Boulevard” and five percent cite “Hopkins Crossroads” because of “too much traffic,” “speeding traffic,” and “no sidewalks.”

When considering the greatest public safety concerns in the city, one issue continues to dominate: “speeding and other traffic violations,” pointed to by 26%, a ten percent decrease since the 2018 study. “Juvenile crime” ranks second, at 10%, followed by “drugs” or “underage
drinking,” each at five percent. But, 35%, over twice the 2018 level, think there are no serious public safety problems. Twenty-six percent, eight percent higher than the 2018 level, of the residents expressing specific concerns report they contacted the police about this issue. Looking to the future, “distracted driving,” at 23%, one-half the 2019 level, and “speeding,” at 13%, are viewed as the greatest public safety concerns facing the community ten years from now. Seventeen percent believe there will be no pressing public safety concern in ten years.

When speeding on residential streets is considered in more detail, and 42% feel it is an issue of concern, down 21% from last year. Residents tend to rate speeding as a moderate concern rather than a major one, a reversal of last year’s study: 21% see it as “very serious,” while 66% view it as “somewhat serious.” While 21% of the sample think speeding on residential streets has “gotten worse,” about one-half of last year’s result, and seven percent think it has “gotten better,” 71%, a 16% increase in one year, see it as “about the same” as last year.

During the past year, 12% again report being stopped by a Minnetonka Police officer for a traffic violation. Ninety-four percent of the citizens stopped think the police officer acted in a professional manner.

During the past year, only one percent report their household contacted the Minnetonka Fire Department for a non-emergency reason. One hundred percent again rate the way the fire employee handled the situation as “excellent” or “good.” Thirty-one percent of community households, a 13% decrease in one year, had contact with the Minnetonka Fire Department through community programs; ninety-nine percent of the participants again rated the programs highly.

In rating the general value of police and fire services in terms of property taxes paid, 25%, down 12% since the 2018 study, give services a rating of “excellent” and 74%, a 14% increase, rate them as “good.” More critical judgments of “only fair” are just two percent.

Natural Environment:

In general, 86% of the sample thinks Minnetonka does “about the right amount” in protecting the environment. Only six percent think it does “too little,” while two percent rate the City as doing “too much.” Thirty-two percent, an 18% decrease in one year, are either “very concerned” or “somewhat concerned” about threats to the city’s natural amenities. Among residents expressing concerns, 38% are most concerned about “invasive species,” up 14% in one year; 18%, about “too much growth;” 17% are most concerned about “water pollution;” and 14%, about “chemical run-off.” By a 91%-7% margin, residents rate the City positively in its efforts to protect wetlands, ponds and streams. Similarly, by a 93%-4% margin, residents rate the City positively in its efforts to protect forested areas. Ninety-eight percent favorably rate the overall quality of the environment in Minnetonka, while 88% rate the water quality in city lakes, ponds and streams highly.
Seventy-seven percent have seen information provided by the City on environmental issues. A very high 94% found the information to be “helpful.” While 28% report they have done “nothing” during the past year to reduce runoff and pollutants from entering lakes and wetlands through the storm sewer system, 24% are “using environmental-friendly lawn care products,” 19% purchase “eco-friendly products,” 12% “sweep lawn clippings and leaves,” and eight percent “clean their drains and gutters.”

Seventeen percent, less than half the 2018 level, report participating in a private hauler composting program. Non-participants cite four key reasons: “renter or member of association,” “no interest,” “not enough compostables,” “compost at home,” and “bad odor.” Fifteen percent of city households are at least “somewhat likely” to participate in an organics collection program if it were offered by their hauler. Eighty-two percent of the city’s households participate in the curbside recycling program. Eighty-seven percent of the non-participants rent their current households or have an association handling the process.

Sixty-nine percent report they are at least “somewhat familiar” with the emerald ash borer issue in Minnetonka. Sixty percent, a 19% drop in one year, consider this issue to be at least a “somewhat serious” problem; in fact, 27%, a nine percent decline, see it as “very serious.” By a large 82%-5% majority, residents support the city funding of programs to manage the emerald ash borer problem on public lands, while a 66%-20% majority. In both cases, support dropped by nearly 12% since last year while remained virtually unchanged. And, 49%, down 12% since the 2018 study, report they are at least “somewhat likely” to participate in city-offered programs.

**Development and Redevelopment:**

Seventy-six percent – up 13% in two years – believe the City of Minnetonka is “successful” in maintaining a balance between the rights of individual property owners to reasonably develop their properties, with the desire of the wider community to preserve the natural environment and its surroundings. But, 10%, over triple the 2018 level, rate the City as “unsuccessful,” and 14% think the City is “neither successful nor unsuccessful.”

Eighty percent feel Minnetonka residents have appropriate opportunities for input into the zoning and development decision process. Eight percent disagree. Critics cite “lack of listening to others,” “lack of opportunities,” and “lack of proactive communications about issues.”

In assessing the number or quantity of various community characteristics, majorities of residents think Minnetonka has “about the right amount or right number” of 15 of the 18 discussed. These 15 attributes are: luxury rental units, condominiums, townhouses, single family homes costing less than $300,000, “move up” housing, higher cost housing, assisted living for seniors, nursing or memory-assistance homes, one-level housing for seniors maintained by an association, parks and open space, trails and bikeways, liquor stores, service and retail establishments,
entertainment and dining establishments, and full-time job opportunities.

While a 48% plurality report there are “about the right number” of affordable rental units, 30% believe there are “too few.” Forty-three percent see “about the right amount” of starter homes for young families, but a 47% plurality believes there are “too little.” And, only 35% believe there is “about the right amount” of affordable housing, defined by the Metropolitan Council as a single-family home costing less than $160,500, but a large 58% majority thinks there is “too little.” In each of these cases, though, the percent of respondents deeming “too few or too little” decreased from last year’s levels.

If they were going to move from their current home for upgrading, 76% would be committed to staying in Minnetonka; in fact, 49% would be “very committed.” And, if they were going to move from their current home for downsizing, 73% would be committed to staying in Minnetonka; this time, 49%, a nine percent increase in one year, would be “very committed” to staying in the community. Among “stand-patters,” 80% are unconcerned about a particular type of housing being unavailable in the community for them.

Fifteen percent, less than half of the 2018 level, see eyesores on residential properties, such as external storage of personal property, as at least a “minor problem” in Minnetonka. Eighteen percent, down 12% since the 2018 study, regard “noise” as at least a “minor problem” in the community and focus on “dogs” or “music.” Fifteen percent, about one half the 2018 level, consider the “maintenance and upkeep of residents’ yards” as at least a minor problem, while 15%, also about half the 2018 level, feel the same about the maintenance and upkeep of residential homes, but only four percent, about one-quarter of the 2018 level, see the maintenance and upkeep of business properties as at least a “minor problem.” Among residents seeing any issue as a major problem, 86%, twice the 2018 level, reported the issue to the city and 78% were satisfied with the response they received.

City Parks and Recreational Facilities:

Usage and ratings of seven components of the Minnetonka Park System were measured. Nineteen percent, a decrease of 14% since the 2018 study, visited the Minnetonka Senior Center during the past year; among visitors, 100% award it positive ratings. Eighty-five percent of Minnetonka households, down seven percent in one year, used city parks; among park visitors, 98% again rate them as either “excellent” or “good.” Thirty-eight percent of park users report their household members most frequently use the “walking trails,” while 16% each most often use the “off-leash dog walking areas,” the “athletic fields,” and the “playground equipment.” Forty-one percent, down 12% since the 2018 study, report visiting the Williston Fitness Center during the past year; among facility users, 98% rate it positively. And, while 29% use the pool most often, 36% use the fitness area most frequently, and 21% most often use the gym. Eighty-four percent report using the city’s trails; among users, 94% view them favorably. Users again primarily visit the trails for recreational purposes. Forty-four percent, down 13% since the 2018
study, visited the Minnetonka Community Center during the past year; among visitors, 100% rate the Center highly. Thirty-four percent, down 14% in one year, visited Gray’s Bay Marina during the past year; eighty-nine percent of visitors rate the facility as either excellent or good. Eighteen percent, down 15% since the 2018 study, visited the Ice Arena during the past year; among visitors, 94% rate the Arena highly. Sixty-seven percent of Arena users come for public skating or open ice time, while 20% are there for youth hockey, and 13% come for figure skating or take lessons.

If trails and sidewalks in their neighborhood were connected, 63%, down 16% since the 2018 study, would be at least “somewhat more likely” to walk or bicycle where they needed to go; thirty-five percent, down 10% since the last survey, would be “much more likely” to do so. Fifty-five percent are aware of the increase in franchise fees to fund the expansion and improvement of city trails and sidewalks. By a 61%-14% majority, residents support this increase. Supporters base their position on “reasonable cost,” “household use of the trails,” “need for maintenance,” “support expansion and connection of trails,” “pedestrian safety,” and “good community investment.” Opponents cite “taxes already too high,” “lack of need,” and “better spending elsewhere.”

Forty-seven percent of the city’s households leave the community to recreate elsewhere. Fourteen percent leave to go to play golf, while 13% leave to go boating or fishing, and nine percent, to walk trails.

During the past year, 38% of the households in Minnetonka used at least one of the Hopkins-Minnetonka Recreational programs or offerings. Non-users cite “lack of interest,” “lack of time” and “age or health limitations.” Among users, 89% report general satisfaction with the experience. Thirty-four percent receive program information from the “Minnetonka Memo,” 29% through the “city website,” and 28% from “mailed brochures.” By a 54%-32% margin, program users prefer receiving information “through the mail” rather than “electronically;” however, 13% have “no preference.”

Eighty-seven percent report awareness of the Summer Festival, down six percent in one year; sixty-three percent, a seven percent decrease in one year, report they participated in the Festival. Eighty-six percent of the sample, down 11% in one year, are aware of the Farmers Market at the Civic Center Campus; fifty-six percent report household members participated in it, a decrease of 20% since the 2018 study. Eighty-three percent are aware of the City and Fire Department Open Houses; thirty-seven percent report participation. Eighty-three percent report awareness of the Burwell House Ice Cream Social, with 43% participating in the event, down nine percent in one year. Eighty-one percent are aware of Kids Fest; thirty-five percent participated in this event. Seventy-eight percent, a decrease of eight percent, are aware of Music in the Park; thirty-seven percent, a decrease of 11%, participated in the past. Seventy-four percent are aware of the Winter’s Farmer Market, and thirty-five participated in it. Seventy-three percent report awareness of Movie/Theater in the Park, and 29% participated. Fifty-eight percent, a 14% drop in one year, are aware of the Tree Sale; fifteen percent, a decrease of seven percent since 2018
study, participated. Fifty-six percent, down six percent, report awareness of the Pollinator Field Day or Eco-Fun Fest, while 18%, up five percent since the 2018 survey, participated. Fifty-one percent, a nine percent drop, are aware of senior activities advertised in the “Senior Script;” eighteen percent of the sampled households, down six percent in one year, report participation in these activities. Additionally, seventy-six percent, up 17% in one year, report there are no other city-wide activities they would like to see offered; but seven percent would like to see a “community garden” and six percent would like to see “concerts” offered.

Public Transit Issues:

Twenty-four percent took a bus in Minnesota during the past two years. Sixteen percent of these rides took the bus at least a couple of times per week, 20% took the bus at least a couple of times per month or monthly, and 64% did so less often. The major reasons for taking the bus include “going to the State Fair,” at 33%, “going to school” or “to save money,” at 17% each, and “traveling to a special event,” at 14%. Ninety-one percent were “satisfied” with the bus service, while eight percent were “dissatisfied.”

Non-public transit users report three reasons for their decisions: “prefer to drive,” at 72%; “age or health concerns,” at 11%; and, “no need,” at nine percent. Ninety-nine percent of non-users are either “unsure about” or report there are “no changes or improvements” which would make them consider using the bus.

City Government and City Staff:

Thirty percent, a decrease of 13% since the 2017 study, report they had “quite a lot” or “some” first-hand contact with the Minnetonka City Staff. A very high 92% rate the City Staff as either “excellent” or “good,” while only one percent sees them as “only fair.”

During the past year, 40% visited or contacted City Hall either in person or on the telephone. The most common contacts occur with the General Information Desk, Recreational Services, Recycling, Water and Sewer Services, Natural Resources, the Police Department, and Street Maintenance; together, these seven entities account for 79% of the contacts. Ninety-two percent of the respondents rate the ease of reaching a City Staff member who could help as either “excellent” or “good,” while eight percent see it as “only fair” or “poor.” Ninety-nine percent judge the courtesy of the City Staff highly, while only two percent disagree. Ninety-one percent rate the efficiency of the City Staff highly, with eight percent viewing it lower. And, 94% judge the professionalism of the City Staff highly, while five percent disagree. These ratings remain at the very top of Metropolitan Area suburbs.
Local Authority:

Minnetonka residents were told “many cities have started to institute new laws and regulations, such as increasing the minimum wage and age restrictions for tobacco sales, instead of waiting for the State Legislature to implement them.” By a solid 80%-16% majority, respondent agree with these local initiatives; in fact, 36% “strongly agree” with these actions, but this level of enthusiastic support dropped by 19% in one year.

City Communications:

Print media about the City of Minnetonka and its activities proves to be the dominant source of information used by the citizenry. The “Minnetonka Memo” is relied upon by 55%, while 28% rely upon the “City’s website,” and seven percent, on “local newspapers” Preferred means of receiving City information follow these patterns, with a slight change in emphasis: forty-nine percent prefer the “Minnetonka Memo,” 18% prefer the “City’s website,” ten percent for “e-mails,” and nine percent would opt for “mailings.”

The City newsletter, “Minnetonka Memo,” is received by a large 81% of residents, but this reflects a seven percent decrease from the 2018 level. Among them, 94% award its content and format high grades. Ninety-four percent also rate its usefulness highly. All articles prove useful to 39% of the newsletter’s readers, while another 15% feel the same specifically about articles on city events, and 19% each find city news especially useful.

Ninety-five percent of the sample have access to the Internet. A moderate 70% of respondents on-line report accessing the City of Minnetonka’s website for information about city services, news, and events. Among website visitors, 95% evaluate the content highly, and 89% consider the site easy to use. Twenty-nine percent viewed meetings from the city’s website. Forty-six percent of the web site users – a one-third increase from the 2017 level – registered for a City recreation program; among registrants, 95% find the process to be clear and easy. Fifty-seven percent, a seven percent increase since the 2018 study, are either “very likely” or “somewhat likely” to use social media to keep informed about city activities or contact city staff.

Elections in Minnetonka:

Seventy-five percent report voting in either the 2017 or 2018 elections. Seventy-two percent voted at their polling places, 18% used early voting, and ten percent used absentee ballots. Among voters, 100% highly rate the courtesy of the election staff. Ninety-six percent similarly rate the efficiency of the election staff. Ninety-seven percent rate the organization of the polling place as either “excellent” or “good.” Ninety-five percent feel the same way about the information provided prior to the election. The typical resident waited in line for five minutes; but twenty-seven percent report they waited for more than ten minutes.
Summary and Conclusions:

The following conclusions can be drawn from the 2018 study of the Minnetonka community:

1. Minnetonka residents remain exceptionally satisfied with their quality of life, and this year the city ranks at the top of communities across the Metropolitan Area. Consistently, during the past decade, Minnetonka ranked among the top three suburban communities.

2. City services continue to be the some of the most highly rated in the Metropolitan Area. Of the 14 services rated, 12 post positive ratings over 95% among those holding opinions. The two services ranked less highly are “snow plowing,” at 86%, and “pavement repair and patching,” at 81%. But, the average positive rating of 96.0% is the highest across the Metropolitan Area suburbs. To increase service ratings even higher, the City should target more thorough snow plowing, particularly on cul-de-sacs, and more aggressively and quickly fixing potholes on city streets.

3. Tax hostility in the community is again among the lowest in the Metropolitan Area. Support for a tax increase to maintain city services at their current level is almost five-to-one, at 69%-15%.

4. Concerns about public safety primarily focus on traffic. Speeding drivers, distracted drivers, and driving in congested traffic are key issues. Again, these concerns significantly contribute to both the support for the expansion and connection of the neighborhood trail and sidewalk system, with key focus on sidewalks and pedestrian safety at busy intersections.

5. A solid majority of residents still thinks the City is doing enough in protecting the environment. Significant majorities exceeding 90% each give positive ratings to City efforts protecting wetlands, ponds, streams and forested areas. On one current major ecological problem facing the community, the emerald ash borer, residents are supportive of the use of city funds to manage that invasive species on both public and private land. But, in a drop from the 2018 level, 49% are likely to participate in city-sponsored programs to manage the infestation. Eighty-two percent participate in the curbside recycling program; non-users largely cite they are renters or members of an association as their reason for not participating in this effort. Seventeen percent of the households in the survey already participate in a private hauler composting program and another fifteen percent would be likely to enroll in an organics collection program if their hauler offered it.
6. The City continues to be viewed as successful in maintaining the balance between the rights of individual property owners and the interests of the wider community; only 10% are more critical in their evaluations. As in the past, part of this increase is attributable to a strong positive perception about residents having appropriate opportunities for input into zoning and development decision-making.

7. The City has done a truly effective job in diminishing concerns about ordinance or code violations. Only noise code violations are viewed as major concern by more than one percent – and in this case, only four percent rate it this way. Reporting of the code violation to the City has increased significantly and only 22%, down from the level in the last study, report dissatisfaction with the response from the City.

8. In the discussion of many kinds of development within the community, 15 of 18 types are considered “about the right number or amount” by a majority of residents. Two types evidence majorities or pluralities rating the adequacy as “too few or too little:” affordable housing and starter homes for young families. Generational housing, particularly the adequacy of opportunities, both rental properties and single-family housing, for young families who wish to settle in Minnetonka continues to be a key issue which needs to be further prioritized for near-future action. Two contributing factors to the need for maintaining and expanding housing stock are the 76% who are committed to staying in the city if they were to move from their current home for upgrading and the 73% who are committed to staying in Minnetonka if they downsize.

9. The Minnetonka Park and Trail System is among the highest rated in the Metropolitan Area. But there is an across-the-board decline in usage rates, although it does not appear to be inordinately caused by leaving the city and recreating elsewhere. It also seems to be based on changing interests and lack of time to use these facilities. In spite of the usership decline, positive ratings by current users are very high and reflect an increase over the last study.

10. City-sponsored events also showed a drop in participation levels across-the-board. They remain very popular compared to other suburban communities holding similar events. In line with the 2018 study, the most popular events remain the Summer Festival, the Farmers’ Market at the Civic Center, the City and Fire Department Open House, Kids Fest, and Music in the Park.

11. About one-quarter of the community took a bus during the past two years. Almost two-thirds use the service sporadically, to attend the State Fair and other special events. One-third are more frequent users in order to go to school or save money. Over ninety percent are satisfied with the bus service. Expanding ridership will be difficult, though, since the vast majority of non-users just prefer to drive.
12. City Staff continues to be viewed favorably by the citizenry. Among those having opinions, the approval rating at 99%, is the highest in the Metropolitan Area. And, among those who contacted or visited City Hall, the Staff is awarded high positive ratings of at least 90% on each of four quality service dimensions.

13. The communications system within the City remains successful and among the best in the Metropolitan Area. The “Minnetonka Memo” continues to be the most relied upon source of information, as well as the most preferred source of information. But, two other city media sources are growing in prominence – both the City website and City e-mails. Content, format, and usefulness ratings of both the “Minnetonka Memo” and the City Website are among the highest in the Metropolitan Area. In fact, compared with national ratings, Minnetonka remains one of the most successfully-connected suburbs in the country.

14. The City of Minnetonka, for the twentieth consecutive year, ranks among the top five highest-rated communities in the Metropolitan Area; but, this year, the City ranks at the very top of Metropolitan Area suburbs. With a 40% “city booster” core, the City possesses the most stable and the largest reservoir of goodwill in the Metropolitan Area; one which has served it well in past internal and external transitions and evolutions, while continuing to do so currently and into the future as population and demographic changes keep on apace.
City Council Agenda Item #9A  
Meeting of May 6, 2019

Brief Description:  
Bids for the Carlson Parkway project

Recommended Action:  
Award the contract

Background

Carlson Parkway, from Oakland Road to Twelve Oaks Center Drive, has been identified for improvements through the city’s pavement management program. Analysis of the road indicates that while the pavement surface needs rehabilitation, the pavement structure is in relatively good condition. A mill and overlay of the pavement with select areas of pavement replacement is therefore the recommended rehabilitation strategy as it provides a cost-effective way to improve the surface and extend the roadway life.

In coordination with the pavement rehabilitation, the project includes the replacement of three aging signal systems in partnership with MnDOT; one signal at Twelve Oaks Center Drive and two signals at Trunk Highway 12 (TH 12) controlling the ramps. The city owns the signal at Twelve Oaks Center Drive and MnDOT owns the two signals adjacent to TH 12. As part of the state’s cost participation policy, the city is responsible for a portion of the cost to replace the MnDOT signals. These non-material MnDOT funds will eventually flow through the street fund.

In addition to the signal infrastructure replacement, the signal replacement will allow for the installation of flashing yellow arrows and pedestrian safety improvements at the crosswalk locations. Additionally, select areas of damaged sidewalk will be replaced to ensure compliance with ADA standards. As a note, conversion of other traffic signals in the city to flashing yellow arrows are covered by a separate capital project within the adopted 2019-2023 CIP.

Bid Opening

Bids were opened for the project on April 12, 2019. Six bids were received in response to the call for bids, and the results are as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Total Bids</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineer’s Estimate</td>
<td>$1,238,777.25</td>
</tr>
<tr>
<td>Park Construction Co.</td>
<td>$1,549,427.55</td>
</tr>
<tr>
<td>Valley Paving, Inc.</td>
<td>$1,633,333.33</td>
</tr>
<tr>
<td>Northwest Asphalt</td>
<td>$1,694,932.74</td>
</tr>
<tr>
<td>Midwest Asphalt Services</td>
<td>$1,792,116.50</td>
</tr>
<tr>
<td>GMH Asphalt Corporation</td>
<td>$1,911,942.62</td>
</tr>
<tr>
<td>Meyer Contracting, Inc.</td>
<td>$2,250,597.07</td>
</tr>
</tbody>
</table>
The low bidder, Park Construction Co., has satisfactorily completed projects in Minnetonka.

**Estimated Project Costs and Funding**

The total estimated construction cost, including engineering, administration and contingency is $2,165,000. Costs for the project, including the increase above the engineering estimate, is shown below and fits within the adopted 2019 –2023 CIP. The MnDOT cost participation is defined in the existing agreements as their funding portion being 40% of the signal work at the ramps on the north and south side of TH 12.

<table>
<thead>
<tr>
<th>Project</th>
<th>Project Budget Amount</th>
<th>Proposed Funding</th>
<th>Expense</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Costs</td>
<td>$1,725,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contingencies – 10%</td>
<td></td>
<td>$170,000</td>
<td></td>
</tr>
<tr>
<td>Engineering, Administration, and Indirect Costs</td>
<td>$270,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Street Improvement Fund</td>
<td>$1,400,000</td>
<td>$1,665,000</td>
<td></td>
</tr>
<tr>
<td>Storm Water Fund</td>
<td>$50,000</td>
<td>$50,000</td>
<td></td>
</tr>
<tr>
<td>Utility Fund</td>
<td>$50,000</td>
<td>$50,000</td>
<td></td>
</tr>
<tr>
<td>MnDOT Funding</td>
<td>$330,000</td>
<td>$400,000</td>
<td></td>
</tr>
<tr>
<td><strong>Total Budget</strong></td>
<td><strong>$1,830,000</strong></td>
<td><strong>$2,165,000</strong></td>
<td><strong>$2,165,000</strong></td>
</tr>
</tbody>
</table>

Increases to MnDOT funding are as per the cooperative construction agreement previously approved by council on March 18, 2019. This funding includes a combination of materials supplied and reimbursement.

**Schedule**

If the recommended actions are approved by council, construction is expected to begin this summer and be complete by late fall.

**Recommendation**

Award the contract for the Carlson Parkway Project No. 18409 to Park Construction Co. in the amount of $1,549,427.55.

Submitted through:

  Geralyn Barone, City Manager
  Will Manchester, PE, Director of Engineering

Originated by:

  Phil Olson, PE, Assistant City Engineer
Carlson Parkway

- Street Mill and Overlay
- Signal Replacement

This map is for illustrative purposes only.
## Funding Summary

<table>
<thead>
<tr>
<th>Funding Sources</th>
<th>2019 CIP</th>
<th>2019 Mill and Overlay</th>
<th>Carlson Parkway</th>
<th>Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street Improvement Fund - Local Street Rehab</td>
<td>$2,600,000</td>
<td>$695,000</td>
<td>$1,665,000</td>
<td>$240,000</td>
</tr>
<tr>
<td>Storm Water Fund</td>
<td>$100,000</td>
<td>$25,000</td>
<td>$50,000</td>
<td>$25,000</td>
</tr>
<tr>
<td>Utility Fund</td>
<td>$150,000</td>
<td>$50,000</td>
<td>$50,000</td>
<td>$50,000</td>
</tr>
<tr>
<td><strong>Total Project Cost</strong></td>
<td><strong>$2,850,000</strong></td>
<td><strong>$770,000</strong></td>
<td><strong>$1,765,000</strong></td>
<td><strong>$315,000</strong></td>
</tr>
</tbody>
</table>
Brief Description: Proposals for police and fire facility project

Recommended Action: Reject all proposals

Background

Over the past several years, the city has been planning for the construction of a remodeled police facility and new building to house the fire department. The project is included in the 2019-2023 Capital Improvement Program (CIP), at an estimated cost of $25,000,000. The city council gave final approval to the necessary land use applications at its regular meeting of Jan. 28, 2019. On March 18, 2019, the council authorized the issuance of $25,000,000 in general obligation bonds to finance the facility.

In March 2019, the city solicited competitive proposals utilizing the best value contracting method, as allowed by state law. Under best value contracting, the city is allowed to consider not only price but also a number of other factors related to the contractor’s qualifications, including quality and timeliness of the contractor’s performance on previous projects. The published criteria specified that the construction budget was $22,000,000 and that proposals in excess of that amount may not be considered for selection. Proposals were opened on April 16, 2019. Two proposals were received and tabulated as follows:

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Proposal amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Terra Construction</td>
<td>$25,450,000.00</td>
</tr>
<tr>
<td>Donlar Construction</td>
<td>$28,119,000.00</td>
</tr>
</tbody>
</table>

Both proposals exceed the construction budget, and the city’s architect, Wold Architects and Engineers, has recommended that the proposals be rejected. Based on the architect’s discussion with companies that had expressed interest in the project, it appears the timing of the solicitation affected some companies in their decision not to submit proposals – due to other project commitments or limitations in available workforce.

The city staff intends to move the project forward using a construction manager – contractor process. In conjunction with city staff and the architect, a construction manager can assist in reviewing the project plans for potential cost-saving methods. The city will again solicit competitive bids for the project construction. The construction manager oversees the work of the contractor(s) throughout construction, providing an additional project management resource for city staff. The construction manager form of contracting is in common use by cities and counties. Examples of cities and counties that have utilized construction managers are: City of Burnsville Police and City Hall Remodel; City of Hopkins City Hall Remodel; and Scott County Government Center.

Estimated Schedule

The following schedule is preliminary and subject to change:

- Staff and architect interview companies for construction manager (CM) services
• Staff recommends CM contract for council approval – June 24, 2019 regular meeting
• Staff, architect and CM review and revise bid documents
• Advertise for bids in August
• Council awards contract(s) for construction and sets the date, approves terms and conditions for sale of the bonds -- Sept. 16, 2019 regular council meeting
• Council awards the bonds – October 7, 2019 regular council meeting
• Estimated construction start – Fall 2019
• Estimated substantial completion – Spring 2021

Recommendation

Reject all bids.

Submitted through:
   Geralyn Barone, City Manager
   Perry Vetter, Assistant City Manager
   Merrill King, Finance Director
   Brian Wagstrom, Public Works Director

Originated by:
   Corrine Heine, City Attorney
City Council Agenda Item #10A
Meeting of May 6, 2019

**Brief Description**
Conditional use permit for an accessory structure exceeding 12 feet in height and 1,000 square feet in total floor area at 19100 Old Excelsior Blvd.

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

**Proposal**
Ryan Carlson, property owner, is proposing to construct a detached garage northeast of the existing home at 19100 Old Excelsior Blvd. Located 28 feet from the east property line, the 24-foot by 36-foot garage would include second-story space, resulting in a total usable area of 1,308 square feet. By city code definition, the garage would be 21 feet in height. Accessory structure over 12-feet in height and/or 1,000 square feet in area are conditionally-permitted in residential zoning districts.

**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 that the garage would meet all minimum conditional use permit standards outlined in city code.

At the commission meeting, a public hearing was opened to take comment. No comments were received. On a 5-0 vote, the commission recommended that the city council approve the redevelopment.

**Staff Recommendation**
Staff recommends that the city council adopt the resolution approving a conditional use permit for an accessory structure exceeding 12 feet in height and 1,000 square feet in total floor area at 19100 Old Excelsior Blvd.

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
MINNETONKA PLANNING COMMISSION
April 25, 2019

Brief Description
Conditional use permit for an accessory structure exceeding 12 feet in height and 1,000 square feet in total floor area at 19100 Old Excelsior Blvd.

Recommendation
Recommend the city council adopt the resolution approving the permit

Proposal
Ryan Carlson, property owner, is proposing to construct a detached garage northeast of the existing home. Located 28 feet from the east property line, the 24-foot by 36-foot garage would include second-story space, resulting in a total usable area of 1,308 square feet. By city code definition, the garage would be 21 feet in height. Accessory structure over 12-feet in height and/or 1,000 square feet in area are conditionally-permitted in residential zoning districts.

Background Information

<table>
<thead>
<tr>
<th>Property</th>
<th>Access</th>
<th>Old Excelsior Blvd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Size</td>
<td>1.2 acres or 52,270 square feet</td>
<td></td>
</tr>
<tr>
<td>Natural Resources</td>
<td>A variety of mature trees</td>
<td></td>
</tr>
</tbody>
</table>

Staff Analysis
Staff finds that the applicant’s proposal is reasonable, as the garage would meet all minimum conditional use permit standards outlined in city code. These standards are detailed in the “Supporting Information” section of this report.

Staff Recommendation
Recommend that the city council adopt the resolution approving a conditional use permit for an accessory structure exceeding 12 feet in height and 1,000 square feet in total floor area at 19100 Old Excelsior Blvd.

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

**Surrounding Land Uses**
- Northerly: Single-family home; zoned and guided low-density
- Easterly: Single-family home; zoned and guided low-density
- Southerly: Old Excelsior Blvd and Highway 7 beyond
- Westerly: Single-family home; zoned and guided low-density

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

**Usable Space**
The International Residential Code (a building code, rather than zoning code) notes that habitable space must have a ceiling height of not less than seven feet. Staff uses this dimension in determining the square footage of upper level “storage space” in accessory structures.

**CUP Standards**
The proposed structure would meet the general conditional use permit standards as outlined in City Code §300.16 Subd.2:

1. The use is consistent with the intent of this ordinance;
2. The use is consistent with the goals, policies, and objectives of the comprehensive plan;
3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and
4. The use does not have an undue adverse impact on public health, safety or welfare.

The proposed garage would meet the specific conditional use permit standards as outlined in City Code §300.16 Subd.3(f):

1. Side and rear setbacks equal to the height of the structure or 15 feet, whichever is greater.

   **Finding:** The proposed building would be set back 28 feet from the east property line, 80 feet from the north property line, and well over 100 feet from south and west lines.

2. No additional curb cuts to be permitted;

   **Finding:** No additional curb cut is proposed.

3. Not to be used for commercial activities;

   **Finding:** The applicant has indicated the building would not be used for commercial purposes. This has been included as a condition of approval.
4. Structure to be architecturally consistent with the principal structure;

**Finding:** The proposed garage has been attractively designed and would complement the existing home.

5. Landscaping to be required to buffer views when the structure is highly visible from adjoining properties; and

**Finding:** The proposed garage would be adequately screened by mature vegetation.

6. Site and building plan subject to review pursuant to section 300.27 of this ordinance

**Finding:** The garage would meet these ordinance requirements, as outlined below.

**SBP Standards**

The proposed building 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 subject property is zoned and guided for low-density residential use. As a detached garage is an allowed accessory use on residential property, the proposal is consistent with the city's development guides. Further, the proposal has been reviewed by members of city planning, engineering, public works, and fire staff and found to be generally consistent with the community's development guides.

2. Consistency with this ordinance;

**Finding:** The proposed structure would be consistent with ordinance requirements.

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 garage would be located in a general "open area" of the property; construction of the garage would not require significant removal of soil or vegetation.

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 garage would be appropriately located relative to existing buildings, driveway, and natural features of the property.

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 proposed garage would not negatively impact the property’s internal sense of order, amount and location of open space, or pedestrian/vehicular circulation. Further, the design and materials of the garage would complement those of the existing home.

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

Finding: As new construction, the building would be required to meet energy standards.

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

Finding: The structure would be located over 90 feet from the closest neighboring structure. Impact on neighboring properties or surrounding land use is not anticipated.

Natural Resources

Best management practices must be followed during the site preparation and construction activities. This may include installation
and maintenance of a temporary rock driveway, erosion control, and tree protection fencing.

**Neighborhood Comments**
The city sent notices to 35 area property owners and has received no comments to date.

**Pyramid of Discretion**

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

1. Concur with staff’s recommendation. In this case, a motion should be made recommending the city council approve the CUP.

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

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

**Voting**
The planning commission will make a recommendation to the city council, which has final authority on the applicant's request. Approval of the requested CUP requires the affirmative vote of a simple majority of councilmembers.

**Deadline for Decision**
July 22, 2019
Location Map

Project: Carlson Residence
Address: 19100 Old Excelsior Blvd
12/12 pitch
to match house

NORTH FACE

24'
12/12 pitch to match house
A. Resolution approving a conditional use permit for an accessory structure exceeding 12 feet in height at 1,000 square feet in an area at 19100 Old Excelsior Blvd.

Recommend that the city council adopt the resolution approving a conditional use permit for an accessory structure exceeding 12 feet in height and 1,000 square feet in total floor area at 19100 Old Excelsior Blvd.

B. Resolution approving building and sign plans for proposed façade changes to the building at 14525 Hwy. 7.

Adopt a resolution approving an expansion permit to increase the height of the building within the required setback and a resolution approving the sign plan.

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

8. Public Hearings

A. Items concerning Walser Nissan at 15906 Wayzata Blvd.

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

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

Chair Kirk confirmed with Ingvalson that there would be a snow removal plan.

Chair Kirk asked if there would be mitigation for the trees removed. Ingvalson explained that would be addressed during the review of the building permit. The current plan would meet tree ordinance requirements.

Henry asked if the total area of all of the signs shown in the agenda packet would equal 184 square feet. Ingvalson answered affirmatively. Other car dealerships in the area have similar signs.

Powers thought removing the trees on the berm on the north side would change the character of the relationship to the adjacent houses. Ingvalson said that the current buffering is above and beyond what is required. Staff found that the proposal would meet minimum buffering requirements. The houses would be 800 feet to 1,000 feet from the edge of the new parking lot.

Henry asked if snow could be placed on the infiltration basins. Staff answered affirmatively. Henry noted that would increase the amount of salt traveling to the wetland. Ingvalson said that a condition of approval would require information on the amount of salt used on the site. Thomas clarified that snow storage would be allowed in
Resolution No. 2019-

Resolution approving a conditional use permit for an accessory structure exceeding 12 feet in height and 1,000 square feet in total floor area at 19100 Old Excelsior Blvd

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 19100 Old Excelsior Blvd. It is legally described as:

Lot 002, AUDITOR'S SUBDIVISION NO. 334, HENNEPIN COUNTY, MN

1.02 Ryan Carlson, property owner, is proposing to construct a detached garage northeast of the existing home on the site. The proposed garage would have a code-defined height of 21 feet and would result in a total accessory structure area of just over 1,300 square feet.

1.03 The proposal requires a conditional use permit for a detached structure exceeding 12 feet in height and 1,000 square feet in area.

1.04 On April 25, 2019, 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 §300.16 Subd.2 outlines the following general standards that must be met for granting a conditional use permit:

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

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

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

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

2.02 City Code §300.16 Subd.3(f) outlines the following specific standards that must be met for granting a conditional use permit for detached garages in excess of 1,000 square feet:

1. Side and rear setbacks equal to the height of the structure or 15 feet, whichever is greater;
2. No additional curb cuts to be permitted;
3. Not to be used for commercial activities;
4. Structure to be architecturally consistent with the principal structure;
5. Landscaping to be required to buffer views when the structure is highly visible from adjoining properties;
6. Site and building plan subject to review pursuant to City Code §300.27 of this ordinance.

Section 3. Findings.

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

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

1. The proposed building would be set back 28 feet from the east property line, 80 feet from the north property line, and well over 100 feet from south and west lines.
2. No additional curb cut is proposed.
3. As a condition of this resolution, the accessory building cannot be used for commercial purposes.
4. The proposed garage has been attractively designed and would complement the existing home.
5. The proposed garage would be adequately screened by mature vegetation.

3.03 The proposal would meet the site and building plan standards outlined in City Code §300.27.

1. The subject property is zoned and guided for low-density residential use. As a detached garage is an allowed accessory use on residential
property, the proposal is consistent with the city’s development guides. Further, the proposal has been reviewed by members of city planning, engineering, public works, and fire staff and found to be generally consistent with the community’s development guides.

2. The proposed structure would be consistent with ordinance requirements.

3. The proposed garage would be located in a general “open area” of the property; construction of the garage would not require significant removal of soil or vegetation.

4. The structure would be appropriately located relative to existing buildings, driveway, and natural features of the property.

5. The structure would not negatively impact the property’s internal sense of order, amount and location of open space, or pedestrian/vehicular circulation. Further, the design and materials of the garage would complement those of the existing home.

6. As new construction, the structure would be required to meet energy standards.

7. The structure would be located over 90 feet from the closest neighboring structure. Impact on neighboring properties or surrounding land use is not anticipated.

Section 4. City Council Action.

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

1. Subject to staff approval, the property must be developed and maintained in substantial conformance with the following plans:

   • Site plan, received date March 26, 2019
   • Building elevations, received date March 26, 2019

2. Prior to issuance of a building permit:

   a) This resolution must be recorded with Hennepin County.

   b) Cash escrow, in an amount to be determined by city staff, must be submitted. 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.

c) Install erosion control, and tree protection fencing and any other measures required by city staff for staff inspection. These items must be maintained throughout construction.

3. It is the applicant’s responsibility to obtain any necessary permits from the Riley Purgatory Bluff Creek Watershed District.

4. The accessory structure may not be used for commercial purposes.

5. The accessory structure cannot be converted into living space without a separate conditional use permit.

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 6, 2019.

______________________________
Brad Wiersum, Mayor

Attest:

______________________________
Becky Koosman, Acting City Clerk

**Action on this resolution:**

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent: Happe
Resolution adopted.
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on May 6, 2019.

__________________________________
Becky Koosman, City Clerk
City Council Agenda Item #10B
Meeting of May 6, 2019

Brief Description: Third Amended and Restated Lindbergh Center Joint Powers Ownership and Management Agreement

Recommended Action: Approve the agreement

Background

The Lindbergh Center is jointly owned and operated by the City of Minnetonka and the Hopkins School District, with the city owning 29% and the school district 71%. The facility has five regulation basketball courts, seven volleyball courts, competitive running track, walking and jogging track and an exercise and conditioning room.

The original Lindbergh Center Joint Powers Agreement was negotiated between the Hopkins School District and the City of Minnetonka in 1994. Construction was completed late in the fall of 1996 and the facility opened in November of 1996. The city council approved an amended and restated agreement on February 9, 2009 with minor changes.

The agreement has served as an excellent tool to help manage the use and needs of the facility. Staff from both the district and city have provided the flexibility needed to make the agreement work and resolve any unique circumstances that have developed along the way.

For the past several months, staff from the district and city have been negotiating slight modifications to the agreement intended to better define the way the facility is being utilized. Recommendations developed by staff were presented to the Hopkins School Board on March 19, 2019 and were unanimously approved. Council will review recommended changes to the agreement at the May 6, 2019 meeting.

Summary

Recommended changes to the existing agreement better reflect current practice and needs of both parties. Primary changes include the following:

- Change date that the annual calendar is to be as complete as possible to June 1 from August 1 to reflect what is current practice. (section 3.6)

- Add language limiting each party’s liability by the provisions of Minnesota Statutes Chapter 466 and other applicable law. (section 5.5)
• Change to clarify when the city receives invoices for the city’s annual share of operating and maintenance costs and define when the city will pay that invoice, to reflect what is current practice. (section 7.1)

Other minor changes, intended for clarification purposes, are also included throughout the agreement. In addition, language remains in the agreement that requires the city and district to review this agreement within ten years of the date of the amended agreement to determine if any changes are appropriate.

Recommendation

Staff recommends that the city council approve the changes to the Lindbergh Center Joint Powers Agreement as drafted. The City Attorney has reviewed and is in agreement with the recommended changes.

Submitted through:
   Geralyn Barone, City Manager
   Kelly O’Dea, Recreation Director

Originated by:
   Mike Pavelka, Facilities Superintendent

Attachments:

1. Amended agreement with changes
Third Amended and Restated Lindbergh Center
Joint Powers Ownership and Management Agreement

This Agreement is made on March 19, 2019, between Independent School District No. 270, a Minnesota public corporation ("District"), and the City of Minnetonka, a Minnesota municipal corporation ("City"). This Agreement replaces and restates the second amended and restated agreement between the parties that was dated March 1, 2009. The District and the City are referred to individually as "Party" and collectively as "Parties".

1. PURPOSE.

The District and the City have determined that it is more economical and efficient to jointly operate an activity center ("Facility") than for each to do so separately. The purpose of this Agreement is to set forth the terms governing the Parties in the ownership, operation, maintenance, and sale of the Facility. The Parties agree that the Facility will be used for providing educational, recreational, and athletic programs, community-based activities, and related activities, such as those commonly provided at community activity centers and school athletic facilities in the Twin Cities metropolitan area, and for no other purpose. Such programs and activities will be consistent with the use of the surrounding and adjoining facilities and property as the site of a school building. The overall guiding principle embodied in this Agreement is the mutual desire of the District and the City to maximize the use of the Facility as well as the adjoining building by all members of the District's and City's respective constituencies. This Agreement is made pursuant to Minn. Stat. § 471.59.

2. OWNERSHIP.

2.1. The Facility is located on property owned by the District. The District agrees that this property is available for the Facility and will grant a ground lease to itself and the City as tenants in common.

2.2. The ground lease to the City will give the City the non-exclusive right to allow vehicles associated with use of the Facility to park on land owned by the District, the location of which is shown approximately on attached Exhibit A. The District’s Athletics Department will have four (4) parking spaces reserved and dedicated to activities staffing for hours and days as specified by the Operating Committee. All other parking spaces will be used on a first come, first served basis.

2.3. The Facility will be owned jointly by the District and the City as tenants in common, in the following proportionate shares: District - 71%; City - 29%. The Facility consists of five (5) courts, a weight room, a wrestling room, two (2) classrooms, fitness room, team rooms and community locker rooms.

3. OPERATION, MAINTENANCE.

3.1. The District and the City will jointly use and operate the Facility in accordance with this Agreement. The operation and maintenance of the Facility will be under the jurisdiction of the Facility Operating Committee ("Operating Committee") consisting of the District Superintendent and the City Manager, or their designees. Decisions of the Operating Committee must be unanimous.
3.2. The Operating Committee will select a Facility Manager to supervise the operation, scheduling, and maintenance of the Facility. This person will be a District employee, subject to the direction, control, salary schedule, and policies of the District, but will also have a reporting relationship to the Operating Committee. Historically and currently, the District Facility Use Coordinator fills the role of overseeing the management of the Lindbergh Center as the Facility Manager. The Operating Committee will determine whether other employees are reasonably necessary to assist the Facility Manager in the supervision and operation of the Facility. If so, these will also be District employees, subject to the direction, control, salary schedule, and policies of the District. Historically and currently, the Lindbergh Center Event Manager and the Lindbergh Center Assistant Manager supervise the day-to-day operations and report directly to the District Facility Use Coordinator. The direct costs of these employees will include each employee's salary, benefits, worker's compensation costs, and unemployment costs, multiplied by the percentage of the employee's time devoted to the Facility. The City will reimburse the District for 29% of these direct costs.

3.3. The District will provide all of the necessary utilities, maintenance and repair for the Facility and the parking areas used in connection with the Facility, including snow plowing. The direct costs of all District employees who provide these duties will be calculated in the same manner as that described in paragraph 3.2. The City will reimburse the District for 29% of these direct employee costs and 29% of all other costs incurred in maintaining and operating the Facility and the associated parking areas.

3.4. The District will be responsible for the accounting of the costs for the operation and capital replacement for the Facility. The District and the City will jointly approve an annual budget for these costs coextensive with the District's fiscal year.

3.5. In addition to the cost-sharing provided above, each Party will be responsible individually for the extra out-of-pocket expenses, such as equipment rental, extra custodial time, extra supervision, and food service costs, which are incurred as the result of a special event sponsored by that Party. Extra out-of-pocket expenses are defined as additional expenses above and beyond normal operations. Except as otherwise agreed, neither Party may charge the other Party any other fee for use of the Facility.

3.6. The Parties intend to have the Facility and adjoining building used to the greatest extent possible by both Parties and the community for activities and programs. The Parties agree to prepare an annual calendar of activities and events for the Facility. The Parties intend that the annual calendar be as complete as possible by approximately June 1.

3.7. The use of the Facility will be scheduled, Monday-Sunday, in accordance with the following in descending order of priority:
6:00 a.m. to 6:00 pm | 6:30 p.m. to midnight

1. District-sponsored and jointly-sponsored programs
2. City-sponsored programs
3. Other programs

1. City-sponsored and jointly-sponsored programs
2. District-sponsored programs
3. Other programs

During the academic year, the Lindbergh Center weight room shall be unavailable for public use Monday-Thursday between the hours of 3:00 to 5:00 p.m., when it shall be reserved for the exclusive use of the programs managed by the School District Activities Office.

The ending time for District priority will be scheduled at 6:00 p.m. and the beginning time for City priority will be scheduled at 6:30 p.m. The intent of the time between 6:00 to 6:30 p.m. is to be used for set-up and transition from District activities to City use. District use is permitted between 6:00 to 6:30 p.m. while the courts are set-up for City use. While flexibility with this time is at the discretion of the Facility Manager, the City will gain access for programming use no later than 6:30 p.m.

Jointly-sponsored programs are programs for which both Parties agree to share the development, supervision, promotion, expense, and revenues. The five (5) courts, walking/jogging track, weight room and the fitness cardio area are defined as jointly sponsored programs. All other jointly-sponsored programs are officially recognized as such when approved in writing by the Operating Committee.

The District has the right to preempt a City program during the City's priority hours for scheduled District-sponsored events such as athletic contests, tournaments, concerts, graduation exercises, and other such pre-planned and pre-scheduled activities. Such events shall be included as part of the annual calendar.

Preempted City activities must be scheduled into alternative locations which will reasonably accommodate the City's programs. A preemption is defined as any request by the District that requires loss of City programming space at the Lindbergh Center and/or closure of normally scheduled public use spaces (i.e. walk/run track, weight room, etc.). For a District event which is not scheduled in advance as part of the annual calendar, District preemption must take place more than seven (7) days before the event. However, the City may agree to a shorter period of time for unexpected events.

The total number of preemptions by the District for both unscheduled events and those which are part of the annual calendar cannot exceed thirty-two (32) times per year unless approved by the Operating Committee.
3.8. In exchange for this right of preemption, the District will make available five (5) basketball courts for City-sponsored programs every Saturday from 8:00 a.m. to 4:00 p.m. from November through February. The five (5) basketball courts will be located at the Lindbergh Center or Hopkins West Junior High School except for the last three (3) Saturdays in February, which will be located in the Lindbergh Center.

The only exception to the above paragraph as it refers to February are is if the District has scheduled a varsity basketball game or practice, on the first Saturday in February. In the case of a game, the City will elect to either schedule around the District varsity basketball game (i.e. the City will play games before, after or before and after the scheduled game) or use five (5) basketball courts at Hopkins West Junior High School from 8:00 a.m. to 4:00 p.m. In the case of a practice, the District will make available courts 1, 4 and 5 from 8:00 a.m. to 6:00 p.m., courts 2 and 3 from 12:00 p.m. to 6:00 p.m., and the High School gym from 8:00 a.m. to 6:00 p.m.

In addition, the District will make available the dance studio for City-sponsored programs three (3) weekdays per week no earlier than 6:30 pm unless approved by the Operating Committee and program must be completed by 10pm.

City compensation for requests beyond thirty-two (32) preemptions will be the daily B rate (youth rate) as listed in District Board Policy 902.

The City understands the need to accommodate overlapping needs of District winter and spring sports in March and will limit use of the Facility to allow such use by the District. In exchange, the City will be entitled to the use of at least three (3) courts on two (2) Sunday afternoons from 12:00 p.m. to 6:30 p.m. in March.

3.9. The District agrees to make space in other District-owned buildings available to the City as outlined in paragraph 3.8.

(a) Other than the District space outlined in paragraph 3.8, the remaining space in the District facilities will be available for City use in accordance with District Board Policy 902, "Community Use of School Facilities" which is in effect on the date of this Agreement. Any changes to that policy will not be effective with respect to City use of the adjoining building unless approved by the Operating Committee.

3.10. Standard equipment for activities offered at the Facility, such as volleyball standards, weights, and exercise equipment, will be jointly purchased and owned by the Parties in the same percentages as specified in paragraph 2.3. Specialized equipment required by either Party for its own use will be purchased and maintained by the respective Party. Designated storage will be provided for shared equipment and specialized equipment required by either Party.
3.11. The Parties may make the Facility available for use by other groups, either on a rental or rent-free basis, in accordance with District Board Policy 902. Any changes to that policy will not be effective with respect to the Facility unless approved by the Operating Committee. The Parties must place any revenues received from renting the Facility in the current operating account to reduce costs of operating the Facility. Each Party may retain for its own use revenue received from program fees, concessions and ticket sales for events sponsored solely by such Party.

3.12. The joint use of the space contemplated by this Agreement does not eliminate or diminish any other joint use arrangements which currently exist between the Parties for other facilities.

4. DISPUTE RESOLUTION.

4.1. If a dispute arises between the Parties regarding this Agreement or the operation or maintenance of the Facility, the members of the Operating Committee must promptly meet and attempt in good faith to negotiate a resolution of the dispute.

4.2. If the Parties are unable to negotiate a resolution of the dispute within thirty (30) days after this meeting, the Parties may jointly select a mediator to facilitate further discussion.

4.3. If a mediator is not used or if the Parties are unable to resolve the dispute within thirty (30) days after first meeting with the selected mediator, the dispute will be submitted to binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association, except that disputes involving an amount less than $25,000 will be submitted to a single arbitrator.

4.4. The Parties will equally share the costs of conducting any mediation or arbitration, excluding each Party's cost for preparation of its own case.

4.5. In addition to the dispute resolution mechanisms contained in this section, each Party may seek specific performance of the other Party's obligations under this Agreement.

5. LIABILITY, INSURANCE.

5.1. The District employees who provide services or programs in the Facility will be considered employees of the District alone and in no way will be considered employees of the City. City employees who provide services or programs in the Facility will be considered employees of the City alone and in no way will be considered employees of
the District. Except for the cost sharing provided in paragraphs 3.2 and 3.3 above, each Party will be responsible for all costs associated with their own employees.

5.2. The District will be solely responsible for all claims resulting from programs which it sponsors. The City will be solely responsible for all claims resulting from programs which it sponsors. The District and City will be responsible equally for all claims resulting from programs which they jointly sponsor. Responsibility for all claims resulting from operation and maintenance of the Facility and the jointly used parking area identified on Exhibit A will be shared 71% by the District and 29% by the City. "Claims" as used in this paragraph means all third-party claims, losses, damages, and expenses, including attorneys' fees, resulting from personal injury, death, violation of civil rights, and/or property damage. Each Party agrees to defend and indemnify the other for all claims that are the sole responsibility of the indemnifying Party.

5.3. The Parties agree that one attorney may represent both Parties in any third-party claim arising under paragraph 5.2, even though there is a dispute regarding the Parties' respective shares of that liability. If a dispute regarding the Parties' respective shares still exists after the third-party claim has been resolved, that dispute will be resolved in accordance with the dispute resolution mechanisms contained in Section 4 above.

5.4. Each Party will obtain a policy of public liability insurance, either from a reputable insurance company authorized to do business in Minnesota or through a self-insurance pool organized pursuant to Minn. Stat. § 471.981. Each Party will name the other as an additional insured with respect to the Facility. The limits of liability must cover each Parties' exposure under Minnesota Statutes Chapter 466. The insurance of the Party which has sole responsibility for a claim will be primary. When a claim results from a matter of shared responsibility or when there is a dispute about the respective amounts of responsibility, the District's insurance will be primary with a right of contribution from the City's insurance. Any claim for contribution between the respective insurance carriers will be resolved by the procedure in Section 4 above. An insurance carrier which seeks contribution from the second insurance carrier may not settle the subject claim without the consent of the second insurance carrier. Failure to obtain such consent voids the first insurance carrier's right to contribution. However, the consent may not be unreasonably withheld. If the second carrier refuses to give its consent to a reasonable settlement proposal, then the second carrier's insurance will become primary with a right of contribution against the first insurance carrier.

5.5. It is understood and agreed that the liability of each Party shall be limited by the provisions of Minnesota Statutes Chapter 466 and other applicable law. Nothing contained in this Agreement shall waive or amend, nor shall be construed to waive or amend any defense or immunity that either Party, its respective officials and employees, may have under said
Chapter 466, Section 471.59 subd. 1a, or any common-law immunity or limitation of liability, all of which are hereby reserved by the Parties.

5.5. The District will obtain sufficient property and casualty insurance (in accordance with prevailing community standards) to cover the replacement cost of the Facility and its contents. This insurance and payment of any deductibles will be a cost of operating the Facility, covered by the cost-sharing provision in paragraph 3.2.

5.6. Upon request, each Party will provide to the other a certificate of insurance verifying that the insurance policies required by this Agreement are in effect.

6. SALE OF FACILITY.

6.1. The Parties may at any time agree to jointly sell the Facility to a third party.

6.2. If one Party ("the selling Party") wishes to sell its interest in the Facility, the selling Party must give notice to the other Party ("non-selling Party") of its intent to sell its interest. Within 60 days after receiving that notice, the non-selling Party will have the right, but not the obligation, to purchase the selling Party's interest. The non-selling Party may exercise this right by delivering written notice to the selling Party within that sixty (60)-day period. If the non-selling Party exercises this right, the purchase price for the selling Party's interest will be determined as follows, as of the sale date:

(a) The Parties will attempt in good faith to mutually agree on an independent real estate appraiser to determine the value of the Facility. If the Parties are unable to agree on an acceptable appraiser, each Party will select its own appraiser, and those two (2) appraisers will mutually select a third. The three (3) appraisers will constitute a panel to determine the value of the Facility.

The Parties will share equally the cost of a mutually chosen appraiser or the third appraiser on the panel of appraisers. Each Party will bear sole responsibility for the cost of its own appraiser on the panel of appraisers.

(b) In determining the value of the Facility (but not the ground lease under paragraph [d] below), the single appraiser or the panel of appraisers must base their opinions on continued use of the Facility as an activity center and must make reasonable efforts to use more than just the replacement cost approach to value. If a majority of the appraisers are unable to agree upon a value, each appraiser will issue separate opinions of value, and the three (3) values will be averaged to determine the value of the Facility. The value of the Facility will be multiplied by the selling Party's ownership share to determine the purchase price.
(c) In no event can the purchase price be greater than the selling Party's initial investment. The District's initial investment was $5.5 million dollars; the City's initial investment was $2.2 million dollars.

(d) If the District is the selling Party, the Parties must also obtain an independent appraisal of the value of the ground lease in the same manner as in paragraphs (a) and (b) above. The City must pay this amount to the District, in addition to the purchase price of the Facility.

(e) If, after receiving the determination of the appraiser(s) as provided above, the non-selling Party determines that it does not wish to purchase the selling Party's interest in the Facility, the non-selling Party may, by written notice delivered to the selling Party within thirty (30) days after receipt of the appraisers' determination, withdrawal of the exercise of its option. In such event, the non-selling Party's exercise of its option shall be null and void, and neither Party will have any further liability under this Section 6.2.

(f) Nothing in this Section 6.2 shall be interpreted to signify any Party's expectation that it will earn a return on its investment or that the Facility will appreciate in value.

6.3. If a selling Party wishes to sell, and the non-selling Party chooses not to buy the selling Party's interest, the selling Party may offer to sell its interest to a third party. Any purchase agreement with a third party must be subject to a right of first refusal in favor of the non-selling Party to purchase the selling Party's interest under the same terms and conditions. Upon entering into any such purchase agreement, the selling Party must deliver to the non-selling Party written notice attaching a copy of the signed purchase agreement.

Within sixty (60) days after receiving the notice, the non-selling Party may by written notice to the selling Party exercise its right to purchase the selling Party's interest under the same terms and conditions as in the purchase agreement. If the non-selling Party elects not to purchase under these conditions, the selling Party may proceed to sell its interest to the third party. The third party must be approved by the non-selling Party, but this approval must not be unreasonably withheld.

6.4. Upon consummation of a sale to a third party, the selling Party and the third party purchaser must execute an assignment and assumption agreement, under which the selling Party assigns, and the third party assumes, all of the selling Party's rights, obligations, and limitations under this Agreement and the ground lease issued pursuant to Section 2 above, as they may be amended. No such assignment and assumption will relieve the selling Party from liability for any obligation arising prior to the date of the assignment and assumption.
6.5. At its option, the non-selling Party may elect to pay the purchase price to the selling Party in equal annual installments over a period of fifteen (15) years, pursuant to a standard form of contract for deed (Minnesota Uniform Conveyancing Blank No. 56-M or a successor form which contains substantially the same terms and conditions) or pursuant to a promissory note and standard form of mortgage (Minnesota Uniform Conveyancing Blank No. 43-M or a successor form which contains substantially the same terms and conditions). The unpaid balance of principal of such purchase price shall bear interest at a rate of six (6) percent per annum and shall be repayable without premium or penalty.

6.6. If the non-selling Party purchases the selling Party's interest and subsequently sells the Facility or any portion or share of it within five (5) years after the sale date, the non-selling Party must provide written notice to the selling Party of the later sale and its terms, within thirty (30) days after consummation of the later sale. If the non-selling Party makes a profit on the later sale, the non-selling Party must pay to the selling Party a share of the profit. This will be determined as follows:

(a) The later sale price will first be reduced by the cost of any capital expenditures made for the Facility by the non-selling Party after the date of the sale from the selling Party. This is the net sale price.

(b) If the net sale price for the entire Facility is greater than the value of the Facility determined under Section 6.2 (a) and (b) ("the value"), the selling Party is entitled to a percentage of the difference, based on its ownership share specified in Section 2.2.

(c) If the later sale involves only a portion or share of the Facility, the selling Party is entitled to all of the profit from that part which is equal to or less than its ownership share specified in Section 2.2. For example, if the selling Party's ownership share was 21% and a 40% share is sold later, the later sale price is compared to 40% of the value. If the sale price is greater, then the selling Party is entitled to a percentage of the difference determined by dividing 21 by 40.

6.7. A waiver by the non-selling Party of its right to purchase the selling Party's interest in the Facility on any one occasion shall not be deemed a waiver by the non-selling Party of its right to purchase the selling Party's interest on any other occasion.

6.8. Any dispute regarding matters covered by this Section 6 will be resolved pursuant to the dispute resolution procedures in Section 4.
7. GENERAL PROVISIONS.

7.1. The District will provide the City with a written invoice no later than September 1 of each year for the City’s share of on-going operation and maintenance costs related to the District fiscal year that closed as of June 30 preceding the invoice date. All amounts due to the District from the City will be paid no later January 15 following the invoice date. Any other amounts due to the District from the City will be paid within thirty (30) days after the District provides a written notice of the amount due to the City. The District will allow the City to review all of the District’s records regarding any payment demand at reasonable times during normal business hours.

7.2. All notices under this Agreement must be sent by first class mail addressed to:

If to the District: Superintendent
               I.S.D. No. 270
               1001 State Highway 7
               Hopkins, MN 55343

If to the City:  City Manager
                City of Minnetonka
                14600 Minnetonka Blvd.
                Minnetonka, MN 55345

7.3. This Agreement shall continue in duration until terminated pursuant to the provisions above.

7.4. The Parties agree that no later than ten (10) years after this amended and restated Agreement is approved by both the District and the City, the Parties will review this Agreement to determine if any changes are appropriate.

7.5. This Agreement constitutes the entire Agreement between the Parties. Any alterations, variations, modifications, revisions, or waivers of provisions of this Agreement will be valid only when mutually agreed upon by the proper representatives of both Parties and reduced to writing, duly signed, and attached as an amendment to this Agreement.

7.6. The Parties and their respective counsel have had the opportunity to review and revise this Agreement and acknowledge that the normal rule of construction that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement.

7.7. This Agreement must be interpreted under the laws of the state of Minnesota.
7.8. If any provision of this Agreement is held to be contrary to law, that provision shall be deemed severed from the balance of this Agreement and the balance of this Agreement shall remain in force between the Parties to the fullest extent permitted by law, provided further, to the extent any provision of this Agreement is deemed unenforceable by virtue of its scope, but may be made enforceable by limitation thereof, the Parties agree that a court of competent jurisdiction shall have the right to modify any offending provision to make it enforceable to the fullest extent permissible under the laws and public policies.

7.9. The Parties' failure to insist upon strict performance of any part of this Agreement or to exercise any right herein contained shall not be a waiver or relinquishment of such covenant, agreement, stipulation or right, unless the Parties consent thereto in writing.

Date: _________________

INDEPENDENT SCHOOL DISTRICT NO. 270

By ____________________
Its Board Chair

And ____________________
Its Superintendent

Date: _________________

CITY OF MINNETONKA

By ____________________
Its Mayor

And ____________________
Its City Manager
City Council Agenda Item #10C
Meeting of May 6, 2019

Brief Description: Hennepin County Urban Area Security Initiative (UASI) grant

Recommended Action: Authorize the fire department to accept the grant from Hennepin County and to act as a fiduciary agent for the purchase and distribution of equipment to other cities.

Background

Hennepin County Emergency Management (HCEM) annually receives federal Urban Area Security Initiative (UASI) funding through the state for the purposes of enhancing response capabilities. Hennepin County then in turn distributes $10,000 of the annual funding to each of the four multi-city emergency planning groups within the county, for their use as they see fit in their area. Minnetonka is the lead community of the seven-member Hennepin County South Emergency Planning Group. The other members of the planning group are; Bloomington, Eden Prairie, Edina, Hopkins, Richfield, and Saint Louis Park. The South and North Planning Groups have been pooling funds in recent years to acquire emergency shelter supplies and equipment referred to as a ‘cache’ that are accessible by all communities in Hennepin County under the county-wide mutual aid agreement and as prescribed by state law.

As part of the regular Hennepin County annual funding process, the Minnetonka Fire Department applied to use the $10,000 in UASI funds this year to acquire multi-use roll up road signs to be used in day-to-day operations of the South Planning Group cities as well as part of the North/South cache. In past years, another city has taken this fiduciary and administrative role for the joint cache. Hennepin County has now approved the grant and is ready to reimburse Minnetonka for the costs of acquiring the signs.

Recommendation

Authorize the fire department accept the grant and to act as fiduciary agent by ordering the equipment and then distributing appropriate portions of it to the other South Planning Group communities.

Submitted through:
    Geralyn Barone, Minnetonka City Manager
    Merrill King, Finance Director
    John Vance, Fire Chief

Originated by:
    Jim Flanders, Assistant Fire Chief – Emergency Management
Brief Description: Ordinance authorizing sale of city property adjacent to 3515 Park Valley Road

Recommended Action: Introduce the ordinance

Background

In 2016, a developer, Andy Freeland, contacted the city about the possibility of purchasing a portion of excess right of way adjacent to 3515 Park Valley Road. Mr. Freeland expressed his desire to combine the land with 3515 Park Valley Road and then subdivide the combined parcel to create an additional lot for development. The attached location map shows the location of 3515 Park Valley Road. The city property is unused right of way immediately to the west of that property. Based on a recommendation of the city's land committee, which is comprised of city staff from various departments, the city manager recommends the sale.

A brief history of the city’s ownership follows. In 1968, the State of Minnesota acquired various lands in the vicinity of Park Valley Road and Minnetonka Boulevard for I-494 right of way. After construction of the highway, the state conveyed to the city the land identified in the attachment as City Property. Under the proposed purchase agreement, The Patriot Business Group LLC would purchase the portion of the City Property that is identified in the attachment as Sale Property.

The city attorney has prepared a purchase agreement that details the terms of sale. The agreement is attached for council information but will be presented for council approval at the May 20, 2019 council meeting. The key terms of the purchase agreement are as follows:

- Sale price of $19,800. (Proceeds from the sale will be deposited in the Storm Water Fund.)
- Buyer pays all costs of survey, plating, title examination, and the cost of the appraisal.
- Sale is contingent on city approval of a plat that combines the Sale Property with the property at 3515 Park Valley Road and divides that combined land into two lots. The purchase agreement expressly reserves the council’s discretion regarding plat approval.
- The city will retain a drainage and utility easement over the entirety of the Sale Property. (This is needed for existing fire hydrant and utilities.)

Recommendation

Introduce the ordinance.

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

Originated by:
Corrine Heine, City Attorney
Location Map

Project: Patriot Estates
Address: 3515 Park Valley Rd

This map is for illustrative purposes only.
LEGAL DESCRIPTION
Lot 2 Block 4 Minnetonka, Hennepin County, Minnesota.

AND
These parts of Lot 2, Block 4, "Minnetonka Mills Acres", except those theretofore contained within the city of Lynden Additions, and Lot 1, Block 3, "Minnetonka Mills Acres", which he assayed below:

Line 2: Beginning at a point on the east line of Lot 2, Block 3, "Minnetonka Mills Acres", distant 100 feet north of the southeast corner of said Lot 2, Block 3, thence southwesterly along the east line of said Lot 2, thence northerly to a point distant 100 feet westerly measured at right angles to line 1, described below, distant 449.35 feet southwesterly of the point of beginning, thence northerly to a point distant 200 feet easterly measured at right angles to line 1, distant 391.9 feet northerly of its point of commencement; thence northerly to a point distant 223 feet easterly measured at right angles to line 1, thence northerly 15 degrees 22 minutes 17 seconds to the northwesterly extension of the point of termination of said Line 2, thence southwesterly 449.35 feet distant to the point of beginning.

Line 3: Beginning at a point on the south line of Section 13, Township 17 North, Range 22 West, distant 91.58 feet west of the south quarter corner mentioned, thence northwesterly at an angle of 18 degrees 34 minutes 10 seconds from said south line line to a point distant 349.06 feet, thence northwesterly 15 degrees 22 minutes 17 seconds from said point to a point distant 349.06 feet, thence northwesterly 15 degrees 22 minutes 17 seconds from said point to a point distant 349.06 feet, thence northwesterly 15 degrees 22 minutes 17 seconds from said point to a point distant 349.06 feet, thence northwesterly 15 degrees 22 minutes 17 seconds from said point to a point distant 349.06 feet.

PREFERRED LEGAL DESCRIPTIVE VACATED PARK VALLEY ROAD:
Consisting of the southwest quarter of Lot 1, Block 3, "Minnetonka Mills Acres", Hennepin County, Minnesota, thence on its assumed bearing of South 87 degrees 27 minutes 17 seconds West along the northwesterly extension of the southeasterly line of said Lot 1, a distance of 349.05 feet, thence North 12 degrees 13 minutes 25 seconds East a distance of 130.15 feet to the point of beginning of the tract to be described, thence continuing North 12 degrees 13 minutes 25 seconds East a distance of 88.84 feet to a point on the southeasterly extension of the northerly line of said Lot 1, said point being 130.15 feet south of the northerly line of said Lot 1; thence northwesterly along the southeasterly extension of the northerly line of said Lot 1, a distance of 130.15 feet to the point of beginning of the tract to be described, thence continuing North 12 degrees 13 minutes 25 seconds East a distance of 88.84 feet to a point on the southeasterly extension of the northerly line of said Lot 1, said point being 130.15 feet south of the northerly line of said Lot 1; thence southwesterly along the southeasterly extension of the northerly line of said Lot 1, a distance of 130.15 feet to the point of beginning of the tract to be described, thence continuing North 12 degrees 13 minutes 25 seconds East a distance of 88.84 feet to a point on the southeasterly extension of the northerly line of said Lot 1, said point being 130.15 feet south of the northerly line of said Lot 1; thence southwesterly along the southeasterly extension of the northerly line of said Lot 1, a distance of 130.15 feet, thence northwesterly along the southeasterly extension of the northerly line of said Lot 1, a distance of 130.15 feet, thence northwesterly along the southeasterly extension of the northerly line of said Lot 1, a distance of 130.15 feet.

SURVEY WORK & LIMITATIONS:
1. The legal description of boundary lines of the legal description noted above. The scope of our services does not include determining site可用于 relief, which is a legal must. Placing, the legal description with your records or consult with competent legal counsel, if necessary, to make sure that is correct and that any other necessary, such as easements, that may exist and be recorded on the survey data, be recorded.

2. Surveying the location of observed existing improvements, structures necessary for the survey.

3. Setting survey markers or verifying existing survey markers to establish the corners of the property.

4. The subject property contains 30,789 sq. ft.

5. Surveying data on the site on known locations to give some indication of the topography of the site. These contain water bodies using 10.805 ft. only.

6. This survey has been completed without the benefit of a current title commitment. There may be existing easements or other encumbrances that would be included by a current title commitment. Therefore, this survey does not purport to show any easements or encumbrances other than the ones shown herein.

7. Note that all building dimensions and building lot dimensions to the property lines, are taken from the survey data and are shown on the plat.

8. We show a proposed division of the property, please consult the title report to see if it is what you intended. Submit to those governmental agencies that have jurisdiction to obtain their approvals, if you can, before taking any actions regarding the property.

STANDARD SYMBOLS & CONVENTIONS:
Green outline: City Property boundary
Green crosshatch: Sale Property
PURCHASE AGREEMENT

This Agreement is made as of __________________, 2019 by and between CITY OF MINNETONKA, a Minnesota municipal corporation (“Seller”) and THE PATRIOT BUSINESS GROUP LLC, a limited liability company under the laws of Minnesota (“Buyer”).

Recitals

A. Seller has an ownership interest in certain real property located near the intersection of Park Valley Road and Inverness Road in the City of Minnetonka, County of Hennepin, State of Minnesota, legally described as follows:

Those parts of Lot 2, Block 4, "Minnetonka Mills Acres", except that part thereof embraced within the plat of Lyneis Addition, and Lot 1, Block 3, "Minnetonka Mills Acres", which lie easterly of the following described Line 2:

Line 2: Beginning at a point on the east line of Lot 2, Block 3, "Minnetonka Mills Acres", distant 300 feet northerly of the southeast corner of said Lot 2, Block 3 (when measured along the east line of said Lot 2) thence northerly to a point distant 160 feet easterly (measured at right angles) of a point on Line 3, described below, distant 449.72 feet southerly of its point of termination; thence northerly to a point distant 210 feet easterly (measured at right angles) of a point on said Line 3 distant 100 feet southerly of its point of termination; thence northerly to a point distant 225 feet easterly (measured at right angles) of the point of termination of said Line 3 and there terminating.

Line 3: Beginning at a point on the south line of Section 15, Township 117 North, Range 22 West, distant 913.8 feet west of the south quarter comer thereof; thence northwesterly at an angle of 68 degrees 54 minutes 04 seconds from said south section line (measured from west to north) for 90.26 feet to a tangent spiral point; thence deflect to the right on a spiral curve of decreasing radius (spiral angle 03 degrees 00 minutes 00 seconds) for 300 feet to a spiral curve point; thence deflect to the right on a 02 degree 00 minute 00 second circular curve ( delta angle 23 degrees 24 minutes 45 seconds) for 1170.6 feet to a curve spiral point; thence deflect to the right on a spiral curve of increasing radius ( spiral angle 03 degrees 00 minutes 00 seconds) for 300 feet to a spiral tangent point; thence on tangent to said curve for 244.32 feet and there terminating.

(The “City Property”). The City Property is excess right of way, within portions of which sanitary sewer and water facilities have been installed.

B. Buyer desires to purchase a portion of the City Property, approximately 4,360 square feet in size and legally described as follows:

That part of the City Property described as follows: Beginning at the southwest corner of Lot 1, Block 1, LYNEIS ADDITION, Hennepin County, Minnesota; thence on an assumed bearing of South 82 degrees 50 minutes 59 seconds West along the southwesterly extension of the southerly line of said Lot 1, a distance of 34.00 feet; thence North 13 degrees 02 minutes 53 seconds East a distance of 215.11 feet to a point on the extension southwesterly of the northerly line of said Lot 1, said point being 13.00 feet southwest of
the northwest corner of said Lot 1 a distance of 13.00 feet to the northwest corner of said Lot 1; thence southwesterly along the westerly line of said Lot 1 to the point of beginning.

(the “Sale Property”). The legal description will be revised as provided in paragraph 3b of this Agreement. The portion of the Sale Property that will not be sold to Buyer is referred to in this Agreement as the Remainder Property.

Agreement

1. **Offer/Acceptance.** In consideration of the mutual agreements contained in this Agreement, Buyer offers to purchase and Seller agrees to sell fee simple title to the Sale Property, according to the terms of this Agreement. The parties agree that the Seller will either reserve a drainage and utility easement over the entire Sale Property or will require the dedication of a drainage and utility easement over the Sale Property as part of plat approval, as contemplated by paragraph 3.b. below.

2. **Purchase Price.** The total purchase price for the Sale Property is $19,800.00. The Buyer agrees to pay the Purchase Price at closing by wire delivery of funds through the Federal Reserve System to an account designated in writing by Seller.

3. **Contingencies:**

   a. **ORDINANCE ADOPTION.** The sale of the Sale Property must be approved by ordinance, according to the terms of Seller’s city charter. Seller has until Closing to satisfy this contingency. This contingency may not be waived.

   b. **DEVELOPMENT APPROVALS.** Buyer has a purchase agreement to acquire land adjacent to the Sale Property, and Buyer has submitted applications for land use approvals to develop the adjacent property and the Sale Property as a single development consisting of two lots, an outlot for the Remaining Property, and dedicated public right-of-way (the “Development”). This agreement is contingent upon Buyer obtaining all development approvals necessary for the Development, including council approval of preliminary and final plat for the Development. The Sale Property will be platted as part of a designated lot and block, and Seller’s quit claim deed delivered at closing will be for the entire lot. Buyer acknowledges that that this Agreement is contingent upon all necessary development approvals, including street vacation and variances, if required. The Remaining Property shall be designated in the plat as an outlot or as road right of way, at Seller’s option. The Buyer is responsible for all costs associated with obtaining the Development approvals. This contingency is for the benefit of both Buyer and Seller.

   Nothing in this Agreement limits the Seller’s city council from exercising its lawful discretion as a regulatory authority, with respect to the required land use approvals.

   c. **PURCHASE OF PROPERTY.** This Agreement is contingent upon Buyer acquiring fee title to the property at 3515 Park Valley Road, legally described as: Lot 1, Block 1, Lyneis Addition, Hennepin County, Minnesota. This contingency is for the benefit of both Buyer and Seller.

   d. **DUE DILIGENCE.** This Agreement is contingent upon Buyer’s satisfaction with the results of its investigations as provided at section 4 below. This contingency is solely for Buyer’s benefit and may be waived only by Buyer’s written notice of waiver.

   e. **MARKETABILITY OF TITLE.** Buyer’s obligation to purchase is contingent upon Buyer’s determination that the condition of title to the Sale Property is marketable, in accordance with and
subject to the deadlines set forth at section 5a of this Agreement. Buyer agrees to take title subject to easements and encumbrances, if any, that do not interfere with Buyer’s intended use of the Sale Property, which shall be Permitted Encumbrances. The parties agree that the Permitted Encumbrances must include a drainage and utility easement over the entire Sale Property, either dedicated to the public in the plat for the Development or reserved by the Seller in the deed of conveyance.

4. **Due Diligence.**

a. **DUE DILIGENCE PERIOD.** Buyer shall have until May 31, 2019 (the “Due Diligence Period”) to examine the Sale Property and to conduct soil tests, environmental surveys and environmental assessments, and conduct all other investigations of the Sale Property as Buyer deems necessary to determine whether the environmental and geotechnical condition of the Sale Property is physically and fiscally feasible. During the Due Diligence Period, Buyer shall have the right to enter the Sale Property at reasonable times and upon at least 24 hours’ notice to Seller, for the purpose of exercising its rights under this section. Provided that Buyer gives written notice on or before expiration of the Due Diligence Period, this Agreement will terminate on the date that Buyer gives written notice to Seller that the Buyer’s investigations have disclosed environmental or geotechnical conditions that make the proposed development of the Sale Property infeasible. If Buyer fails to give such notice before expiration of the Due Diligence Period, then this Agreement shall continue in full force and effect in accordance with, and subject to, all its terms and conditions, and the contingency at section 3d of this Agreement shall be deemed waived. Buyer agrees to pay all costs and expenses of its investigation and agrees to indemnify, defend and hold Seller harmless from all costs, expenses and liabilities, including mechanics’ liens, relating to Buyer’s investigation activities on the Sale Property. Buyer will promptly deliver to Seller true and correct copies of all environmental or soil test reports after Buyer’s receipt of same. Buyer agrees to promptly restore any resulting damage to the Sale Property to the condition that existed prior to the damage.

b. If the Agreement is terminated as provided in section 4a above, Buyer will bear all costs of Buyer’s investigation.

5. **Title Examination.**

a. **MARKETABILITY OF TITLE.** Buyer intends to purchase the fee-simple interest in the Sale Property. The Buyer will at its own expense obtain a title insurance commitment for an owner’s policy of title insurance for the Sale Property, including copies of all encumbrances listed therein (the “Commitment”). The Buyer will have 10 business days after receipt of the Commitment to deliver written objections to title, if any, to the Seller. Any matter shown on the Commitment and not objected to by Buyer shall be a "Permitted Encumbrance" hereunder. Seller must not permit additional encumbrances to be made upon the Sale Property between the date of this Agreement and the Closing Date.

b. Seller will have ten days after receipt of Buyer’s written objections to give written notice to Buyer of whether Seller intends to cure the objections, and if it gives such notice the objections must be cured no later than the Closing Date. This Agreement will terminate at Buyer’s option if any of the following occurs:
(1) Seller does not give notice of intention, within the ten days specified above, to cure the objections, or

(2) Seller fails to cure the title objections at or prior to Closing, unless Buyer waives the objections and proceeds to Closing.

c. If Buyer terminates this Agreement, the parties must execute a cancellation of this Agreement. During the period of time required to clear title as specified above, all required payments and the closing will be postponed. If Buyer waives its objections to title and closes, the objections shall become Permitted Encumbrances.

6. **Closing and Possession.** The closing of the purchase and sale contemplated by this Agreement (the “Closing”) must occur immediately following Buyer’s closing on its purchase of the property at 3515 Park Valley Road, but not later than November 1, 2019. Seller must deliver possession of the Sale Property to Buyer on the Closing Date.

a. **SELLER’S CLOSING DOCUMENTS.** On the Closing Date, Seller must execute and/or deliver to Buyer the following documents, all of which must be in form reasonably satisfactory to Buyer’s title company:

   (1) Quit Claim Deed conveying Seller’s interest in the platted lot, of which the Sale Property will be a part, to Buyer in fee-simple subject to Permitted Encumbrances.

   (2) Affidavit of Seller, indicating that on the Closing Date there are no outstanding, unsatisfied judgments, tax liens or bankruptcies against or involving either Seller or the Sale Property, and that, except for activities undertaken by Buyer pursuant to this Agreement, there has been no skill, labor or material furnished to the Sale Property at Seller’s request for which payment has not been made or for which mechanics’ liens could be filed, and that there are no other unrecorded interests in the Sale Property.

   (3) A non-foreign affidavit executed by Seller, containing such information as required by IRC Section 1445(b)(2) and its regulations.

   (4) All other documents reasonably determined by Buyer’s title company to be necessary to transfer the fee interest in the Sale Property to Buyer in the manner required by this Agreement.

b. **BUYER’S CLOSING DOCUMENTS.** On the Closing Date, Buyer must execute and/or deliver to Seller the following:

   (1) Purchase Price, subject to adjustments as provided in this Agreement, by wire transfer of U.S. Federal Funds.

   (2) Evidence, reasonably satisfactory to Seller, of Buyer’s purchase of the property necessary for the Development.

   (3) Such other documents as may reasonably be required by title.

7. **Prorations, Adjustments and Allocation of Costs.** The prorations and adjustments described in this section 7 will be made between Buyer and Seller at Closing:
a. Taxes. Seller represents that the Sale Property is tax exempt. Buyer is responsible for real estate taxes due and payable in the years following closing.

b. Assessments. Seller represents that there are no levied or pending special assessments against the Sale Property. Buyer will assume the obligation to pay installments of special assessments that become pending after Closing.

c. Title and Closing Fees. Seller will pay document preparation costs, recording fees, and deed taxes for documents necessary to establish good and marketable title in Seller, and the deed tax on the Deed to be provided by Seller. Buyer will pay the costs of the Commitment, all premiums required for the issuance of any owner’s policy, the fee charged by the closer, document preparation costs for other closing documents, certificates of real estate value, seller’s affidavit, well disclosure certificate, and the cost of recording the Deed from Seller.

d. Attorney Fees. Each party will pay its own attorney fees in connection with this transaction.

8. Seller’s Disclosures. Seller makes the following disclosures:

a. Well Disclosure. Seller represents that Seller does not know of any well on the Sale Property.

b. Septic System Disclosure. Seller does not know of any individual sewage septic system located on the Sale Property.

9. Environmental Condition. Buyer is purchasing the Sale Property in an “AS IS” and “WHERE IS” condition. Buyer acknowledges and agrees that Seller has not made, and is not making, any representation, statement, warranty, covenant or promise to Buyer about the Sale Property, including its physical aspects and condition, the condition of the soil on the Sale Property, the presence or absence of toxic wastes, hazardous materials, pollutants of any type, oil or petroleum products, asbestos or PCBs, the feasibility, the desirability, suitability, fitness or adaptability of any part of the Sale Property for any particular use, the availability of water, sewer, natural gas, or other utilities, the assessments, fees or charges that may be assessed by any district, taxing authority, or governmental or quasi-governmental entities, or the value of the Sale Property. On behalf of itself, its successors and assigns, Buyer releases and holds the Seller harmless against any claims related to the environmental condition of the Sale Property or the presence of pollutants, contaminants or hazardous substances thereon, or any alleged violations of federal or state environmental laws and regulations, including but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), the Minnesota Environmental Rights Act.

9. No Broker Involved. The Seller and Buyer warrant to each other that there is no broker involved in this transaction with whom it has negotiated or to whom it has agreed to pay a broker commission. Each party agrees to indemnify the other for all claims for brokers’ commissions or finder’s fees in connection with negotiations for the purchase of the Sale Property arising out of any alleged agreement, commitment or negotiation by that party.

10. Entire Agreement; Amendments. This Agreement constitutes the entire agreement between the parties and no other agreement prior to, or contemporaneously with, this Agreement is effective except as expressly stated in this document. Any amendment will not be
effective unless it is in writing and executed by all parties or their respective successors or assigns.

11. **No Assignment.** Buyer may not assign its rights and interest under this Agreement.

12. **Notice.** Any communication that may or must be given by one party to the other will be deemed to have been given on the date it is deposited in the United States mail, registered or certified, postage pre-paid, and addressed as follows:

   a. If to Seller:
      City Manager
      City of Minnetonka
      14600 Minnetonka Boulevard
      Minnetonka, MN  55345

   b. If to Buyer:
      Patriot Business Group, LLC
      c/o Andy Freeland
      3426 Robinwood Terrace
      Minnetonka, MN 55305

Either party may change this location by giving written notice to the other party specifying the new location.

13. **Specific Performance.** This Agreement may be specifically enforced by any party, and the prevailing party may recover reasonable costs and attorneys fees.

[Signature Page Follows]
The Seller agrees to the terms of this Purchase Agreement.

SELLER:

CITY OF MINNETONKA

By ____________________________
Its Mayor

By ____________________________
Its City Manager

The Buyer agrees to the terms of this Purchase Agreement.

BUYER:

THE PATRIOT BUSINESS GROUP LLC

By: ____________________________

______________________________
Its __________________________
Ordinance No. 2019-__

An Ordinance authorizing the sale of a portion of city-owned property adjacent to 3515 Park Valley Road

The City of Minnetonka Ordains:

Section 1. Findings and Purpose.

1.01 The city of Minnetonka owns real property legally described on the attached Exhibit A (the “City Property”).

1.02 The Patriot Business Group LLC desires to purchase a portion of the City Property, comprising approximately 4,360 square feet of land, and include the acquired land in a proposed subdivision of the property at 3515 Park Valley Road. The legal description of the property to be sold is attached as Exhibit B (the “Sale Property”).

1.03 The city staff has negotiated a purchase agreement with The Patriot Business Group LLC.

1.04 The city council finds it is in the public interest to sell the Sale Property to The Patriot Business Group LLC, in accordance with the negotiated purchase agreement.

Section 2. Authorization.

2.01. The city council approves the sale of the Sale Property in accordance with the purchase agreement.

Section 3. This ordinance is effective 30 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on

___________________________________________
Brad Wiersum, Mayor
Attest:

Becky Koosman, Acting City Clerk

**Action on this Ordinance:**

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

Date of publication:

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

________________________________________
Becky Koosman, Acting City Clerk
EXHIBIT A

Those parts of Lot 2, Block 4, "Minnetonka Mills Acres", except that part thereof embraced within the plat of Lyneis Addition, and Lot 1, Block 3, "Minnetonka Mills Acres", which lie easterly of the following described Line 2:

Line 2: Beginning at a point on the east line of Lot 2, Block 3, "Minnetonka Mills Acres", distant 300 feet northerly of the southeast corner of said Lot 2, Block 3 (when measured along the east line of said Lot 2) thence northerly to a point distant 160 feet easterly (measured at right angles) of a point on Line 3, described below, distant 449.72 feet southerly of its point of termination; thence northerly to a point distant 210 feet easterly (measured at right angles) of a point on said Line 3 distant 100 feet southerly of its point of termination; thence northerly to a point distant 225 feet easterly (measured at right angles) of the point of termination of said Line 3 and there terminating.

Line 3: Beginning at a point on the south line of Section 15, Township 117 North, Range 22 West, distant 913.8 feet west of the south quarter corner thereof; thence northwesterly at an angle of 68 degrees 54 minutes 04 seconds from said south section line (measured from west to north) for 90.26 feet to a tangent spiral point; thence deflect to the right on a spiral curve of decreasing radius (spiral angle 03 degrees 00 minutes 00 seconds) for 300 feet to a spiral curve point; thence deflect to the right on a 02 degree 00 minute 00 second circular curve (delta angle 23 degrees 24 minutes 45 seconds) for 1170.6 feet to a curve spiral point; thence deflect to the right on a spiral curve of increasing radius (spiral angle 03 degrees 00 minutes 00 seconds) for 300 feet to a spiral tangent point; thence on tangent to said curve for 244.32 feet and there terminating.
EXHIBIT B

That part of the City Property described as follows: Beginning at the southwest corner of Lot 1, Block 1, LYNEIS ADDITION, Hennepin County, Minnesota; thence on an assumed bearing of South 82 degrees 50 minutes 59 seconds West along the southwesterly extension of the southerly line of said Lot 1, a distance of 34.00 feet; thence North 13 degrees 02 minutes 53 seconds East a distance of 215.11 feet to a point on the extension southwesterly of the northerly line of said Lot 1, said point being 13.00 feet southwest of the northwest corner of said Lot 1, a distance of 13.00 feet to the northwest corner of said Lot 1; thence southwesterly along the westerly line of said Lot 1 to the point of beginning.

NOTE: the legal description in the deed of conveyance may be revised to Lot 1, Block 1, PATRIOT ESTATES, of which the above described land is proposed to be a part.
City Council Agenda Item #12B
Meeting of May 6, 2019

Brief Description: An Ordinance amending section 920.020, subdivision 2 of the Minnetonka City Code; amending the Minnesota state fire code; regulating storage and use of grills in apartment or condominium buildings two or more stories in height

Recommendation Introduce the ordinance

Background
With widespread education over the last two years relating to the prohibition of propane grills on balconies, electric grills are becoming a popular replacement. The current language, consistent with the fire code, requires electric grills to be hardwired. We have recently discovered that electric grills available to buy for residential use come with a cord and plug. The cord and plug, along with the grill are listed by the manufacturer as one unit. The electric code prohibits modifying the cord in order to hardwire the grill and electricians hired by our residents to hardwire these electric grills are refusing to perform the work because it will violate the listing of the grill and void any manufacturer warranty. The proposed changes will allow our residents to safely use electric grills consistent with most major manufacturer’s recommendations.

Amendments
Below is a summary of the proposed ordinance changes:

- Changes the term barbeque to grill.
- Allows electric grills to be plugged into outdoor ground fault interruption (GFI) receptacles instead of being hard wired while in use.
- Maintains the 18-inch clearance according to Minnesota State Fire Code, and removes the requirement for electric grills to be permanently mounted since an appliance with a plug is considered portable.

Recommendation
Staff recommends introduction of the ordinance. The city council should indicate if there are questions or additional information they require prior to final review of the ordinance changes.

Submitted through:
   Geralyn Barone, City Manager

Originated by:
   John Vance, Fire Chief
   Corrine Heine, City Attorney
Ordinance No. 2019-

An Ordinance amending section 920.020, subdivision 2 of the Minnetonka City Code; amending the Minnesota state fire code; regulating storage and use of grills in apartment or condominium buildings two or more stories in height

The City of Minnetonka Ordains:

Section 1. Section 920.020, subdivision 2 of the Minnetonka City Code, relating to amendments to the Minnesota state fire code, is amended to read as follows:

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

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

1.2 Fuel storage prohibited. No person may store or use any fuel, barbecuegrill, torch, or other similar heating or lighting chemical or device in any apartment or condominium building two or more stories in height, except as provided in this section 1.32 below. The following devices are allowed under the circumstances specified, provided that all devices must maintain an 18-inch clearance on all sides to combustibles.

1.3 Grill clearances.

1.23.1 Listed electric barbecue grills are allowed on balconies and patios provided they are permanently mounted hardwired to the building's electrical system maintain an 18-inch clearance on all sides to combustibles, unless a greater clearance is specified by the manufacturer, and provided they are plugged directly into a GFI protected exterior outlet while in use.

1.23.2 Listed natural gas fueled barbecue grills are allowed on balconies and patios provided they are permanently mounted and plumbed to the building's natural gas supply and maintain an 18-inch clearance on all sides to combustibles.

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

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

The stricken language is deleted; the underlined language is inserted.
Section 2. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 3. This ordinance is effective 30 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on

Brad Wiersum, Mayor

Attest:

Becky Koosman, Acting City Clerk

**Action on this Ordinance:**

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

Date of publication:

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

Becky Koosman, Acting City Clerk

The *stricken* language is deleted; the *underlined* language is inserted.
City Council Agenda Item #13A
Meeting of May 6, 2019

Brief Description
Temporary on-sale liquor license for Adath Jeshurun Congregation,
10500 Hillside Lane W

Recommendation
Hold the public hearing and grant the license

Background

The city has received an application for a temporary on-sale liquor license from Adath Jeshurun Congregation for an event to be held on May 30, 2019, at 10500 Hillside Lane W. The event will include dinner and alcoholic beverages and will be held from 5:00-9:00 p.m.

City liquor ordinances allow temporary on-sale liquor licenses to be issued to clubs and other charitable, religious, or not-for-profit organizations, subject to application, public hearing, and approval by the city council. Adath Jeshurun has completed the license application, paid the $25 fee, and provided proof of insurance. They are a non-profit organization, and are therefore eligible for a temporary liquor license.

Staff does not anticipate any difficulties in connection with serving alcohol at the event held on May 30, 2019. The event will be held on one evening only, and only adults over the age of 21 with a wristband will be served alcohol. Adath Jeshurun has hired professional bartenders for the evening and also assigned several individuals to patrol the dinner party to ensure no one under 21 is consuming alcohol. The city did not encounter any issues with the 2018 event held at Adath Jeshurun.

Recommendation

Staff recommends the council hold the public hearing and grant the license.

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

Originated by:
Fiona Golden, Community Development Coordinator
Location Map
Project: Adath Jeshuun Congregation
Address: 10500 Hillside Lane W
Adath Jeshurun Congregation
Annual Benefit – May 30, 2019

Responsible Liquor Service Plan

Adath Jeshurun Congregation’s Annual Benefit is coming up on Thursday, May 30, 2019. The event includes a dinner party for all ages, at which alcohol will be served. **Ensuring those under the age of 21 do not consume alcoholic beverages is a top priority for the congregation.** As such, we have the following plans to prevent minors from consuming alcoholic beverages:

- Upon entering the dinner party, all adults will show valid state-issued or federally-issued identification to prove they are over 21. Staff will put “over 21” wristbands on those adults.
- Professional bartenders are instructed to only serve adults with a wristband; they are also told they can refuse service to anyone for any reason – whether they believe the person may be under the age of 21, whether they believe the person is intoxicated, or for any other judgement made in good conscience.
- A group of highly responsible adults will be charged with patrolling the dinner party for its full duration; looking for unattended beverages. They will pick up and remove any unattended beverages, to ensure minors are not able to pick up such a beverage.

For more information or to discuss the plan, please contact Adath Development Director Evan Stern: evans@adath.net; 952-215-3916.
The Adath Annual Benefit Presented by TAMID Featuring Divas on the Bima
Honoring Norman and Dorothy Pink
Thursday, May 30 • 5-9 pm
5 pm—Sponsors & Legacy Society Pre-Reception
6 pm—Craft Cocktail Dinner Party

7:30 pm—Divas on the Bima live in the Sanctuary
The Divas are four of the top cantors in the Conservative Movement. Jen Cohen, Magda Fishman, Alisa Pomerantz-Boro and Elizabeth Shammash bring a wide variety of styles, guaranteeing something for every taste. In addition to traditional Jewish music, the Divas perform in various combinations, singing Israeli, Broadway and pop numbers.

Tickets on sale in March. For sponsorships and honors opportunities, contact Evan Stern at 952.215.3916 or evans@adath.net.

Adath Reads: The Adath Book Club with Heidi Schneider, Adath Librarian
Sundays in the Library: January 20, February 17, March 31 & May 5
10:30 am-12 pm
Looking for your next favorite book? Join us for thoughtful and engaging discussions.

Jan: “Between Gods: A Memoir” by Alison Pick
Feb: “Everyman” by Philip Roth (New time: 1-2:30 pm—February only)
Mar: “People of the Book” by Geraldine Brooks
May: “To the End of the Land” by David Gross

Stay up-to-date on Adath Library activities by visiting the Library page on our website!
FREE—No RSVP necessary
City Council Agenda Item #13B
Meeting of May 6, 2019

Brief Description: Off-sale liquor license for Target Corporation, 4848 Co Rd 101
Recommendation: Open the public hearing and continue to June 24, 2019

Background

The city has received an application from Target Corporation for an off-sale intoxicating liquor license for use at the SuperTarget store at 4848 Co Rd 101. SuperTarget opened in 2001 and currently holds a 3.2% malt beverage liquor license. The application also includes information that Target would be purchasing an existing liquor store, Strong Liquor, located at 11048 Cedar Lake Road.

Target requested a full off-sale liquor license in 2015 (Aug. 17) and in 2017 (May 23). The council considered the applications and denied both requests.

Business Ownership

Target Corporation is a publicly held company. No police background check will be performed as the corporation has already been approved for its current 3.2% liquor license.

Business Operations

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

City Council Policy 6.1

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

Off-Sale Licenses. Off-sale establishments provide intoxicating liquor that will be consumed in environments that are not monitored. An increase in the number of those outlets increases the access to liquor, contributes to public safety concerns, and detracts from the desired image of the city. Accordingly, the city council determines that the 12 off-sale intoxicating liquor licenses existing as of March 22, 2010, are generally adequate to serve the city. However, the council reserves the right not to issue any license even if the number falls below 12. Despite this maximum number, the council will consider, but not necessarily approve, additional off-sale intoxicating liquor licenses only if the council finds in its sole discretion that the business:
a. offers a distinctive specialty service, or  
b. is a complementary part of a business that would add positively to the experience of living and working in the city, or  
c. is part of a village center that is not currently served

Currently, the council has approved 12 off-sale liquor licenses. Ten of those licenses are stand-alone liquor stores, and two are for 3.2% malt beverage licenses (Target on Co Rd 101 and Glenn’s 1-stop on Minnetonka Blvd). There are two additional off-sale licenses issued to breweries - Unmapped Brewing LLC in October 2016 and Boom Island Brewery in March of 2019 (under construction). Typically, the council has not included 3.2% and breweries in the number of establishments as it relates to the policy.

<table>
<thead>
<tr>
<th>Store Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Glen Lake Wine &amp; Spirits</td>
<td>14704 Excelsior Blvd</td>
</tr>
<tr>
<td>Haskell’s</td>
<td>12900 Wayzata Blvd</td>
</tr>
<tr>
<td>Lunds &amp; Byerly’s Wines &amp; Spirits</td>
<td>13081 Ridgedale Dr</td>
</tr>
<tr>
<td>MGM Wine &amp; Spirits</td>
<td>4795 Co Rd 101</td>
</tr>
<tr>
<td>Strong Liquor and Wine</td>
<td>11048 Cedar Lake Rd</td>
</tr>
<tr>
<td>Sundial Wine &amp; Spirits</td>
<td>5757 Sanibel Dr</td>
</tr>
<tr>
<td>The Wine Shop</td>
<td>17521 Minnetonka Blvd</td>
</tr>
<tr>
<td>Tonka Bottle Shop</td>
<td>17616 Minnetonka Blvd</td>
</tr>
<tr>
<td>Total Wine &amp; More</td>
<td>14200 Wayzata Blvd</td>
</tr>
<tr>
<td>Trader Joe’s #714</td>
<td>11220 Wayzata Blvd</td>
</tr>
</tbody>
</table>

**Liquor License Discussion and Decisions**

Significant liquor actions or discussions by the city council have been included for further background.

The city of Minnetonka established a liquor policy in **1984**, which has evolved over the years. **In 2002**, there was a discussion during the review of the Cost Plus liquor store (now Trader Joe’s). The concern was about the number of liquor stores, which at the time was nine stores, and the new store’s effects on existing businesses.

**In 2003**, the city was again considering a liquor license along Highway 7 for Barrel Wine and Spirits, and there was a discussion about the number of stores and proximity to schools, churches or other youth-oriented facilities. That discussion resulted in amendments to the city’s policy which provides criteria by which to evaluate the issuance of liquor licenses.

**In 2006**, during the review of the Wine Shop store’s application, the council again discussed the number and proximity to other stores. This was the most extensive discussion continuing over a series of six meetings. In the end, the city council found that it was appropriate to issue the license.

**In 2009**, discussion occurred regarding location density of stores during the review of Trader Joe’s and Big Top Liquor. At the time of these reviews, the council did not choose to limit the number of stores within the community.
In 2010, the city council received a request for a warehouse-type liquor store, and some councilmembers expressed concerns over the number of stores in the community (12 at the time). After several discussions, the city council did amend the original policy to state:

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

a. offers a distinctive specialty service, or is a small, complementary part of a new business, that would add positively to the experience of living and working in the city, or
b. is part of a redevelopment project in a village or regional center that is not currently served

In 2015, after receiving two additional applications for liquor stores, Total Wine and Target, the city council requested information to discuss at a study session (July 1, 2015) about a number of establishments, enforcement, citations, other city regulation, size of stores, and more policy options. (Note: click on the highlighted, underlined links to see more detail.) In summary, there were some minor changes made to the policy:

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

a. offers a distinctive specialty service, or
b. is a complementary part of a business that would add positively to the experience of living and working in the city, or
c. is part of a village center that is not currently served

After the study session occurred in July, Target’s request was reviewed. On August 17, 2015, the city council voted 2-4, which resulted in a failed motion (city ordinance requires 5 votes for a liquor license).

In 2016, the city council received the original request for a license from Total Wine for a site near Whole Foods. The application was denied 4-3 (4 votes were in favor, resulting in a failed motion). Based on that denial, the applicant challenged the decision in court.

In 2017, Total Wine again requested a license along Wayzata Boulevard, now their current site. The applicant had also purchased the former Big Top Liquor Store in the Ridgehaven Square area and indicated they would close that store if the license were issued for the new
store. They stayed the appeal of the denial until after the council made its decision on the second application. The vote to approve this application was 5-2. The lawsuit was dismissed.

In May of 2017, the city council voted 6-1 to table indefinitely the request from Target for a liquor license, until the applicant asked for it to be considered again.

**Recommendation**

Application information and license fees have been submitted from Target Corporation for an off-sale intoxicating liquor license, for use at the SuperTarget store, at 4848 Co Rd 101. Staff recommends that the city council open the public hearing and continue the hearing to June 24, 2019.

Submitted through:
Geralyn Barone, City Manager

Originated by:
Fiona Golden, Community Development Coordinator
Julie Wischnack, AICP, Community Development Director
Location Map

Project: Target Liquor License
Address: 4848 Co Rd 101

Subject Property
Policy Number 6.1
Standards and Criteria for the Issuance of Liquor Licenses

Purpose of Policy: This policy establishes standards and criteria that the city council will apply in its consideration of on and off-sale liquor licenses. Further, this policy describes city council expectations for establishments holding liquor licenses within the city.

Introduction
This policy applies to all establishments having on or off-sale liquor licenses in the city of Minnetonka.

Standards
It is expected that all establishments holding liquor licenses will be operated in accordance with the following standards:

- **Type of Establishment**
  The proposed liquor license should be considered in terms of the type of establishment being proposed and the propriety of having the establishment at the proposed location. On-sale liquor licenses will only be issued to establishments whose primary business is the sale of food. Consistent with this objective, city ordinance requires that at least 50% of the gross sales receipts of the establishment be from the sale of food.

- **Cooperation and Liaison with the City**
  Liquor license holders are encouraged to interact and work in cooperation with the city staff regarding any problems, concerns, or questions relating to the operation of their establishments. Liquor license holders are also encouraged to participate in any public health or safety programs that are offered by the city.

- **Material Alterations of Establishments**
  As required by ordinance, liquor license holders must report any internal changes to the establishment that materially enlarges, expands, reconfigures, or alters the site of the area connected with the consumption of liquor or the type of service offered by the establishment. Such changes must be reported to the community development director for review by the city council prior to beginning any alterations and before building permits can be issued.

  Material alterations include changes such as creation of a sit down bar or lounge area, expansion in size of the bar or lounge area, addition of a dance floor or entertainment area, or any other changes that alter the site or services offered in an establishment. This provision is not meant to include decorative or housekeeping improvements, or minor remodeling that does not affect the type of service offered by the establishment.

- **Conditioning Authority**
  The city council or staff may, upon the issuance or renewal of a liquor license,
impose reasonable conditions upon the license to promote the provisions of this policy.

Criteria
The city council will consider the following criteria prior to issuing liquor licenses:

- **Off-Sale Licenses**
  Off-sale establishments provide intoxicating liquor that will be consumed in environments that are not monitored. An increase in the number of those outlets increases the access to liquor, contributes to public safety concerns, and detracts from the desired image of the city. Accordingly, the city council determines that the 12 off-sale intoxicating liquor licenses existing as of March 22, 2010 are generally adequate to serve the city. However, the council reserves the right not to issue any license even if the number falls below 12. Despite this maximum number, the council will consider, but not necessarily approve, additional off sale intoxicating liquor licenses only if the council finds in its sole discretion that the business:
  a. offers a distinctive specialty service, or
  b. is a complementary part of a business that would add positively to the experience of living and working in the city; or
  c. is part of a village center that is not currently served.

- **Land-Use/Zoning**
  The proposed liquor license must be consistent with the Guide Plan and zoned appropriately. It is expected that liquor establishments will be located in existing and planned commercial areas of the city. The liquor license application will be considered in conjunction with the site plan review.

- **Traffic**
  The proposed liquor license will be considered in terms of traffic generated by the establishment and the effect of such traffic on the surrounding street system. It is expected that liquor establishments will be located in areas able to accommodate the additional traffic generated by the liquor operation. The cost of an additional traffic analysis that might be required because of unusual circumstances with the location of the establishment will be paid by the applicant. This cost is not considered a part of the investigation or license fee.

- **Parking**
  The proposed liquor license will be considered in terms of the amount of parking needed for the establishment. It is expected that adequate on-site parking will be provided to accommodate all customers and employees. To determine whether adequate parking exists, the council will use the zoning ordinance as a guideline, and may consider other factors such as: the nature of the establishment, the type of development in which it will occur, the amenities (dance floor, entertainment, etc.) which will be offered by the establishment, and any other matter which might affect the parking requirements.
• **Proximity to Schools, Churches, Youth Oriented Facilities, etc.**
  The proposed liquor license should be considered in terms of proximity of the establishment to schools, churches, and youth related and other public facilities. It is expected that liquor establishments will be located in areas that minimize the impact on such facilities.

City staff will submit a written report examining each of these criteria to accompany an on or off-sale liquor license application at the time of consideration by the city council.

Adopted by Resolution No. 84-7533
Council Meeting of July 23, 1984

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

Amended by Resolution No. 2010-030
Council Meeting of March 22, 2010

Amended by Resolution No. 2015-055
Council Meeting of July 13, 2015
Brief Description

Items concerning the demolition and construction of a new automobile dealership at 15906 Wayzata Blvd.

Recommendation

Recommend City Council adopt:

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 variance, and a sign plan.

Proposal

Jack Grotkin (R.J. Ryan Construction), on behalf of Walser Nissan-Wayzata, is proposing to demolish the existing Nissan car dealership and construct a new car dealership building and associated site improvements.

As proposed, the dealership building would be 44,721 square-feet in total area and 32 feet in height. The developed portion of the 10-acre site would increase with the expansion of the building. However, the total number of parking spaces would be reduced by 74 spaces. The applicant plans to phase construction so that the existing building would remain while the new building is constructed.

The proposal requires:

- **Master Development Plan Amendment.** The applicant’s proposal would remove the existing building to construct a new building. As such, a new master development plan is required. Master development plans may be approved only by ordinance.

- **Site and Building Plan Review.** By city code, site and building plan review is required to construct a new commercial building.

- **Conditional Use Permit Amendment.** The proposed dealership would include 333 surface parking stalls, the majority of which would be used for inventory storage and display. Outdoor storage and display are allowed within PID district only by conditional use permit. The site currently has a CUP for the auto dealership, auto repair, and auto body services, but does not have an approval for outdoor storage and display. The proposed project requires this conditional use permit.

- **Variances.**

  - **Parking Lot Setbacks.** By city code, surface parking lots must be setback at least 20 feet from public right-of-ways and exterior property lines. The current site has a 0-foot setback from the west property line and an 18-foot setback from the east property line. The applicant has proposed 10-foot setbacks to both west and east property lines, which require variances.
Parking to Building Area Ratio. Per the outdoor storage and display CUP standards, the parking-to-building square footage ratio may not exceed one space per 200 square feet. The applicant’s proposal would have 1.5 spaces per 200 square foot ratio, thus requiring a variance.

Sign Plan. The applicant is requesting sign plan approval to allow for signage slightly different than would be allowed by the sign ordinance. The applicant proposes four wall signs that encompass 184 square feet to be displayed on the south elevation of the building. Staff has provided a condition limiting the total signage to 150 square feet, or 10 percent of the wall face.

Planning Commission Hearing

The planning commission considered the request on April 25, 2019. The commission report and associated plans are attached.

At the meeting, a public hearing was opened to take comments. Multiple area residents appeared before the commission. The residents stated that they did not believe that the proposal met the minimum standards for buffering. Specifically, the residents requested that the berm and vegetation north of the existing parking lot remain with any development of the site.

Following the public hearing, the commission discussed the proposal.

Planning Commission Recommendation

On a 5-0 vote, the commission recommended that the city council deny the proposal. The planning commission found that the proposal did not meet the design standards (City Code §300.31 Subd.7) for buffering to the residential properties to the north. The commission also recommended that the applicant provide visual renderings to provide information about potential views from the properties to the north. After the planning commission hearing, additional comments were provided by a community member against the development. (See attached minutes.)

Staff Recommendation

Staff recommends that the city council adopt the following related to the Walser Nissan Development at 15906 Wayzata Blvd.:

1. Ordinance approving a master development plan and final site and building plans, with a parking setback variance; and

2. Resolution approving a conditional use permit, with a building-to-parking variance, and a sign plan.

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

Originator: Drew Ingvalson, Planner
MINNETONKA PLANNING COMMISSION  
April 25, 2019

**Brief Description**  
Items concerning the demolition and construction of a new automobile dealership at 15906 Wayzata Blvd.

**Recommendation**  
Recommend the city council approve the proposal.

**Existing Property Information**

- **Size:** 10.3 acres
- **Use:** Auto Dealership (Walser Nissan-Wayzata)
- **Previous Approvals:**
  - Master Development Plan
  - Site and Building Plan
  - Sign Plan
  - Conditional Use Permits
    - Auto dealership
    - Auto repair and auto body
- **Buildings:** Site is improved with a 34,000 square foot building
- **Access:** Wayzata Blvd.
- **Natural Resources:** Wetlands on the north side of the property
- **Floodplain:** Floodplain located on the north side of the property
- **Topography:** The highest point on the site is on the south side of the property (near Wayzata Blvd.). There is also a significant elevation change (berm) near the rear of the existing parking lot before it continues to fall into the wetland to the north of the parking lot.

**Proposal**  
Jack Grotkin (R.J. Ryan Construction), on behalf of Walser Nissan-Wayzata, is proposing to demolish the existing Nissan car dealership and construct a new car dealership building and associated site improvements.

As proposed, the dealership building would be 44,721 square-feet in total area and 32 feet in height. The developed portion of the 10-acres site would increase with the expansion of the building. However, the total number of parking spaces would be reduced by 74 spaces. The applicant plans to phase construction so that the existing building would remain while the new building is constructed.
The proposal requires:

- **Master Development Plan Amendment.** The applicant’s proposal would remove the existing building to construct a new building. As such, a new master development plan is required. Master development plans may be approved only by ordinance.

- **Site and Building Plan Review.** By city code, site and building plan review is required to construct a new commercial building.

- **Conditional Use Permit Amendment.** The proposed dealership would include 333 surface parking stalls, the majority of which would be used for inventory storage and display. Outdoor storage and display are allowed within PID district only by conditional use permit. The site currently has a CUP for the auto dealership, auto repair, and auto body services, but does not have an approval for outdoor storage and display. The proposed project requires this conditional use permit.

- **Variances.**
  - **Parking Lot Setbacks.** By city code, surface parking lots must be setback at least 20 feet from public right-of-ways and exterior property lines. The current site has a 0-foot setback from the west property line and an 18-foot setback from the east property line. The applicant has proposed 10-foot setbacks to both west and east property lines, which require variances.
  
  - **Parking to Building Area Ratio.** Per the outdoor storage and display CUP standards, the parking-to-building square footage ratio may not exceed one space per 200 square feet. The applicant’s proposal would have 1.5 spaces per 200 square foot ratio, thus requiring a variance.

- **Sign Plan.** The applicant is requesting sign plan approval to allow for signage slightly different than would be allowed by the sign ordinance. The applicant proposes four walls signs that encompass 184 square feet to be displayed on the south elevation of the building. City code limits signage to one sign per elevation, and that sign may not exceed 150 square feet or 10% of the wall face, whichever is less.
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 and staff findings associated with the proposal.

1. Is the site design appropriate?

   Yes. The proposed site design accommodates the commercial needs of the dealership, while adequately buffering and screening the outdoor activity of the dealership from public view.

   • **Building Location.** The proposed building would be located in the middle of the site’s buildable area. As the current building is located less than 40 feet from the front property line, the proposed building placement would be more consistent with the adjacent BMW and Lexus setbacks from Wayzata Blvd. In this location, the building would screen a significant portion of the northern parking spaces from the traveling public on Wayzata Blvd. Additionally, the proposed building location would screen a substantial amount of parking from residential properties to the north, which is located over 650 feet from the parking lot.

   • **Parking Lot.** While requiring parking variances, the proposed parking lot would be an improvement over the existing parking lot.

     o The overall existing, non-conformities of the parking lot (front yard and combined side yard setbacks) would be reduced with the proposed parking plan.

       ▪ The existing front yard setback is 0 feet and would be 20 feet in the proposed plan.

       ▪ The existing side yard setbacks are 0 feet (west) and 18 feet (east). The proposed plan would create 10-foot setbacks from both the east and west.

     o The proposed parking lot would be smaller than the existing lot by 74 spaces.

     o The proposed parking lot would have logical driving aisles with more turning options.

     o The proposed parking lot would have landscaping islands that would assist in buffering vehicles and the proposed building.

   • **Natural Resources.** The proposed building would be located 170 feet from the wetland on the property, and the proposed parking lot would maintain the required wetland buffer and setbacks.

   • **Grading.** The applicant has proposed a significant amount of earthwork to raise the proposed site. Specifically, the site would be raised over 10 feet in the middle of the lot.
The earthwork is intended to promote better drainage patterns. Staff finds the proposed grading acceptable.

2. **Would the building design meet the planned I-394 design requirements?**

   Yes. The proposed buildings would meet the required dimensional and architectural standards for the district.

   - **Materials.** As proposed, the façade of the dealership building would be composed of glass, silver and gray metal panels, and gray precast with exposed aggregate. The majority of the front façade would be glass (50%) and metal panels (37%). A small portion of the front façade would be precast cement or garage doors (13%). The majority of the side and rear, which would generally not be viewable from the public, would consist of precast with the aggregate finish.

   - **Height.** The dealership building would have a maximum height of 32-feet. This height is reasonable and allowed by ordinance.

   - **Overall Appearance.** The use of varying setbacks, heights and materials brings interest and a positive aesthetic to the proposed building. If approved, the building would be a positive addition to the existing buildings within the Wayzata Blvd. corridor.

3. **Does the request meet the standards for outdoor display with the Planned I-394 district?**

   In July 2008, the city council amended the PID ordinance to allow for certain outdoor display, sales, and storage. At that time, the subject auto dealership was already on the site and in operation. However, with the new building proposal, the property is subject to meeting the conditional use permit requirements for outdoor display, sales, and storage. The proposed dealership would meet all of the conditional use permit standards except for the parking-to-building square footage ratio and the lighting requirement.

   - **Location.** Per the CUP requirements, the site must be located within the I-394 redevelopment overlay district No. 6 or No. 7. The subject site meets this requirement, as it is located within district No. 6.

   - **Parking screening.** Per the CUP requirement, at least half of the parking on the site would be screened from public view by either the proposed building or landscaping.

   - **Distance from residential properties.** The subject parcel directly abuts low-density residential parcels. However, the proposed parking lot itself would be located approximately 650 feet from the nearest residential parcel.

   - **Parking Ratio.** While the proposed parking lot requires a variance to the ratio standard, the proposed ratio would be a reduction from the current parking ratio. The current parking ratio is 2.4 parking spaces per 200 square feet of building space. The proposed parking ratio would be 1.5 spaces per 200 square feet of building space.
• **Lighting.** The lighting plan submitted illustrates that the proposed lights would have greater light “spillover” off the property than the one foot-candle permitted by code. As such, staff has included a condition of approval that requires the applicant to submit a revised lighting plan meeting the ordinance standard.

4. **Are the variance requests reasonable?**

Yes. Both variances would result in a reduction in parking lot non-conformities. In other words, they would improve upon the existing situation.

• **Parking Setback.** The existing parking lot has a non-conforming front and side (both east and west) parking lot setbacks (20-foot setback requirement). The proposed site plan would bring the parking lot into conformance with the front setback requirement. The plan would also bring the west side closer to compliance (from 0-foot to 10-foot setback) but would push the east side further into non-compliance (from 18-foot to 10-foot). Overall, the combined side yard setbacks (20 feet) would be greater than the existing combination (18 feet). Additionally, if approved, the subject site would not alter the essential character of the neighborhood as other auto dealership lots in the area also have non-conforming parking lot setbacks.

• **Parking spaces to building area ratio.** As stated previously, the proposed parking lot plan would reduce the non-conformity of the existing parking-to-building ratio. Also, the proposed plan would have 74 less parking spaces than the existing site and would be an improvement from the current site’s parking lot layout.

5. **Is the sign plan reasonable and consistent with signage within the area?**

The request to have four wall signs on a single elevation is reasonable. However, staff does not support the request to have 184 square feet of signage.

Number of Signs. The proposed number of signs is reasonable as:

• The site currently has a non-conforming number of signs on the front elevation of the building. The site has three signs on one elevation and a fourth sign that faces Wayzata Blvd. Approving the proposed sign plan would not increase in total signs. Instead, it would “rearrange” the signs.

• If approved, the subject sign plan would not alter the essential character of the neighborhood, as the existing area has several dealership buildings with multiple signs on a single elevation.

Size of Signs. Staff does not support the request to have 184 square feet of signage as:

• The proposed signage would not be consistent with the sign ordinance. The sign ordinance limits signage to 150 square feet and the subject request would exceed this amount by 22 percent (or 34 square feet).

• The proposed signage would greatly exceed the existing signage on the south elevation of the building. The existing southern elevation has three signs: “Walser,” “Nissan,” and “Service.” Staff has searched our records and cannot find information regarding the size
of these signs. However, it is clear that the proposed signage would greatly exceed these signs.

It is important to note that the existing “Autoworks Collision” sign is not on the same elevation as the three previously mentioned signs and is thus not included when considering the total square footage of signage on that elevation.

After review, staff is recommending support of a sign plan that permits up to four signs on a single elevation. However, staff has added a condition of approval that limits the total amount of signage on the south facing wall to 150 square feet or 10 percent of the wall face, whichever is less.

Summary Comments

The proposed dealership would result in a considerable change to the aesthetic of the property. From staff’s perspective, this change is both reasonable and appropriate. It would represent a significant investment into the property and Wayzata Blvd corridor.

Staff Recommendation

Staff recommends that the planning commission recommend the city council adopt the following related to the Walser Nissan Development at 15906 Wayzata Blvd.:

1) Ordinance approving a master development plan and final site and building plans, with a parking setback variance; and

2) Resolution approving a conditional use permit, with a building-to-parking variance, and a sign plan.

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

Surrounding Land Uses

North: Residential homes, zoned R-1
South: Hwy I-394
East: BMW car dealership, zoned PID
West: Lexus car dealership, City of Wayzata

Planning

Guide Plan designation: Commercial
Existing Zoning: PID, Planned I-394 District

Background

The subject auto dealership has a long history within the City of Minnetonka. During its time, the site has gone through several changes but has remained as an auto dealer since 1977. Specifically:

- **1977**: Conditional use permit approved for an auto dealership within the B-4 District.
- **1978**: Site and building plan approved for building.
  - Variance to reduce front yard setback.
  - Variance to increase the number of pylons signs to two.
- **1983**: The city council approved a sign plan for the subject site, affirming the pylon variance which permits 128 square feet of pylon signage.
- **1988**: Site and building plan approved for parking lot expansion.
- **1996**: Guide plan amendment, with site and building plan and conditional use permit amendment approved to add to the existing structure.
- **1999**: Master development plan amendment, site and building plan approved for an addition.
  - CUP approved for auto repair and body shop.

Proposed Building

- **Building Size.** The proposed building would be 44,721 square feet in area and 32 feet in height. Of the entire building:
  - 16,537 square feet would be used for sales;
  - 16,500 square feet would be used for the service area;
  - 8,950 square feet would be used as a body shop; and
  - 2,734 square feet would be used for a carwash.

- **Location.** The existing building is located 35 feet from the front property line. The proposed building would be located 208 feet from the front property line. The building would meet all other setback requirements as outlined later in the "Supporting Information" section of this report.

- **Architecture.** The building façade would be composed of glass, silver and gray metal panels, and gray precast with exterior aggregate finish. The majority of the front façade,
the only easily viewable area from Wayzata Blvd., would consist of metal panels and glass. The side and rear facades would be primarily precast aggregate with accents of metal and glass.

<table>
<thead>
<tr>
<th>Metal Panels*</th>
<th>Glass*</th>
<th>Precast with Aggregate*</th>
<th>Garage Doors*</th>
</tr>
</thead>
<tbody>
<tr>
<td>sq. ft.</td>
<td>%</td>
<td>sq. ft.</td>
<td>%</td>
</tr>
<tr>
<td>SOUTH FAÇADE</td>
<td>2,290</td>
<td>37%</td>
<td>3,075</td>
</tr>
<tr>
<td>EAST FAÇADE</td>
<td>1,355</td>
<td>21%</td>
<td>1,380</td>
</tr>
<tr>
<td>NORTH FAÇADE</td>
<td>400</td>
<td>6%</td>
<td>600</td>
</tr>
<tr>
<td>WEST FAÇADE</td>
<td>585</td>
<td>9%</td>
<td>1,430</td>
</tr>
<tr>
<td>TOTAL</td>
<td>4,630</td>
<td>18%</td>
<td>6,485</td>
</tr>
</tbody>
</table>

*approximate

The proposed building has a simple box-like design. However, various heights and setbacks that add interest to the building and reduce the visual scale or mass of the structure. In addition, material selection on building elements further assists to bring down the perceived mass.

- **Signage.** The applicant has proposed to have four signs on a single elevation that would total 184 square feet. There are four signs on the existing building. Three on the front elevation and one on the second level facing Wayzata Blvd.

  City code limits commercial wall signage of buildings of this size to:

  - One sign per elevation;
  - Signage area may not exceed 150 square feet or 10 percent of the wall face, whichever is less, and
  - Total wall signage may not exceed 250 square feet.

  As the proposed signage exceeds the maximum permitted signage for the building, the applicant has requested that a sign plan be approved for the subject site.

- **Mechanical Screening.** The applicant has proposed parapet walls to screen mechanical equipment. A condition of approval has been added requiring that all mechanical equipment is screened from public view.

**Parking**

The current site has 407 parking spaces. The applicant has proposed 333 parking spaces, or 74 spaces less than the existing site. About half of the parking spaces would be located in front of the proposed building. The rest of the parking spaces would be located to the side or rear the proposed building.

<table>
<thead>
<tr>
<th></th>
<th>Number of Stalls</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customer</td>
<td>24</td>
</tr>
<tr>
<td>Employee</td>
<td>29</td>
</tr>
<tr>
<td>Service</td>
<td>26</td>
</tr>
<tr>
<td>Inventory</td>
<td>254</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>333</strong></td>
</tr>
</tbody>
</table>
The subject parking lot currently has non-conforming front and side yard setbacks. The proposed site plan would bring the front yard setback into compliance and reduce the side yard setback non-conformity (from 0 feet to 10 feet) to the west, but increase the non-conformity to the west (from 18 feet to 10 feet).

The subject parking lot also has a non-conforming parking-to-building square footage ratio. Per the proposal, the subject parking lot would still be non-conforming. However, the non-conformity would be reduced.

### Proposed Construction Phasing

The applicant has proposed to phase construction to keep the dealership business open during construction of the new building. (See attached).

- In the first phase, the rear portion of the proposed building would be constructed while the existing building would remain.
- In the second phase, the rear portion of the existing building would be demolished to construct the second part of the new building.
- In the final phase, the remaining portion of the existing building would be demolished.

Staff generally finds this to be a reasonable request. However, a condition of approval has been added to the resolution requiring escrow money to cover the costs to demolish the existing building if needed.

### Grading

Considerable earthwork is proposed to accommodate the new building and parking areas, with the majority of the site being raised.

- **Front parking lot.** The southern area of the property would have minimal earthwork completed. The grade would be slightly reduced near the entrance of the property and raised 2-5 feet near the proposed building.
• **Proposed building.** The applicant has proposed raising the building footprint area to a 966 elevation. This would require raising the grade approximately five feet on the south side of the building and nearly 12 feet in the north side of the building.

• **Rear parking lot.** The final grade of the rear parking lot would be similar to the height of the existing berm in the rear of the property.

• **Filtration Basin.** Currently, there is a small pond just north of the parking lot that the applicant has proposed to modify to create a filtration basin. See to the below in blue.

• **Retaining Walls.** The applicant has proposed three retaining walls on the subject site. See to the right in red.
  - **East.** The plans show a retaining along the east property line that varies in height from 3 feet (south side) to 7.3 feet (north side tall).
  - **West.** The plans also show a retaining wall that varies in height from 2.3 feet (south side) to 5.2 feet (north side). This retaining wall connects with another retaining wall along the north side of the property.
  - **North.** The plans propose a retaining wall along the north side of the property. This retaining wall connects with the western retaining wall and varies from 2.2 feet to 14 feet in height. A portion of this wall would extend at least 4 feet above the top of grade to screen vehicles from residential properties to the north of the site.

**Landscaping**

The applicant proposes landscaping plantings along the south, west, and east properties. In addition, they have proposed plantings within landscaping islands and adjacent to the proposed building. (See attached).

The applicant proposes evergreen plantings along the north side of the parking lot to buffer the proposed retaining wall.
Drainage and Utilities

Based on proposed grades, runoff from the site would be captured throughout the parking areas and directed via storm sewer to the newly created infiltration basin. The basins would be located north of the proposed parking lot. City engineering staff have reviewed the grading and drainage plans and finds them to be generally acceptable.

Tree Impact

The property contains 69 regulated trees. The majority of these trees would be removed if this project were to be approved. However, as the proposal is for the redevelopment of the property, the level of tree removal/impact would be permitted under the tree protection ordinance.

<table>
<thead>
<tr>
<th></th>
<th>Existing</th>
<th>Removed</th>
<th>% Removed</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Priority</td>
<td>4</td>
<td>4</td>
<td>100%</td>
</tr>
<tr>
<td>Significant</td>
<td>65</td>
<td>49</td>
<td>75%</td>
</tr>
</tbody>
</table>

* By city code, a tree is considered removed if 30 percent or more of the critical root zone of is compacted, cut, filled or paved.

Setbacks, Etc.

The following are building setbacks and other design standards.

<table>
<thead>
<tr>
<th></th>
<th>City Code</th>
<th>Proposed*</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Setbacks</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South property line</td>
<td>50 ft.</td>
<td>210 ft.</td>
</tr>
<tr>
<td>West property line</td>
<td>50 ft.</td>
<td>50 ft.</td>
</tr>
<tr>
<td>East property line</td>
<td>50 ft.</td>
<td>60 ft.</td>
</tr>
<tr>
<td>North property line</td>
<td>50 ft.</td>
<td>&gt;750 ft.</td>
</tr>
<tr>
<td><strong>Miscellaneous</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Impervious Surface</td>
<td>70%</td>
<td>40% 72%</td>
</tr>
<tr>
<td>Floor Area Ratio</td>
<td>0.6 0.3</td>
<td>0.4 0.18</td>
</tr>
</tbody>
</table>

*Rounded down to nearest 5 ft.
**Wetland areas are excluded
***A condition of approval has been added requiring the applicant to reduce impervious surface to 70%
Pyramid of Discretion

Motion Options

The planning commission has three options:

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

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

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

Voting Requirement

The planning commission will make a recommendation to the city council. The city council’s final approval requires an affirmative vote of five members.

Neighborhood Comments

The city sent notices to 42 property owners and has received no written comments to date.

Deadline for Action

June 3, 2019
Location Map

Project: Walser Nissan Wayzata
Address: 15906 Wayzata Blvd

CITY OF MINNETONKA

[Map of the area with marked location of the subject property]
Preliminary Site Development Plans

for

Walser Nissan Wayzata

Minnetonka, Minnesota

Presented by:

R.J. Ryan Construction, Inc.
1. Subject property's address is 15906 Wayzata Boulevard, its property identification number is 04-117-22-23-0013.
2. The gross area of the subject property is 10.30 Acres or 448,605 Square Feet.
3. The subject property is zoned PID I-394 District, per Minnetonka zoning map on City of Minnetonka web site.
4. The building(s) and exterior dimensions of the outside wall at ground level are shown on the survey. It may not be the foundation wall.
Walser Nissan Wayzata
Project Narrative

Location: 15906 Wayzata Boulevard
Minnetonka, MN 55391

Applicant: R.J. Ryan Construction, Inc. c/o Jack Grotkin

Proposal: Attached to this letter please find the applications of Wayzata Nissan Property LLC for Master Development Plan and Variance for the property located at 15906 Wayzata Boulevard in Minnetonka, MN. Through the attached applications, Wayzata Nissan is requesting approval for construction of a new dealership facility on the property while a portion of the existing building remains in operation. Upon completion of the new building, the existing building will be demolished and replaced with parking area. The Variance request is for a reduction to the Parking Setback from 20 feet to 10 feet. The Variance request would not alter the essential character of the neighborhood due to the existing average setbacks are 10 feet, with existing auto dealerships on both sides of this property.

The property is zoned PID (Planned I-394 District), in which exterior display, sales or storage of motor vehicles is a conditionally permitted use within districts No. 6 and No. 7. It appears the site is located in overlay district No. 1. However, the use of the site will not be changed and it appears that the new and existing building sizes are comparable; therefore it is assumed the proposed use will continue to be permitted.

Extensive landscaping restoration is proposed which will improve site aesthetics considerably. The exterior of the building will consist of ACM panels, glass and decorative precast; this redevelopment would be a significant improvement to the neighboring area.

Company: The philosophy of Walser Nissan Wayzata is to have a nice consumer experience.

Operations: No change to existing operations.

Employment: Walser Nissan Wayzata’s existing facility provides for 60 employees currently in the community.

Landscaping & Screening: Landscape screening between the proposed parking lot and adjacent businesses will meet the City’s mandated minimum requirements. A variety of coniferous, deciduous, and ornamental trees will be provided throughout the site. Trees will be a hardy mix of native of non-native species and will be provided within interior parking islands to minimize the heat island effect. On the north end of the auto storage area we propose a mix of buffer plantings. Native plants...
are predominantly used in the 40’ wetland buffer. Shrubs and/or trees will wrap the west and east sides of the parking lot and create an aesthetically pleasing presentation. The service area is screened from the east by large shrub massings. At the front of the building more densely planted areas highlight the entry points.

**Signage:** The existing monument sign in the southeast corner will be replaced with a new monument sign. The new facility will have building signage similar to what they currently have on the site and building. Small navigational signage for guiding vehicle traffic is also proposed.

**Lighting:** Lighting will be in conformance with City Code. All lighting will be shielded as necessary to avoid any overlap to adjacent properties and programmable to reduce lighting during non-business hours.

**Adjacent Land Use:** Similar automotive uses are adjacent to this proposed site to the east and west.

**Parking:** 333 parking spaces are proposed for the Walser Nissan Wayzata redevelopment.

**Traffic Impacts:** None

**Hazards:** We do not feel there will be any negative impacts on neighboring properties due to noise, dust, odors, hazards, or lighting. No hazardous materials will be stored onsite that exceed NFPA requirements.

We respectfully request City support for the enclosed applications by Wayzata Nissan Property LLC for Master Development Plan and Variance for the 15906 Wayzata Boulevard parcel depicted on the enclosed Architectural and Civil/Landscape Plans. We look forward to reviewing this application with the City of Minnetonka in the weeks ahead.

Sincerely,

Jack Grotkin  
R.J. Ryan Construction, Inc.

Chad Ayers, PE  
Sambatek, Inc.
1. Exterior Precast Color to match Sherwin Williams Color 7076 – “Cyberspace.” Will have an exposed aggregate finish.

2. Exterior Metal Panels

- SUNRISE SILVER METALLIC
  - PVDF 3
  - 62" x 196"

- NISSAN GRAY
  - PVDF 2
  - 62" x 196"
ITEM 8A – Walser Nissan at 15906 Wayzata Blvd

- **Report.** The table on page 11 has been modified as follows:

<table>
<thead>
<tr>
<th>Setbacks</th>
<th>City Code</th>
<th>Proposed*</th>
</tr>
</thead>
<tbody>
<tr>
<td>South property line</td>
<td>50 ft.</td>
<td>210 ft.</td>
</tr>
<tr>
<td>West property line</td>
<td>50 ft.</td>
<td>50 ft.</td>
</tr>
<tr>
<td>East property line</td>
<td>50 ft.</td>
<td>60 ft.</td>
</tr>
<tr>
<td>North property line</td>
<td>50 ft.</td>
<td>&gt;750 ft.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Miscellaneous</th>
<th>City Code</th>
<th>Proposed*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impervious Surface</td>
<td>70%</td>
<td>40% 72%<strong>/</strong>*</td>
</tr>
<tr>
<td>Floor Area Ratio</td>
<td>0.6 0.3</td>
<td>0.4 0.18</td>
</tr>
</tbody>
</table>

*Rounded down to nearest 5 ft.
**Wetland areas are excluded
***A condition of approval has been added requiring the applicant to reduce impervious surface to 70%

**Impervious Surface.** The original report stated that the proposed impervious surface on site would be 40%. This percentage was calculated by taking the total impervious surface and dividing it by the entire site area. City code does not explicitly state that wetland areas should be excluded (see below); however, staff has routinely excluded wetland areas in past practice. As such, staff has added a condition of approval that requires the applicant to reduce the impervious surface to 70%. This calculation shall exclude wetland areas from the total lot area.
Section 300.02 Definitions

60. Impervious surface - a material providing a hardsurface that prevents normal filtration of water into the ground.

• Resolution. The following condition has been added to the subject resolution.

Section 4.01
(2) Prior to issuance of a building permit:
(C) Submit the following:
14) Submit a proposed survey that limits impervious surface to 70 percent. This calculation shall exclude wetland areas from the total lot area.

• Neighborhood Comments. After completion of the staff report, staff received written comments from two residents. Please see attached.
Neighborhood Comments Received After Completion of the Planning Commission Staff Report
Background:

My name is Bradley Schaeppi. I live at 315 Townes Lane with my wife Elizabeth Schaeppi and our son Asa Schaeppi. We purchased our house in April 2018.

Our house along with many houses on Townes Lane and Townes Road were built in the 1960s before the Nissan Dealership was developed in the 1970s. Our house has a rear wall of windows that faces south towards Highway 12 with the wetlands in the foreground and the car dealerships in the background, currently almost entirely screened with mature trees. This includes the 3 story BMW dealership that has a row of mature trees on the north side of the development that were not touched by the recent development and when leaves grow in, continue to block most of the building to this day. We purchased our home in large part to the view of the wetlands and in the summer time, an almost complete natural view out our rear south facing windows, deck, and lawn with patio--water, trees, leaves, berm blocking rear auto dealerships, and other non-improved land.

The Planning Commission must decide to:

1) Present and approve a motion to deny or table the request with the following findings for a decision to deny or table:
   a) The applicant failed to show practical difficulties in complying with the ordinance
      i) Not reasonable and arbitrary. The removal of the 10’ earth berm topped by 35’ mature trees to facilitate new outdoor parking in its place capped by a new 12’ retaining wall to the edge of proposed parking lot expansion that by design requires new mature tree plantings to be planted up to 10’ below the retaining wall of the new parking lot is not a reasonable proposal and a variance approval is arbitrary.
         (1) Nothing in the report discusses or analyzes how or why the applicant could not otherwise reasonably redevelop and use the site without the removal of the earth berm topped by 35’ mature trees.
            (a) For instance, the new proposal includes many small pocket green areas spaced throughout the site that could otherwise be parking stalls.
            (b)  
      ii) Fails the uniqueness test. The site sits on a slope, but the site features do not require the applicant to remove the 10’ earth berm topped by 35’ mature trees. The existing building is 35’ from the front or south property line, but the applicant proposes to site the new building 208’ from the front or south property line--thereby pushing the building and additional grading needs to the rear or north side of the lot into the 10’ earth berm topped by 35’ mature trees. The applicant’s decision to move the building deep into
the site is its business preference to have more cars in the front than the back and ample room exists for the building to be sited further to the south or towards the frontage road.

iii) **Alters the essential character of the locality.** The removal of the 10’ earth berm topped by 35’ mature trees to facilitate new outdoor parking in its place capped by a new 12’ retaining wall to the edge of the expanded parking lot that does not permit new mature tree plantings at grade of the new parking lot alters the essential character of the locality.

(1) Nothing in the report discusses or analyzes why a 10’ earth berm topped by 35’ mature trees exists today on the north of the property and why that same screening earth berm feature also extends across and over adjacent properties including the Lexus Dealership and the Chevrolet Dealership which have the same outdoor auto businesses, were redeveloped in the past, and which for reasons unknown in the staff report, have an earth berm that exists and currently screen residential properties to the north.

(2) Nothing in the report discusses or analyzes the screening features of adjacent sites and how this site meets or exceeds those features so as to not alter the character of the locality. For instance, despite a 3 story BMW dealership redevelopment, a stand of mature trees existed before and remained after the redevelopment—keeping with the pattern of a continuous, mature tree line that runs east to west along the north side of the auto businesses.

b) **The Minnetonka Planning Commission and City Council cannot determine that the variance is in harmony with the general purposes and intent of the official control and the variance is inconsistent with the comprehensive plan.**

i) The Comprehensive Plan is consistently refers to buffers and the value of buffers.

(1) Overall Policies: Page III-3-8 of the 2030 Comprehensive Plan:

(a) The use of policies included in this chapter and subsequent chapters are **critical** in the city decision-making process (emphasis added). Please see Policy Use and Definitions A. Policy Use for further guidance.

(b) **Buffers:** the use of land, topography, open space or landscaping to visibly separate, screen, or “filter” the views of a property from another adjacent or nearby use. In some instances, buffers are used to separate major transportation facilities from adjacent properties such as the sound/visual barriers along portions of I-494.

(2) III-8, However it is recognized that to remain competitive in the region and meet future community needs, additional land use
related initiatives are required or need further development to accomplish the following:

(a) **Continue to establish buffers between conflicting land uses to protect property values.** (emphasis added).

(3) Land Use Policy: Page III 8-9

(a) Policy No. 3: **Anticipate and balance the impacts of new land uses and development on surrounding neighborhoods,** the local and regional transportation and city services (emphasis added).

(b) Policy No. 8: **Encourage the use of buffers between different land uses to: lessens negative off-site impacts,** and preserve and enhance the natural features including wetlands, floodplains, slopes and high quality natural communities. (emphasis added)

c) The staff report lacks the foundation and analysis that the application as amended by staff meets or exceeds the design standards of Section 300.31 Planned I-394 District.

i) Given the application requires a master development plan, and site is identified on the 2030 Land Use Plan, figure IV-13, I-394 Corridor, the application is subject to Section 300.31 Design Standards, Landscaping.

ii) Language in this section is not discretionary and is written as mandatory.

1) “The following requirements shall be met”

2) “Shall undertake all efforts”

3) “Surface parking lots shall be buffered with surrounding berms and coniferous tree plantings.

**Design Standards.**

b) Landscaping: in addition to the landscape plan requirements contained in section 300.27, subd. 14, the following requirements shall be met: (emphasis added)

1) Master development plans shall undertake all efforts to preserve existing natural features including wetlands/floodplain, trees and areas of steep slope conditions. (emphasis added)

2) All development other than single family residential development shall be buffered from nearby single family neighborhoods. **Buffering may be accomplished through the preservation of existing slopes and trees. In cases where natural buffers are absent, earthen berms with new landscape materials shall be installed.** (emphasis added)

3) Landscape berms and buffers intended to screen development projects from single family residential areas shall be installed with the commencement of construction activity if determined appropriate by the city.

4) A minimum landscape plan investment of 2 percent of total project value is required.

5) All new landscape trees and shrubs must meet the American Standard for Nursery Stock and American National Standard relating to planting guidelines, quality of stock and appropriate sizing of the root ball. Landscape trees must be balled and burlapped or moved from the growing site by tree spade. Deciduous trees will be not less than two inches but not more than
four inches caliper for balled and burlapped trees, and not less than four inches but not more
than eight inches caliper for spade-moved trees. Coniferous trees will not be less than six feet
[minimum is proposed at 6'] in height but no more than eight feet for balled and burlapped trees,
and not less than eight feet in height but not more than fourteen feet for spade-moved
coniferous trees.

The city may allow larger balled and burlapped or spade moved trees if these trees are
accompanied with a three year guarantee.

6) Surface parking lots shall be buffered with surrounding berms and coniferous tree
plantings. (emphasis added).

In sum, the I-394 District Design Standards require the existing berm with coniferous
trees to remain, or that a new berm replaces the existing. Neither staff, nor the Planning
Commission has the discretion to vary very descriptive requirement and the application
removes the existing berm replacing it with a retaining wall. The application fails the
City’s own strict standard. Beyond the clear requirement for the berm, “all efforts” were
not undertaken by the applicant or staff modification when the proposal removes a
required berm with mature trees and replaces it with minimally required trees. Staff
confirmed via email prior to these comments that existing trees on the berm reach an
elevation of 990’ to 995’. The top of the proposed retaining wall without a berm will reach
965.’ There is no interpretation of the required design standards where the application
as-is complies to support an approval of the master development plan.

An alternative summary to the staff report could read the following:

“An auto dealership redevelopment proposal seeks to expand and relocate the primary structure
from 34,000 SF sited 35’ from the north frontage road to a new 44,721 SF building sited 208’
from the south frontage road. The building itself is reasonable in size and height compared to
adjacent properties. The proposal modifies, rebuilds, expands, and raises the existing outdoor
parking lot with 10-12’ of fill, consequently raising the elevation of the rear parking lot and
eliminating the buffering effect of an existing 10’ earth berm capped with 30-35’ mature trees to
residential neighbors to the north. This berm spans a continuous line from the west end of the
BMW dealership across the Nissan dealership, and through the Lexus and Chevrolet
dealerships.

New surface parking will cover the location of the existing earth berm. The parking edge will be
capped on the north end with a retaining wall up to 14’ in height. No retaining wall exists today
on this or adjacent properties. Due to the proximity of the retaining wall at the edge of the new
parking lot, most replacement, minimum standard trees, will be located at the base of the
retaining wall, and in some instances, 10’ below the top of the wall. The proposal will do what
no other redevelopment proposal on this stretch of the highway 12 corridor has done on this
frontage road--remove all the existing mature trees and add a retaining wall. For purposes of
context, the redeveloped BMW dealership kept a line of mature trees behind the development
that continue to buffer the visual and negative impact of cars, the building, and auto traffic.
Notably, this project requires a parking to building area ratio variance. The proposal will exceed the 1 parking space per 200 square foot ratio by 50% with 1.5 spaces per 200 square foot ratio. This variance request must meet the city’s statutory authority and standards for granting the parking variance.

Notice:

If not for the short notice of the development (card sent April 11th by the city, received Saturday the 13th and comments due the 18th), I would have searched city records looking into past approvals for the Nissan development site and the buffering history of the earth berm.

I believe given the date the notice cards were mailed it was disingenuous at best for the staff report to the Planning Commission “the city sent notices to 42 property owners and has received no comments to date.” Given the cards were sent on Thursday and received on a Saturday, property owners had between 2-4 days to review a project that the city has worked on for months and submit informed comments. That is not practical or good community practice.

The Staff Report

Despite the staff report recommendation, the Staff Report itself cites the true impact:

Page 1. There is also a significant elevation change (berm) near the rear of the existing parking lot before it continues to fall into the wetland to the north of the parking lot.

Page 6. “The proposed dealership would result in a considerable change to the aesthetic of the property.

Page 9. Considerable earthwork is proposed to accommodate the new building and parking areas, with the majority of the site being raised.

Page 10. The final grade of the rear parking lot would be similar to the height of the existing berm in the rear of the property.

Page 11. The property contains 69 regulated trees. The majority of these trees would be removed if this project were to be approved. Four existing High Priority trees are to be removed (100%) and 49 of 65 existing Significant Trees are to be removed (75%).

Page 11. [Brad--Staff incorrectly reported the proposed impervious surface coverage as 40% proposed and contained no existing impervious surface coverage ratios were published in the report. Staff updated via email to 72% which still complies with code. Existing impervious surface is 181,600 square feet of coverage and proposed will be 184,081 square feet—an expansion of impervious surface in the application not stated in the report].
/S/ Bradley M. Schaeppi
315 Townes Lane
Minnetonka, MN 55391
Date: April 25, 2019  
To: Mr. Drew Ingvalson, City of Minnetonka  
From: Ann Johnson Stewart, Resident  
Re: Walser Nissan dealership expansion on 394  

I will be out of town and cannot attend the meeting on Thursday, April 25th.

Since we moved into our house at 213 Townes Lane, the car dealerships on Wayzata Blvd and west of 494 have continued to expand and add to the amount of light and sound pollution at our house. The light pollution is significant, and we have tolerated months of pile driving and construction noise throughout the years as the BMW dealership and others have expanded their buildings. We live just north of the proposed Walser Nissan project. The proposal for the expansion of the Nissan dealership at 15906 Wayzata Blvd raises several questions and concerns for me that I would like addressed by the Planning Commission.

I am most concerned about two things: the proposed elevation of the new building, and the removal of the existing berm and many large, established trees which serve as a buffer to the north.

I am a licensed civil engineer and have taught surveying at the University of Minnesota and Dunwoody for over twenty years. I understand elevations, contours and grading. I have also taught “tree identification” at Dunwoody to future land surveyors, so I know trees. Here are my questions:

1. **Why is the foundation of the building being raised to 966.80’?**
   According to the landscaping plan, the proposed foundation of the dealership is 966.80’. This is an increase in building floor elevation of nearly 12’ on the north side of the lot (see page 10 of Minnetonka Planning Commission notes). This elevation increase and the need to maintain drivable grades in the parking lot results in a raising of the parking lot elevation, which eliminates the effectiveness of the berm (and necessitates its removal).

   I have worked through several options for redesigning the parking lot and pond. With the building raised 12’, there are few options. **So the core question is, why is the elevation so much higher than the existing?**

2. **Why are the proposed replacement trees only 2.5” and the retaining wall height only 4’?**
   If the building stays at the elevation shown, the berm must go. I understand.

   The current berm blocks the neighborhood’s view of many of the cars in the lot. The future wall will not. An inexpensive solution is to require Walser to raise the elevation of the top of retaining wall and plant much larger and more established trees.

   The Planning Commission notes indicate that the wall varies from 2.2-14’. However, the wall is only 4’ high along the entire north boundary of the site. This is the side of the site that faces our neighborhood. Additional wall height is relatively inexpensive; I would be happy to prepare a reasonable cost estimate to raise the elevation of the wall if you’d like (my contact information is in the email I sent you). I propose that the wall height on the north side be raised to at least
elevation 970’ (a height of 9’) so that more of the vehicles and their headlights are blocked from our view. Perhaps they could build a wood barrier or fence adjacent to the wall as a cheaper option.

**This is my reasoning for the 9’ wall height:** a 4’ wall will indeed help to screen vehicles from residential properties, but not all of them. According to Nissan’s website, the height of most of the vehicles they sell exceed 4’, and most exceed 5’ (a Pathfinder is 5.8’ tall, a Murano is 5.55’, and even the Ultima sedan is 4.7’). This 4’ wall will not screen delivery, trucks, or service vehicles, all of which are noisier and have headlights that are placed at a height that exceeds 3.5’. And these numbers are only relevant for the vehicles parked right next to the wall (54 spots as shown in the layout).

I am also concerned about vehicle headlights shining over a 4’ wall built as proposed. The proposed top of wall elevation is shown at 965’. AASHTO uses 3.5’ as a standard headlight height, so anywhere that the pavement is at elevation 965’-3.5’=961.5’, a standard passenger vehicle headlight will shine over a 4’ wall. The proposed site plan indicates that only two rows of parking fall below elevation 961.5’. The third row of parking spaces is at lot elevation 963.0 (as indicated by the spot elevation on the island northeast of the north garage door). All other parking spaces and drive lanes are shown at elevations that exceed 963.0, so even an Ultima sedan’s headlights will shine over the wall (at elevation 963.0+3.5=966.5). Again, the top of wall elevation is 965.00.

A wall or fence that is 9’ tall will shield the headlights of most of the cars parked in the lot from shining into our neighborhood.

3. **Why are the proposed replacement trees so small?**

I understand that if the existing berm is removed, the trees that sit on it must be as well. Many of the existing trees to be removed are listed in the proposal as 30 feet tall with diameters greater than 8” (some as large as 14” with several very large cottonwood). The ones that are listed as replacing them are much smaller (2.5 inches in diameter).

The noise and light from the dealership will not be blocked nearly as effectively with these smaller trees. The trees on the north side of the BMW site appear to be original to the site; they are large, and nearly as tall as that 3-story building. In the summer, they block nearly all of the building. We like that.

For the Walser Nissan site: most of the existing trees are planted at elevation 960.0’, so they screen much of the site and existing building. After removal, the new trees will be planted in ground shown at elevation 954.0’. Even a 12’ tree (with 2.5” diameter) will extend only to elevation 966.0’ at time of planting, which is the BOTTOM OF THE BUILDING. For our neighborhood, none of the building will be shielded from view by trees less than 12’ tall. The coniferous trees in the planting schedule are listed at 8’ tall. It will take years before the first inch of building floor is shielded by the trees they are proposing to use.
Please consider requiring Walser to purchase and plant much more established and taller trees than the 2.5" diameter trees listed in the proposed plans, especially on the north side of the site. Trees are relatively inexpensive as well. The trees listed will cost approximately $600 each installed (based on MnDOT 2018 Average Bid Prices). My husband and I recently purchased a 20’ tall tree (4” caliper) for our front yard from Otten Brothers nursery, and it cost just over $1,000 installed. That represents less than $400 increase in each tree cost (less than $15,000 for 30 trees), which I think is safe to assume that Walser can afford (they have estimated annual revenue exceeding $25 million as per website https://www.owler.com/company/walser).

I wish I could be at the meeting tonight, but both my husband (also a civil engineer) and I are out of town. Please contact me by email or phone (612) 275-8190 if you have any questions or need additional information. We will be happy to provide it as concerned neighbors.
# Plant Schedule

## Trees

<table>
<thead>
<tr>
<th>Code</th>
<th>Botanical Name / Common Name</th>
<th>Continent</th>
<th>Size</th>
<th>City</th>
</tr>
</thead>
<tbody>
<tr>
<td>CM</td>
<td>Acer x freemanii 'Armstrong' / Armstrong Freeman Maple</td>
<td>B &amp; B</td>
<td>2.5&quot; Cal</td>
<td>20</td>
</tr>
<tr>
<td>DP</td>
<td>Betula papyrifera 'Tango' TM / Dakota Pencil Birch</td>
<td>B &amp; B</td>
<td>2&quot; Cal</td>
<td>6</td>
</tr>
<tr>
<td>HB</td>
<td>Carya occidentalis / Common Hickory</td>
<td>B &amp; B</td>
<td>2.5&quot; Cal</td>
<td>4</td>
</tr>
<tr>
<td>KA</td>
<td>Sambucus nigra 'Autumn Gold' TM / Maidenhair Tree</td>
<td>B &amp; B</td>
<td>2.5&quot; Cal</td>
<td>6</td>
</tr>
<tr>
<td>PL</td>
<td>Abies balsamea 'Skyline' / Skyline White Balsam Fir</td>
<td>B &amp; B</td>
<td>2.5&quot; Cal</td>
<td>7</td>
</tr>
<tr>
<td>RC</td>
<td>Gymnopilus clavatus / Espresso / Kentucky Coffeetree</td>
<td>B &amp; B</td>
<td>2.5&quot; Cal</td>
<td>2</td>
</tr>
<tr>
<td>SQ</td>
<td>Quercus bicolor / Swamp White Oak</td>
<td>B &amp; B</td>
<td>1.5&quot; Cal</td>
<td>6</td>
</tr>
<tr>
<td>RP</td>
<td>Quercus rubra 'Kepler' / Red Oak</td>
<td>B &amp; B</td>
<td>2.5&quot; Cal</td>
<td>12</td>
</tr>
<tr>
<td>SI</td>
<td>Tilia americana 'Boulevard' / Boulevard Linden</td>
<td>B &amp; B</td>
<td>2.5&quot; Cal</td>
<td>5</td>
</tr>
<tr>
<td>PE</td>
<td>Ulmus americana 'Princeton' / American Elm</td>
<td>B &amp; B</td>
<td>2.5&quot; Cal</td>
<td>7</td>
</tr>
</tbody>
</table>

## Conifers

<table>
<thead>
<tr>
<th>Code</th>
<th>Botanical Name / Common Name</th>
<th>Continent</th>
<th>Size</th>
<th>City</th>
</tr>
</thead>
<tbody>
<tr>
<td>NS</td>
<td>Picea abies / Norway Spruce</td>
<td>B &amp; B</td>
<td>6</td>
<td>31</td>
</tr>
<tr>
<td>AP</td>
<td>Picea nigra / Austrian Black Pine</td>
<td>B &amp; B</td>
<td>6</td>
<td>7</td>
</tr>
</tbody>
</table>

## H bananas

<table>
<thead>
<tr>
<th>Code</th>
<th>Botanical Name / Common Name</th>
<th>Continent</th>
<th>Size</th>
<th>City</th>
</tr>
</thead>
<tbody>
<tr>
<td>LA</td>
<td>Syringa reticulata / Japanese Tree Lilac</td>
<td>B &amp; B</td>
<td>2&quot; Cal</td>
<td>6</td>
</tr>
<tr>
<td>BI</td>
<td>Thuja occidentalis 'Smaragd' / Smaragd Arborvitae</td>
<td>Conifer</td>
<td>4</td>
<td>10</td>
</tr>
</tbody>
</table>

## Ground Covers

<table>
<thead>
<tr>
<th>Code</th>
<th>Botanical Name / Common Name</th>
<th>Continent</th>
<th>Size</th>
<th>City</th>
</tr>
</thead>
<tbody>
<tr>
<td>33-251</td>
<td>MINILOT Seed Mix 33-291 / Ponds and Wet Areas</td>
<td>Seed</td>
<td>22,642 sf</td>
<td></td>
</tr>
</tbody>
</table>
Neighborhood Comments
Received After April 25, 2019
Planning Commission Meeting
Please note my concern about any chances to the buffering (landscape & trees, brush, any change in elevation) to the proposed Walser project.

As a long term resident of the Townes Road area (40 years) I have seen many changes to the 394 PUD area. The biggest by far was the change in elevation and the “Swale” to the car dealerships. The swale meant NO BUFFERING for us at all. It was not evident to us in the plans, not noted in the meetings we attended, and not found out about until we experienced it after the approvals and building.

The mature trees/brush/landscaping and current elevation are critical to our properties.

Please allow NO CHANGES to what exists in elevation and foliage….

We do not have another twenty years for these to grow to maturity. We did this once, and should not be asked to do so again.

The noises and light intrusions are real and concerning. Addressing them in the planning stage is all we can ask; knowing about them from experience is ours to bear and share. And ask that those in the position of recommending and approving/altering please pay attention.

We still have to call every month about the noise from the ‘CAR WASH’ doors open sound intrusions. BMW is fortunately responsive when receiving our call. We still have cars unloading on the frontage road… and this issue is at least THIRTY YEARS old and unresolved. Large trailers back up cars onto the frontage road weekly. Please pay attention to this finally.

Thank you for the opportunity to provide input, and please know I do not oppose Walser’s dealership or operation, I only ask for protection to the surrounding neighborhoods across the wetlands.

With respect,

Linda Koblick
351 Townes Road
Wayzata MN 55391
A. Resolution approving a conditional use permit for an accessory structure exceeding 12 feet in height at 1,000 square feet in an area at 19100 Old Excelsior Blvd.

Recommend that the city council adopt the resolution approving a conditional use permit for an accessory structure exceeding 12 feet in height and 1,000 square feet in total floor area at 19100 Old Excelsior Blvd.

B. Resolution approving building and sign plans for proposed façade changes to the building at 14525 Hwy. 7.

Adopt a resolution approving an expansion permit to increase the height of the building within the required setback and a resolution approving the sign plan.

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

8. Public Hearings

A. Items concerning Walser Nissan at 15906 Wayzata Blvd.

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

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

Chair Kirk confirmed with Ingvalson that there would be a snow removal plan.

Chair Kirk asked if there would be mitigation for the trees removed. Ingvalson explained that would be addressed during the review of the building permit. The current plan would meet tree ordinance requirements.

Henry asked if the total area of all of the signs shown in the agenda packet would equal 184 square feet. Ingvalson answered affirmatively. Other car dealerships in the area have similar signs.

Powers thought removing the trees on the berm on the north side would change the character of the relationship to the adjacent houses. Ingvalson said that the current buffering is above and beyond what is required. Staff found that the proposal would meet minimum buffering requirements. The houses would be 800 feet to 1,000 feet from the edge of the new parking lot.

Henry asked if snow could be placed on the infiltration basins. Staff answered affirmatively. Henry noted that would increase the amount of salt traveling to the wetland. Ingvalson said that a condition of approval would require information on the amount of salt used on the site. Thomas clarified that snow storage would be allowed in
the infiltration area, not the wetland. The chloride-plan template follows the city’s own practices.

Sewall confirmed with Ingvalson the location of fill, grading, and retaining wall. The plantings would be on the north side with trees in front of the retaining wall. The retaining wall would be farther north than the berm.

Chair Kirk confirmed with Ingvalson that the retaining wall would be extended four feet in height to screen the vehicles.

Jack Grotkin, R.J. Ryan Construction, representing the applicant, stated that he was available for questions. The trees would be replaced with evergreens to make it look nice. The retaining wall would be increased four feet in height to provide screening. If it would work with the grading and the wetland setback, then he would rather create screening with earth rather than a retaining wall.

In response to Hanson’s question, Mr. Grotkin explained that the building would be moved back and aligned with the Lexus dealership and BMW dealership buildings. There are a lot of city requirements that drove the site plan. For instance, for every vehicle located in the front, two vehicles had to be located in the back. With the proposed building, there would be 74 fewer stalls than what is there currently. Removal of the berm would allow for 58 parking stalls.

Powers favored planting trees that would be as tall as 90 percent of the height of the existing trees. Mr. Grotkin would not be opposed to doing that, but he would need to check with an arborist.

The public hearing was opened.

Mark Birnbaum, 325 Townes Road, stated that:

- He appreciated commissioners looking at the berm area. He hoped the city would maintain the character of the wetlands.
- A four-foot retaining wall would not hide a van or building.
- The runoff from the car dealership would include fluids from vehicles.
- Larger replacements of the pine trees would make a dent in screening, but a building would not be hid from view.

Jeff Koblick, 351 Townes Road, stated that:

- The biggest issue with the BMW site was the berm height. Everyone was happy with the Nissan berm. It screened the business for 42 years. The city required an 11-foot berm with trees on top of it. It provided somewhat decent screening. What is being proposed is worse than what was originally proposed for BMW.
• The proposal would not be in keeping with the character of the neighborhood. It would change the view for homeowners on the north side.
• The height of the building would increase by 23 feet. It would be a big monolith.
• He requested that the berm stay the same or be brought up to a height to screen the building.
• He requested a rendering that would show the back view of the proposed building and screening. He believed a rendering was not being shown because it would show that the building would be obtrusive.

Brad Schaeppi, 315 Townes Lane, stated that:

• The berm is continuous and travels west. There is a row of mature, deciduous trees behind the BMW dealership.
• He disagreed with staff. The language in 300.27 is not discretionary. The proposal would remove the berm, so the proposal would not meet design standards.
• He provided six pages of comments.
• He was not overly concerned with the size of the building.
• Some of the trees are 30 feet to 35 feet in height. Removal of the 10-foot berm and trees would remove 40 feet to 45 feet of screening and the site slopes down from the frontage road to the back. He currently does not see headlights from vehicles navigating the site.
• There would be an increase in impervious surface by removing the berm.
• The trees are legally required to be there.
• Public hearing notices should be sent to all properties within sight of the applicant’s property rather than only those 400 feet from the site.

No additional testimony was submitted and the hearing was closed.

Ingvalson stated that the public hearing notice area was extended further than the 400-foot requirement and invited residents to sign up on the city’s website, eminnetonka.com, to receive notices via email for the proposal. The item is tentatively scheduled to be reviewed by the city council May 6, 2019.

Thomas read from the ordinance regarding the landscape requirements of a PID district. It states that landscape berms and buffers intended to screen development projects from single-family residential areas shall be installed with commencement of construction activity if determined appropriate by the city. The development review group includes natural resources, engineering, fire marshal, city attorney, and planning city staff members.

Chair Kirk recommended the applicant provide a rendering of the rear view of the site for the city council meeting. Ingvalson provided the definitions of the berm and buffer.
Sewall asked if it would be possible to add a berm on the back between the proposed parking lot and wetland. Gordon answered that if a berm would be constructed instead of a retaining wall, then parking stalls would have to be removed.

Thomas clarified that the ordinance also states that in cases where natural buffers are absent, earth and berms with new landscape material shall be installed.

Powers felt the proposed plan would be inadequate. He wants the neighbors to have the screening there now. It is not unreasonable for the neighbors to expect the screening to continue. The current screening would maintain the value of the property. He did not support the application. He was fine with the design plan for the proposed building and variances.

Henry welcomed redevelopment of the Nissan site. The proposal is in line with the character of the neighborhood and adjacent auto dealerships. The Nissan building currently sticks out for being too close to the road. It does not seem to fit with the character of the other dealerships. The building design is good. He agreed that the buffering would not be sufficient on the north side. He favored requiring a berm. He would prefer reducing the proposed impervious surface from 72 percent to 70 percent. He welcomed a negotiation and redesign to provide more of a buffer for the adjacent neighbors, but also be in the economic best interest of the car dealership.

Sewall felt details of the earth and berm part are missing from the proposal. More effort should be made to help mitigate the loss of screening.

Hanson was fine with the sign and setback variances. The minimum requirements have been met, but he would like to add a condition requiring more screening.

Chair Kirk concurred with commissioners. He would prefer the berm to stay, but it would not have to look like it does now to comply with the ordinance.

Chair Kirk asked the applicant if he would prefer to table action on the item. Mr. Grotkin stated that the retaining wall would be an earth-tone color, the trees planted on the north side of the wall would be pine trees, and the building would be dark grey and 20 feet shorter than the BMW building. He was willing to work with the landscaping to screen the retaining wall and building. He would provide a cross section of the rear view.

Mr. Grotkin did not want to delay the project by tabling action. He requested the commission make its recommendation to the city council. Chair Kirk suggested the applicant make additional visual aids for the city council’s review of the application. Mr. Grotkin was happy to work with staff.

**Hanson moved, second by Powers, to recommend that the city council adopt the 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.

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.
Ordinance No. 2019-

An ordinance approving a master development plan and final site and building plans, with a variance, to demolish and construct a new auto use building at 15906 Wayzata Blvd

The City Of Minnetonka Ordains:

Section 1. Background

1.01 On June 28, 1999, the city council adopted Ordinance No. 99-18. The ordinance amended a master development plan, and approved the final site and building plans, for the Wayzata Nissan at 15906 Wayzata Blvd.

1.02 The subject property is legally described as:

Section 3, Township 117, Range 22, West 356 feet of Southwest ¼ of Southwest ¼
Except Road

Section 2.

2.01 Jack Grotkin (R.J. Ryan Construction), on behalf of Walser Nissan-Wayzata, is now proposing to demolish the existing building and construct a new car dealership building on the site.

2.02 To facilitate this redevelopment, this ordinance hereby repeals and replaces Ordinance No. 99-18 and approves a new master development plan and final site and building plans. Approval includes the following variances:

   1. East and West parking lot setbacks from 20 feet to 10 feet. (City Code §300.31(7)(a)(5)(b)).

Section 3.

2.01 City Code §300.27 Subd.5 outlines the site and building plan standards. These standards are incorporated by reference into this resolution.

2.02 City Code §300.07 Subd.1 outlines variance standards. These standards are incorporated by reference into this resolution.
Section 3.

3.01 This ordinance approval is based on the following findings:

1. The proposal would meet the site and building plan standards outlined in City Code §300.27 Subd.5 as:
   a) The proposal would replace an existing auto dealership with a new auto dealership building, which is consistent with the site’s commercial land use designation. Further, the proposal has been reviewed by city planning, public works, engineering, and natural resources staff and found to be generally consistent with the city's development guides, including the water resources management plan.
   b) The proposal requires variances from the zoning ordinance standards. As outlined in Section 4.01 of this resolution and within the Resolution 2019-____, the proposal requests meet the variance standards.
   c) As proposed, the grade of the existing parking lot and building area would be raised. This area currently consists of the existing building pad, asphalt, and turf grass. While grade changes in this area would visually alter the site, the work would not significantly impact any natural areas. In addition, the applicant has proposed earthwork in the rear of the site to create the proposed filtration basin. The filtration basin area would take advantage of an existing depression to limit the grading needed for stormwater.
   d) The Wayzata Blvd. corridor is currently developed, so future changes to the area should look to enhance views from the corridor and buffer views from new construction. The existing dealership building is only 64 feet from the Wayzata Blvd. curb. Both of the adjacent buildings are located over 270 feet from Wayzata Blvd. As proposed, the new building would be moved back to be approximately 245 feet from Wayzata Blvd. This movement will create a more consistent building line within the Wayzata Blvd corridor.

Currently, there are a few plantings along the east and west property lines and on the west side of the subject building. However, the proposed landscaping plan would add significant tree buffering along the front of the property and within the parking lot that will create a visually pleasing view from Wayzata Blvd. The applicant has also proposed plantings in the rear of the property to buffer views from residential properties to the north to the proposed retaining wall that would be constructed.

2. The proposal would meet the site and building plan standards outlined in City Code §300.27 Subd.5 as:
   e) In comparison to the existing site, the proposal would enhance onsite vehicle circulation with a more orderly layout of parking for visitors. The proposal also addresses protections of adjacent and neighboring properties through reasonable provisions. The proposed site would
mitigate for runoff on site, using a filtration basin in the rear of the property. Additionally, the proposal would buffer views of the proposed structure through landscaping along Wayzata Blvd., the rear of the parking lot, and neighboring property lines.

2. The parking lot setback proposal would meet the required standards for a variance as:

a) The proposal and resulting variance request would meet the intent of the city’s zoning ordinance. The intent of the ordinance, as it pertains to parking lot setbacks, is to ensure an appropriate separation between structures and parking lots. The proposed 10-foot setback would be consistent with several nearby properties, which also have reduced parking lot setbacks.

b) The proposal would be consistent with the city’s comprehensive plan. The subject property is guided for commercial, and a parking lot setback variance would not create an inconsistency with the comprehensive plan.

c) There are practical difficulties in complying with the 20-foot parking lot setback ordinance.

1) The request for a 10-foot parking lot setback is reasonable as the existing site has an 18-foot parking lot setback to the east and a 0-foot setback on the west. The proposed setbacks would shift the parking lot footprint to the east to make an even setback distance on both sides of the property. The combined side yard setback would expand by 2 feet.

2) There are three other properties along Wayzata Blvd. that have non-conforming parking lot setbacks. If approved, the subject parking lot would not alter the essential character of the locality.

Section 4. Approval

4.01 Approval is subject to the following conditions:

1. The site must be developed and maintained in substantial conformance with the following plans unless modified by the conditions within Resolution 2019-____:

- Site plan date-stamped Feb. 21, 2019.
- Grading, Drainage and Erosion Control Plan email received April 3, 2019.
- Landscaping Plan Trees email received April 4, 2019.
- Landscape Plan Shrubs date-stamped Feb. 21, 2019
- Building elevations date-stamped Feb. 21, 2019.
- Utility plan date-stamped Feb. 21, 2019.
- Illumination plan date-stamped Feb. 21, 2019.
The above plans are hereby adopted as the master development plan and a final site and building plans, with a variance.

2. The approval of this ordinance is subject to the conditions outlined in Resolution 2019-______.

3. A copy of the ordinance must be recorded at Hennepin County.

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

Section 6. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on May 6, 2019.

Brad Wiersum, Mayor

ATTEST:

Becky Koosman, Acting City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction: Mar. 18, 2019
Date of adoption: Mar. 18, 2019
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:

SEAL
 Resolution 2019-

A resolution approving an amendment to an existing conditional use permit, with a variance, and a sign plan at 15906 Wayzata Blvd.

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

Section 1. BACKGROUND.

1.01 R.J. Ryan Construction, Inc. is requesting an amendment to its existing conditional use permit for exterior display, sales, and storage associated with an automobile dealership. Approval includes the following variance:

- On-site parking-to-building ratio from one space for every 200 square feet to 1.5 spaces for every 200 square feet.

1.02 The applicant is also requesting a sign plan to permit three signs on a single elevation. City Code only permits one sign per elevation. (City Code §325.06 (2)(a)(1)).

1.03 The subject property covered by this approval is located at 15906 Wayzata Blvd. and is legally described as:

Section 3, Township 117, Range 22, West 356 feet of Southwest ¼ of Southwest ¼ Except Road

1.04 On April 25, 2019, 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 deny the resolution.

Section 2. Standards.

2.01 General Conditional Use Permit Standards. City Code Section 300.31, Subdivision 4, lists the following general standards that must be met for granting of a conditional use permit:

1. The use met the specific standards as outlined in the code.

2. The use is in the best interest of the city.
3. The use is compatible with other nearby uses.

4. The use is consistent with other requirements of the ordinance.

2.02 Specific Conditional Use Permit Standards. City Code Section 300.31, Subd.4 further lists the following specific standards that must be met for granting of the permit:

1. The parcel is located within the I-394 redevelopment overlay district No. 6 or No. 7.

2. All inventory and display vehicles located outside of a building or structure must be at finish grade level. No jack stands, risers or other mechanisms may be used to elevate any vehicle for display purpose.

3. Class II motor vehicle sales (used car sales) are allowed only as an accessory part of the new car sales.

4. The sale of vehicles may occur during the times and days allowed by state law.

5. Vehicles must not be displayed in any yard area, drive aisle, or fire lane.

6. The overall hard surface coverage must not exceed 70%, and floor area ratios must not exceed 0.6 except that the hard surface coverage may extend to 80% with innovative stormwater management methods and treatment measures subject to approval by the city engineer.

7. The architectural and site standards must comply with section 300.31 Subd.7(a).

8. The landscaping must comply with Section 300.31 Subd.7(b) and must contain a wall, berm or other feature that is constructed for long term durability when adjacent to the residentially zoned property to minimize to the greatest extent reasonably possible, noise and visual impacts.

9. Parking lot and site security lighting must comply with section 300.31 Subd.7(c) and in addition, the following requirements:

   a) Maximum of 450 watts per fixture.

   b) Maximum height of light standards is 30 feet in outdoor display areas as defined in 300.31 Subd. (4)(a)(3)(b) and 25 feet in all other outdoor areas.

   c) Maximum of 1 watt per square foot surface parking area.

   d) The lighting plan shall be designed to have 0.0 foot-candles at residential property lines with the understanding that ambient light
from other sources may spill on the property and influence actual on-site measurements.

10. Parking requirements must comply with one of the following:

   a) fifty percent of the total on-site parking spaces must be in a structured parking ramp, or

   b) if the city deems appropriate, surface parking without a ramp under the following conditions:

      1) total on-site parking must not exceed one parking space for every 200 square feet of building area, and

      2) submittal of a plan that adequately screens 50% of the total parking spaces from public view.

11. Vehicles parked within a parking structure must be screened from view from surrounding residential uses.

12. The customer parking spaces must be clearly signed and may not be used at any time for inventory vehicle parking.

13. All pick-ups and drop-offs of vehicles must occur on site and off public streets.

14. All loading and unloading of vehicles must occur on site and off public streets.

15. Customer testing of vehicles may occur only on non-residential streets and only with a store employee.

16. No loudspeaker paging system may be used.

17. All rooftop equipment must be fully screened from ground level view of adjacent properties.

18. All signs must be consistent with this code.

19. Poured-in-place concrete curbs must be constructed and maintained on the perimeter of parking lots and traffic islands.

20. All trash and recyclable materials must be screened from public view.

2.03 Sign Plan Standards. By City Code §325.05 Subd.5, a sign plan to allow signage with differing requirements than the sign ordinance can be approved by the city. The factors are considered:
1. The site is currently non-conforming with the number of signs on the south elevation.

2. The subject building would be moved further away from Wayzata Blvd., decreasing the business’ visibility.

3. The site is located in an area with other car dealers that have multiple signs on a single elevation.

4. The proposed wall signage would not exceed 150 square feet on a single elevation, matching the city code requirements.

5. The sign plan includes permanent sign covenants which can be enforced by the city.

2.04 Variance Standard. 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 mean: (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

Section 3. Findings.

3.01 The proposal meets the specific conditional use permit standards.

3.02 The subject request meets the specific conditional use permits with the exception of:

1. The proposed on-site parking-to-building ratio exceeds one space for every 200 square feet. Per the subject plan, the applicant has proposed 1.5 spaces for every 200 square feet.

3.03 The proposed parking-to-building square footage ratio would meet the required standards for a variance as:

1. The proposal and resulting variance request would meet the intent of the city’s zoning ordinance. The intent of the ordinance, as it pertains to parking lot to building ratios, is to ensure that the parking lots are sized appropriately proportional to the building they are associated with. The proposal would reduce the parking ratio and would reduce the total number of parking stalls on the site, thus bringing the property closer to conformance with the ordinance.

2. The proposal would be consistent with the city’s comprehensive plan. The subject property is guided for commercial, and a parking-to-building ratio variance would not create an inconsistency.
3. There are practical difficulties in complying with the parking lot to building square footage ratio requirement.

a) The request is reasonable as the proposed parking lot would increase driver safety. The current lot has several drive aisles that are less than 26 feet wide and are extremely long with no turning options. All of the drive aisles in the proposed plan would be at least 26 feet in width, and the proposed parking lot creates a more logical driving path, with shorter aisles and landscaping islands.

b) The variance request is caused by circumstances unique to the property. Specifically, the subject site is currently non-conforming. It has approximately 407 parking spaces and a parking-to-building ratio of 2.4 spaces to every 200 square feet of building space. The proposal reduces the total number of parking spaces to 333 with the proposed plan, resulting in 1.5 spaces to every 200 square feet of building space. The proposal would bring the subject property closer to compliance with the parking-to-building square footage ratio.

c. If approved, the proposed project would not alter the essential character of the neighborhood. The immediate area is characterized by auto dealerships with large parking lots. The proposal reduces total on-site parking by 74 parking spaces.

3.04 The proposed sign plan is reasonable, as:

1. The subject site currently has a non-conforming number of signs on the front elevation of the building. The site has three signs on one elevation and a fourth sign that faces Wayzata Blvd. Approving the proposed sign plan would move an existing rear elevation sign, which faces Wayzata Blvd, to the south elevation of the building.

2. The sign plan would not permit more signage area than would be permitted by city code. Instead, it will only permit a greater number of signs.

3. If approved, the sign plan would not alter the essential character of the neighborhood, as the existing area has several dealership buildings with multiple signs on a single elevation.

Section 4. City Council Approval.

4.01 The city council hereby approves the proposal. Approval is 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, except as modified by the conditions below:

- Site plan date-stamped Feb. 21, 2019.
- Grading, Drainage and Erosion Control Plan email received April 3, 2019.
- Landscaping Plan Trees email received April 4, 2019.
- Landscape Plan Shrubs date-stamped Feb. 21, 2019
- Building elevations date-stamped Feb. 21, 2019.
- Utility plan date-stamped Feb. 21, 2019.
- Illumination plan date-stamped Feb. 21, 2019.

2. Prior to issuance of a building permit:
   a) Schedule and hold a pre-construction meeting with engineering, planning, and natural resources staff.
   b) Pay any outstanding property taxes.
   c) Submit the following:
      1) A proposed survey that limits impervious surface to 70 percent. This calculation shall exclude wetland areas from the total lot area.
      2) A revised lighting plan for staff review and approval. The lighting plan must comply with section 300.31(7)(c) and in addition, the following requirements:
         a. Maximum of 450 watts per fixture.
         b. Maximum height of light standards is 30 feet in outdoor display areas as defined in 300.31 (4)(a)(3)(b) and 25 feet in all other outdoor areas.
         c. Maximum of 1 watt per square foot surface parking area.
         d. The lighting plan shall be designed to have 0.0 foot-candles at residential property lines with the understanding that ambient light from other sources may spill on the property and influence actual on-site measurements.
      3) Final stormwater management is required for the entire site's impervious surface. The plan must demonstrate conformance with the following criteria:
         a. 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.

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

c. 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) A final landscape plan. The plan must:

a. Meet minimum landscaping and mitigation requirements as outlined in city ordinance. This plan must include information related to species, sizes, quantities, locations, and landscape values. It must also include pollinator-friendly species. Note, only small shrubs, perennials, and grasses may be located in public easements.

b. Include vegetative screening north of the parking lot. Deer guards must be provided on all deciduous trees.

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

6) Salt/chloride management and snow removal plans, for staff review and approval, to ensure protection and survival of the plantings and protection of the wetland and wetland buffer areas.

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. The management plan must be accompanied by a cash escrow, in the amount of $2,000, and a waiver document prepared by the city attorney and signed by the applicant. Through this document the applicant will acknowledge: (1) the property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and (2) if compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.

8) An MPCA NPDES permit.
9) An MDH permit for the proposed water main or documentation that a permit is not required.

10) Truck turning exhibit. The exhibit must use the templates for the city’s largest fire truck and illustrate that the truck can maneuver through the site. Note: fire lanes must be designated on the plans submitted for building permit review. These lanes must be acceptable to the fire marshal.

11) A materials board to city staff for review and approval.

12) The following legal documents:
   
   a. Drainage and utility easements over wetlands, floodplains, and stormwater management facilities.

   b. A conservation easement of the required 25-foot wetland buffer. The easement must be fully executed before issuing the permit. Note: the wetland buffer area must be fully established with native vegetation prior to full release of any landscaping securities, which may require the use of a restoration contractor if established by seed.

   c. A stormwater maintenance agreement in city-approved format for review and approval of city staff.

   d. A private hydrant maintenance agreement in city-approved format for review and approval by city staff.

   e. A private access agreement from the neighboring property is allowing the driveway to cross their property. Note: if no access agreement existing or can be achieved, the western access must be straightened to be perpendicular with the extended property line.

13) Escrow money to cover the costs to demolish the existing building. This amount will be determined by staff. Grading cash escrow in the amount of $2,000.

14) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to construct street and utility improvements, comply with grading permit, wetland restoration, tree requirements and to restore the site. 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 streets and utilities have 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.

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

e) No wetland impacts are allowed, and all proposed work must meet wetland setbacks. The silt fence, outlet pipe, rip-rap (or other dissipation devices), and all grading, filling or other work must be located outside the wetland.

f) Any utility work within the right-of-way requires a right-of-way permit.

A grading permit is required if the applicant elects to complete grading work prior to issuance of a building permit.

3. Customer parking spaces must be designated on plans submitted for building permit review.

4. All inventory and display vehicles located outside of a building or structure must be at finish grade level. No jack stands, risers, or other mechanisms may be used to elevate any vehicle for display purpose;

5. Class II motor vehicle sales (used car sales) are allowed only as an accessory part of the new car sales.

6. The sale of vehicles may occur during the times and days allowed by state law.

7. At no time may vehicles be displayed in any yard area, drive aisle, or fire lane.

8. The customer parking spaces must be clearly signed and may not be used at any time for inventory vehicle parking.

9. All pickups and drop-offs of vehicles must occur on site and off public streets.

10. All loading and unloading of vehicles must occur on site and off public streets.
11. Customer testing of vehicles may occur only on non-residential streets and only with a store employee.

12. No loudspeaker paging system may be used.

13. All rooftop equipment must be fully screened from ground level view of adjacent properties.

14. All signs must be consistent with this code or the approved sign plan.
   a) Four signs are permitted on the south elevation. The total signage on the south facing wall is limited to 150 square feet or 10 percent of the wall face, whichever is less.
   b) Sign permits are required for each new sign.

15. All trash and recyclable materials must be screened from public view.

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

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

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

Adopted by the city council of the City of Minnetonka, Minnesota, on May 6, 2019.

Brad Wiersum, Mayor

ATTEST:

Becky Koosman, Acting City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction: Mar. 18, 2019
Date of adoption: Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:

SEAL
City Council Agenda Item #14B
Meeting of May 6, 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.)

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
  Loren Gordon, AICP, City Planner

Originated by:
  Susan Thomas, AICP, Assistant City Planner
MINNETONKA PLANNING COMMISSION
April 25, 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 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.1 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.2 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 considered 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>AREA</th>
<th>WIDTH</th>
<th>DEPTH</th>
</tr>
</thead>
<tbody>
<tr>
<td>REQUIRED</td>
<td>Total</td>
<td>Buildable</td>
</tr>
<tr>
<td>Lot 1</td>
<td>16,740 sq.ft.</td>
<td>4,220 sq.ft.</td>
</tr>
<tr>
<td>Lot 2</td>
<td>8,810 sq.ft.</td>
<td>3,795 sq.ft.</td>
</tr>
<tr>
<td>Lot 3</td>
<td>8,810 sq.ft.</td>
<td>3,795 sq.ft.</td>
</tr>
<tr>
<td>Lot 4</td>
<td>9,335 sq.ft.</td>
<td>4,050 sq.ft.</td>
</tr>
<tr>
<td>Lot 5</td>
<td>13,930 sq.ft.</td>
<td>6,545 sq.ft.</td>
</tr>
<tr>
<td>Lot 6</td>
<td>21,185 sq.ft.</td>
<td>20,585 sq.ft.</td>
</tr>
<tr>
<td>Lot 7</td>
<td>18,840 sq.ft.</td>
<td>9,560 sq.ft.</td>
</tr>
<tr>
<td>Lot 8</td>
<td>16,490 sq.ft.</td>
<td>8,270 sq.ft.</td>
</tr>
<tr>
<td>Lot 9</td>
<td>12,560 sq.ft.</td>
<td>5,750 sq.ft.</td>
</tr>
<tr>
<td>Lot 10</td>
<td>9,745 sq.ft.</td>
<td>4,275 sq.ft.</td>
</tr>
<tr>
<td>Lot 11</td>
<td>8,810 sq.ft.</td>
<td>3,790 sq.ft.</td>
</tr>
<tr>
<td>Lot 12</td>
<td>8,810 sq.ft.</td>
<td>3,790 sq.ft.</td>
</tr>
<tr>
<td>Lot 13</td>
<td>16,940 sq.ft.</td>
<td>4,645 sq.ft.</td>
</tr>
</tbody>
</table>

**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\(^3\)) 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. 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.

---

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

<table>
<thead>
<tr>
<th>Surrounding</th>
<th>North:</th>
<th>Williston Center, zoned PUD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Uses</td>
<td>South:</td>
<td>Single-family homes, zoned R-1</td>
</tr>
<tr>
<td></td>
<td>East:</td>
<td>Single-family homes, zoned R-1</td>
</tr>
<tr>
<td></td>
<td>West:</td>
<td>Single-family homes, zoned R-2</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

| Existing | 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

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 of 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></th>
<th>Allowed High-Priority (HP) Tree Removal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot 1</td>
<td>N/A</td>
</tr>
<tr>
<td>Lot 2</td>
<td>N/A</td>
</tr>
<tr>
<td>Lot 3</td>
<td>N/A</td>
</tr>
<tr>
<td>Lot 4</td>
<td>N/A</td>
</tr>
<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>
</tr>
</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:

<table>
<thead>
<tr>
<th>Min. Front Yard Setback</th>
<th>25 ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>Min. Side Yard Setback</td>
<td>10 ft</td>
</tr>
<tr>
<td>Min. Rear Yard Setback</td>
<td>30 ft or 20% of lot depth, whichever is less</td>
</tr>
<tr>
<td>Max. Height</td>
<td>35 feet, except if the building includes a walkout or lookout elevation, in which case the maximum height is 25 feet.</td>
</tr>
<tr>
<td>Max. FAR</td>
<td>0.25</td>
</tr>
</tbody>
</table>

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.
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
Location Map

Project: Highcroft Meadows
Address: 14410 Orchard Rd
Narrative

Rezoning, Preliminary Plat and Variances
Narrative

Highcroft Meadows
Minnetonka, MN

LANDFORM
Revised April 5, 2019
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 1½ 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 tract of land situated in the City of Minnetonka, in Haverhill Township, in the 16th Range West, in the 117th Township North, in the Fifth Principal Meridian West, in the State of Minnesota, known as the "Clove Meadows Subdivision," is bounded and 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 East along said South line 317 feet; thence South parallel with the East line of said Section 16 to the point of beginning, according to the United States Government Survey.

RIGHT OF WAY AREA: 37,909 S.F. = 0.87 AC.

TOTAL SITE AREA: 280,416 S.F. = 6.44 AC.

WETLAND AREA: 0 S.F. = 0 AC.

REAR - 30 FT. OR 20% OF LOT DEPTH

SIDE - 10 FT.

NET AREA: 242,507 S.F. = 5.57 AC.

ZONING AND SETBACK SUMMARY

CURRENT ZONING: R-1 LOW DENSITY RESIDENTIAL DISTRICT

PROPOSED ZONING: R-2 LOW DENSITY RESIDENTIAL DISTRICT

MINIMUM LOT DEPTH - 125 FT. (AVG.)

MINIMUM LOT WIDTH AT ROW - 48.1 FT.

MINIMUM LOT AREA - 8810 S.F.

PERIMETER SETBACK:

PROPOSED NUMBER OF LOTS: 14

TOTAL NUMBER OF LOTS: 14

CERTIFICATION

The undersigned hereby certifies that this Plat bears the signatures of the following designated persons authorized to sign on behalf of the Developer, as set forth below:

Name: Rachel Development

Address: 4125 Napier Court NE

St. Michael, MN 55376

Date: 04-05-2019

(REQUIRED): The undersigned hereby certifies that this Plat bears the signatures of the person authorized to sign the Plat on behalf of the Developer, as set forth below.

Name: Rachel Development

Address: 4125 Napier Court NE

St. Michael, MN 55376

Date: 04-05-2019

SIGNATURES OF PERSONS AUTHORIZED TO SIGN ON BEHALF OF THE DEVELOPER

Name: Rachel Development

Address: 4125 Napier Court NE

St. Michael, MN 55376

Date: 04-05-2019

THE ENGINEER TO REQUEST ADDITIONAL DOCUMENTS.
**General Notes**

- For construction and development purposes, contact the City of Minnetonka.

**Site Plan Notes**

- Original survey monuments for existing features will be the Basis of Layout.
- Set backs & size of building to be determined at the time of approval.
- For existing buildings, size & location will be determined at the time of approval. Permits will be subject to the City for final approval.
- Existing structures and buildings, without 6'4" level above existing grade level.
- Standard dimensions and grades to be determined at the time of approval. Permits will be subject to the City for final approval.
- For construction and development purposes, contact the City of Minnetonka.

**Lot Area Table**

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Lot</th>
<th>Rm</th>
<th>Min HOUSE Size</th>
<th>Min BLDG. Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>2</td>
<td>1999</td>
<td>1697</td>
</tr>
<tr>
<td>2</td>
<td>3</td>
<td>4</td>
<td>2878</td>
<td>2697</td>
</tr>
<tr>
<td>3</td>
<td>5</td>
<td>6</td>
<td>3677</td>
<td>3497</td>
</tr>
<tr>
<td>4</td>
<td>7</td>
<td>8</td>
<td>4476</td>
<td>4297</td>
</tr>
<tr>
<td>5</td>
<td>9</td>
<td>10</td>
<td>5275</td>
<td>5097</td>
</tr>
<tr>
<td>6</td>
<td>11</td>
<td>12</td>
<td>6074</td>
<td>5897</td>
</tr>
<tr>
<td>7</td>
<td>13</td>
<td>14</td>
<td>6873</td>
<td>6697</td>
</tr>
<tr>
<td>8</td>
<td>15</td>
<td>16</td>
<td>7672</td>
<td>7497</td>
</tr>
<tr>
<td>9</td>
<td>17</td>
<td>18</td>
<td>8471</td>
<td>8297</td>
</tr>
<tr>
<td>10</td>
<td>19</td>
<td>20</td>
<td>9270</td>
<td>9097</td>
</tr>
<tr>
<td>11</td>
<td>21</td>
<td>22</td>
<td>10069</td>
<td>9897</td>
</tr>
<tr>
<td>12</td>
<td>23</td>
<td>24</td>
<td>10868</td>
<td>10697</td>
</tr>
<tr>
<td>13</td>
<td>25</td>
<td>26</td>
<td>11667</td>
<td>11497</td>
</tr>
<tr>
<td>14</td>
<td>27</td>
<td>28</td>
<td>12466</td>
<td>12297</td>
</tr>
<tr>
<td>15</td>
<td>29</td>
<td>30</td>
<td>13265</td>
<td>13097</td>
</tr>
<tr>
<td>16</td>
<td>31</td>
<td>32</td>
<td>14064</td>
<td>13897</td>
</tr>
<tr>
<td>17</td>
<td>33</td>
<td>34</td>
<td>14863</td>
<td>14697</td>
</tr>
<tr>
<td>18</td>
<td>35</td>
<td>36</td>
<td>15662</td>
<td>15497</td>
</tr>
<tr>
<td>19</td>
<td>37</td>
<td>38</td>
<td>16461</td>
<td>16297</td>
</tr>
<tr>
<td>20</td>
<td>39</td>
<td>40</td>
<td>17260</td>
<td>17097</td>
</tr>
<tr>
<td>21</td>
<td>41</td>
<td>42</td>
<td>18059</td>
<td>17897</td>
</tr>
<tr>
<td>22</td>
<td>43</td>
<td>44</td>
<td>18858</td>
<td>18697</td>
</tr>
<tr>
<td>23</td>
<td>45</td>
<td>46</td>
<td>19657</td>
<td>19497</td>
</tr>
<tr>
<td>24</td>
<td>47</td>
<td>48</td>
<td>20456</td>
<td>20297</td>
</tr>
<tr>
<td>25</td>
<td>49</td>
<td>50</td>
<td>21255</td>
<td>21097</td>
</tr>
<tr>
<td>26</td>
<td>51</td>
<td>52</td>
<td>22054</td>
<td>21897</td>
</tr>
<tr>
<td>27</td>
<td>53</td>
<td>54</td>
<td>22853</td>
<td>22697</td>
</tr>
<tr>
<td>28</td>
<td>55</td>
<td>56</td>
<td>23652</td>
<td>23497</td>
</tr>
<tr>
<td>29</td>
<td>57</td>
<td>58</td>
<td>24451</td>
<td>24297</td>
</tr>
<tr>
<td>30</td>
<td>59</td>
<td>60</td>
<td>25250</td>
<td>25097</td>
</tr>
<tr>
<td>31</td>
<td>61</td>
<td>62</td>
<td>26049</td>
<td>25897</td>
</tr>
<tr>
<td>32</td>
<td>63</td>
<td>64</td>
<td>26848</td>
<td>26697</td>
</tr>
<tr>
<td>33</td>
<td>65</td>
<td>66</td>
<td>27647</td>
<td>27497</td>
</tr>
<tr>
<td>34</td>
<td>67</td>
<td>68</td>
<td>28446</td>
<td>28297</td>
</tr>
<tr>
<td>35</td>
<td>69</td>
<td>70</td>
<td>29245</td>
<td>29097</td>
</tr>
<tr>
<td>36</td>
<td>71</td>
<td>72</td>
<td>30044</td>
<td>29897</td>
</tr>
</tbody>
</table>

**Area Summary**

<table>
<thead>
<tr>
<th>TOTAL LAND, ACRES</th>
<th>0.176</th>
</tr>
</thead>
<tbody>
<tr>
<td>NET LAND, ACRES</td>
<td>0.176</td>
</tr>
<tr>
<td>SETBACK - FRONT OF LOT, FT.</td>
<td>357.00</td>
</tr>
<tr>
<td>SETBACK - SIDE OF LOT, FT.</td>
<td>317.00</td>
</tr>
</tbody>
</table>

**Digital File**

- The digital file, which can be obtained from the engineer, shall be used for staking. Discrepancies will be resolved.

**Lot Use Information**

- **Land Use Density Range:** Low Density Residential
- **Minimum Lot Depth:** 125 FT. (AVG.)
- **Required Parking:** Two off-street parking spaces per dwelling. A 24 FT. by 24 FT. garage must be provided on each lot.

**Wetland Area**

- 0 S.F. = 0 AC.

**Subdivision Summary**

- **Current Zoning:** Low Density Residential District
- **Proposed Zoning:** R-2 Low Density Residential
- **Professional Engineer:** None
- **Proposed Entire Project:** None
- **Permanent Setback:** None
- **Wetland:** Under review.
- **Current Use:** Under review.
- **Land Use:** Under review.
- **Proposed:** None

**Addendum**

- IF THE SIGNATURE, SEAL OR FOUR LINES DIRECTLY ABOVE ARE NOT
- OBTAIN ALL NECESSARY PERMITS FOR CONSTRUCTION WITHIN, OR USE OF PUBLIC RIGHT-OF-WAY.

**City of Minnetonka**

**Date Issue / Revision Review**

05 APR 2019

**Landform**

DEVELOPER

RAC18001

04-05-2019

**PRELIMINARY PLAT REVISIONS**

04-05-2019

**PRELIMINARY PLAT**

04-05-2019

**Certification**

PRELIMINARY NOT FOR CONSTRUCTION

**Site Plan**

C2.1

**parcel Table**

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Lt</th>
<th>Cn</th>
<th>Rm</th>
<th>Bldg. Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1065</td>
</tr>
<tr>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>1698</td>
</tr>
<tr>
<td>3</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>2331</td>
</tr>
<tr>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>2964</td>
</tr>
<tr>
<td>5</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>3597</td>
</tr>
<tr>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>4230</td>
</tr>
<tr>
<td>7</td>
<td>7</td>
<td>7</td>
<td>7</td>
<td>4863</td>
</tr>
<tr>
<td>8</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>5496</td>
</tr>
<tr>
<td>9</td>
<td>9</td>
<td>9</td>
<td>9</td>
<td>6129</td>
</tr>
<tr>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>6762</td>
</tr>
<tr>
<td>11</td>
<td>11</td>
<td>11</td>
<td>11</td>
<td>7395</td>
</tr>
<tr>
<td>12</td>
<td>12</td>
<td>12</td>
<td>12</td>
<td>8028</td>
</tr>
<tr>
<td>13</td>
<td>13</td>
<td>13</td>
<td>13</td>
<td>8661</td>
</tr>
<tr>
<td>14</td>
<td>14</td>
<td>14</td>
<td>14</td>
<td>9294</td>
</tr>
<tr>
<td>15</td>
<td>15</td>
<td>15</td>
<td>15</td>
<td>9927</td>
</tr>
<tr>
<td>16</td>
<td>16</td>
<td>16</td>
<td>16</td>
<td>10560</td>
</tr>
<tr>
<td>17</td>
<td>17</td>
<td>17</td>
<td>17</td>
<td>11193</td>
</tr>
<tr>
<td>18</td>
<td>18</td>
<td>18</td>
<td>18</td>
<td>11826</td>
</tr>
<tr>
<td>19</td>
<td>19</td>
<td>19</td>
<td>19</td>
<td>12459</td>
</tr>
<tr>
<td>20</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>13092</td>
</tr>
<tr>
<td>21</td>
<td>21</td>
<td>21</td>
<td>21</td>
<td>13725</td>
</tr>
<tr>
<td>22</td>
<td>22</td>
<td>22</td>
<td>22</td>
<td>14358</td>
</tr>
<tr>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>14991</td>
</tr>
<tr>
<td>24</td>
<td>24</td>
<td>24</td>
<td>24</td>
<td>15624</td>
</tr>
<tr>
<td>25</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>16257</td>
</tr>
<tr>
<td>26</td>
<td>26</td>
<td>26</td>
<td>26</td>
<td>16890</td>
</tr>
<tr>
<td>27</td>
<td>27</td>
<td>27</td>
<td>27</td>
<td>17523</td>
</tr>
<tr>
<td>28</td>
<td>28</td>
<td>28</td>
<td>28</td>
<td>18156</td>
</tr>
<tr>
<td>29</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td>18789</td>
</tr>
<tr>
<td>30</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>19422</td>
</tr>
<tr>
<td>31</td>
<td>31</td>
<td>31</td>
<td>31</td>
<td>20055</td>
</tr>
<tr>
<td>32</td>
<td>32</td>
<td>32</td>
<td>32</td>
<td>20688</td>
</tr>
<tr>
<td>33</td>
<td>33</td>
<td>33</td>
<td>33</td>
<td>21321</td>
</tr>
<tr>
<td>34</td>
<td>34</td>
<td>34</td>
<td>34</td>
<td>21954</td>
</tr>
<tr>
<td>35</td>
<td>35</td>
<td>35</td>
<td>35</td>
<td>22587</td>
</tr>
<tr>
<td>36</td>
<td>36</td>
<td>36</td>
<td>36</td>
<td>23220</td>
</tr>
</tbody>
</table>
Highcroft Meadows • Minnetonka, MN

04.05.2019

Zoning - Existing and Proposed

Legend

Zoning Designation
- R1
- R2
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.
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
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 time 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
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 sidewalk 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
From: Deb Calvert  
Sent: Monday, March 18, 2019 9:14 PM  
To: Geralyn Barone <gbarone@eminnetonka.com>  
Subject: Fwd: Orchard Road Property  

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
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
Elizabeth Desmond
14306 Orchard Road
Minnetonka, MN 55345
April 18th, 2019

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/

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

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.
<table>
<thead>
<tr>
<th>Name</th>
<th>From</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elizabeth Desmond</td>
<td>Minnetonka, MN</td>
<td>I'd like to see less density in the plan submitted...</td>
</tr>
<tr>
<td>Matt Desmond</td>
<td>Minnetonka, MN</td>
<td>Infrastructure in Minnetonka does support dense housing.</td>
</tr>
<tr>
<td>Trish Gardiner</td>
<td>Minnetonka, MN</td>
<td>Safety</td>
</tr>
<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>
</tr>
<tr>
<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>
</tr>
<tr>
<td>Jill Johnson</td>
<td>Minnetonka, MN</td>
<td>Taking away these wooded areas are ruining the character of Minnetonka. No wonder why I like Afton, Mn...they are keeping Afton the way it should be.</td>
</tr>
<tr>
<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>
</tr>
<tr>
<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>
</tr>
<tr>
<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>
</tr>
<tr>
<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>
</tr>
<tr>
<td>Jesse Hughes</td>
<td>Minnetonka, MN</td>
<td>The infrastructure (roads, utilities, etc) can’t support that many new homes.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Page 2 - Signatures 1 - 14
<table>
<thead>
<tr>
<th>Name</th>
<th>From</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<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>
</tr>
<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>
</tr>
<tr>
<td>Minnetonka, MN</td>
<td></td>
<td>Don't rezone the property. Thanks.</td>
</tr>
<tr>
<td>Minnetonka, MN</td>
<td></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>
</tr>
<tr>
<td>Hopkins, MN</td>
<td></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>
</tr>
<tr>
<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>
</tr>
<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>
</tr>
<tr>
<td>Name</td>
<td>From</td>
<td>Comments</td>
</tr>
<tr>
<td>---------------</td>
<td>---------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>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>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>Elisa McBride</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>CareTwo Support</td>
<td>REDWOOD CITY, CA</td>
<td></td>
</tr>
<tr>
<td>Karen Schlichting</td>
<td>Minneapolis, MN</td>
<td>We need green space. Enough building new houses</td>
</tr>
<tr>
<td>Joseph Wenzel</td>
<td>LAKE ELMO, MN</td>
<td></td>
</tr>
<tr>
<td>Sarah Madsen</td>
<td>Chaska, MN</td>
<td></td>
</tr>
<tr>
<td>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>Tara Koenig</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>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>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>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 shouldn't be changed</td>
</tr>
<tr>
<td>Ryan Nicholls</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
</tbody>
</table>
38. Hopkins, MN
   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 MINNETONKA, MN
40. Kristin Baker Minnetonka, MN
41. Emily Wallin 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
   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
   Too much traffic on Orchard. Not safe to walk Orchard.
<table>
<thead>
<tr>
<th>Name</th>
<th>From</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rey F</td>
<td>Minnetonka, MN</td>
<td>While I am far enough away not 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.</td>
</tr>
<tr>
<td>Bruce Schultz</td>
<td>Wayzata, MN</td>
<td>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!</td>
</tr>
<tr>
<td>Robert Bertelsen</td>
<td>Minnetonka, MN</td>
<td>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.</td>
</tr>
<tr>
<td>Ann Bertelsen</td>
<td>Minnetonka, MN</td>
<td>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.</td>
</tr>
<tr>
<td>Jeff Mock</td>
<td>Hopkins, MN</td>
<td>I LOVE Minnetonka and how the housing is less dense then 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 &quot;No&quot; and stand with the original vision of such a great city.</td>
</tr>
<tr>
<td>Julie Milnes</td>
<td>Minnetonka, MN</td>
<td>I live on Orchard Road.</td>
</tr>
<tr>
<td>Jodi Schoenauer</td>
<td>Minnetonka, MN</td>
<td>That’s way to many homes for that space</td>
</tr>
<tr>
<td>Eric Thompson</td>
<td>Minnetonka, MN</td>
<td>Let’s preserve the unique characteristics of our city</td>
</tr>
<tr>
<td>Karen Hopp</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>Sandy Lubarski</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>Rita Sandstrom</td>
<td>Minnetonka, MN</td>
<td>We don’t need all these houses in one area</td>
</tr>
<tr>
<td>Name</td>
<td>From</td>
<td>Comments</td>
</tr>
<tr>
<td>---------------------</td>
<td>---------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Elizabeth Lindholm</td>
<td>Minnetonka, MN</td>
<td>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.</td>
</tr>
<tr>
<td>Kelly Hennessey</td>
<td>Minnetonka, MN</td>
<td>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.</td>
</tr>
<tr>
<td>Rachel Mein</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>William Campbell</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jennifer Indermaur</td>
<td>Minnetonka, MN</td>
<td>Does not fit in with the neighborhood and likely traffic issues</td>
</tr>
<tr>
<td>Judy Miller</td>
<td>Minnetonka, MN</td>
<td>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.</td>
</tr>
<tr>
<td>Kenneth Schindler</td>
<td>Minnetonka, MN</td>
<td>The feel of the neighborhood would be dramatically altered. Also, that section of Orchard road isn’t designed to a 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.</td>
</tr>
<tr>
<td>Adam Celt</td>
<td>Minnetonka, MN</td>
<td>Development is too dense for the area. No reason to change the zoning.</td>
</tr>
<tr>
<td>Josh Schlueter</td>
<td>Minnetonka, MN</td>
<td>I love the plan for developing the area and the developer seems high quality but it is TOO DENSE.</td>
</tr>
<tr>
<td>Jen Rutz</td>
<td>Minnetonka, MN</td>
<td>I do not want density in this area with many stores and businesses</td>
</tr>
<tr>
<td>Veronica Fashant</td>
<td>Hopkins, MN</td>
<td>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 (&amp; 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.</td>
</tr>
<tr>
<td>Chris Nelson</td>
<td>Hopkins, MN</td>
<td></td>
</tr>
<tr>
<td>Name</td>
<td>From</td>
<td>Comments</td>
</tr>
<tr>
<td>---------------------</td>
<td>--------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<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>
<td>keeping high density housing low so it's consistent w/ rest of neighborhood.</td>
</tr>
<tr>
<td>Ralph Dacut</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>Del Sipma</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>Deb P.</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>Sara Lovelace</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>
</tr>
<tr>
<td>Jennifer March</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>Lorna Levine</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>Mara Korbmacher</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>Jennifer Estrem</td>
<td>Tonka Bay, MN</td>
<td></td>
</tr>
</tbody>
</table>
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 Sunsest. 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.

Character of the neighborhood; too many houses clustered on a beautiful plot of land on an already troublesome road with no sidewalks.

I do not support any new developments in Minnetonka. New construction should only happen on existing plots of land.

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.

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!

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)
<table>
<thead>
<tr>
<th>Name</th>
<th>From</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Katherine Brom</td>
<td>Minnetonka, MN</td>
<td>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 machinery 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>
</tr>
<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>
</tr>
<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>
</tr>
<tr>
<td>Minnetonka, MN</td>
<td></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 in 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>
</tr>
<tr>
<td>Minnetonka, MN</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
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.

Stuffing a development like this into an already difficult roadway infrastructure with no sidewalks or other access is out of place with the neighborhood.

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 yrs. 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.

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.

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.

No more traffic on dangerous road

Too much development already. Just about the money

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.
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.
141. Ann Woodson-Hicks Minnetonka, MN
   Comments: I have lived in Minnetonka my entire life and do not like the high density developments that are being built, in quiet neighborhoods.

142. Mark Pearson Minnetonka, MN
   Comments: There is no reason to rezone our area

143. Mark Murphy Minnetonka, MN

144. Summer Rischmiller Minnetonka, MN

145. Alison Salita Minnetonka, MN

146. Patricia Celt Eden Prairie, MN
   Comments: 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.

147. Christy Cekander Minnetonka, MN
   Comments: 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.

148. Shannon DiMarco Minnetonka, MN

149. Alyssa Rach-Nelson Minnetonka, MN

150. Minnetonka, MN

151. Minnetonka, MN

152. Rick Giovannetti Minnetonka, MN

153. Tanya LeBeda Minnetonka, MN

154. Ann Korando Minnetonka, MN

155. Suzanne Williams Minnetonka, MN

156. Amy Siggelkow Duffing Minnetonka, MN
   Comments: 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.

157. Jennifer Doane Minnetonka, MN
   Comments: I would like to see this property remain zoned as R1 to keep in character with the rest of the neighborhood.

158. briana bers minnetonka, MN

159. Nicole Baumel Minnetonka, MN

160. Colette Kastner Minnetonka, MN

161. Mckaya Kastner Plymouth, MN

162. Katie Born Minnetonka, MN
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
165. Elizabeth Mohr    Minnetonka, MN
166. Alice Cho        Minnetonka, MN
I believe strongly in people being able to maintain the neighborhood style they invested in.

167. Hannah Daniels   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.

168. Jena Ziegler     Minnetonka, MN
Keep the rural wooded large lots, oppose big development and re zoning to high density spaces

169. Mike McCalla     Shorewood, MN
170. [redacted]        Minnetonka, MN
I love the green space!

171. Linda Whitteaker 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.

172. Kelly Menth      Wayzata, MN
173. Barbara Schaub   Minnetonka, 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?

174. Kathleen Nelson  Minnetonka, MN
Want to keep the open spaces and rural look of Minnetonka.

175. [redacted]       Minnetonka, MN
176. Julie Hughes     Minnetonka, MN
Traffic is already fast and busy on Orchard.

177. DENNIS SCHAUB    Minnetonka, 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 (continues on next page)
178. [Name] 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 homes 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. [Name] Minnetonka, MN
   Wouldn’t be as opposed if it wasn’t so many houses for such a tight space. Just absurd!

184. Stephanie Herrick Minnetonka, MN

185. Davaid Birrow Minnetonka, MN

186. Holly Ricke Minnetonka, MN

187. Brent Westbrook 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></td>
</tr>
<tr>
<td>Linda Baule</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>James Crowe</td>
<td>Minnetonka, 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>Meagan Gustafson</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>Cindy Ische</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>Sue Sachetti</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>Sarah Dibble</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>John Jambeck</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>Kathy Ellefson</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>Beverly G.</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>Melissa Block</td>
<td>Minnetonka, MN</td>
<td>Increase Traffic and loss in traditional housing in the area</td>
</tr>
<tr>
<td>Ann Longtin</td>
<td>Minnetonka, MN</td>
<td>Increase in traffic and loss of traditional community and housing</td>
</tr>
<tr>
<td>Angela Doyle</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
<tr>
<td>Molly Birkeland</td>
<td>Minnetonka, 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>Megan Rosvold</td>
<td>Plymouth, MN</td>
<td></td>
</tr>
<tr>
<td>Whitney Frisch</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
</tbody>
</table>
210. Padma Chintapalli Minnetonka, MN

Comments
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

211. Becky Elston Minnetonka, MN

Comments
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...

212. Terry Danielson Minnetonka, MN

Comments
High density housing on such a road is ridiculous and just shows that money can buy anything. This is a travesty!

213. Mark Nelson Minnetonka, MN

Comments

214. Minnetonka, MN

Comments
A large development doesn’t belong on this land. It will change flow of traffic and space for the jr. High and surrounding area.

215. Minnetonka, MN

Comments
The existing zoning should be upheld for this property. The current proposal has too many houses for a street that already can be dangerous.

216. Andrew Kalman Minnetonka, MN

Comments
I’m signing this because I don’t like the number of homes, agree 8 max would be right. And, aesthetically and architecturally they suck, sorry Cudd. Build me something cool with less neighbors, a bit less $$, and I’d be in. The water and traffic issues don’t concern me, they can be solved. Again, anyone interested in putting up some cash and buying Cudd out?

217. Rebecca Lahr Minnetonka, MN

Comments
This development doesn’t fit the character of Minnetonka (particularly this neighborhood) and presents all kinds of issues for transportation in this area

218. Minnetonka, MN

Comments
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.

219. Dakotah Woller REDWOOD FALLS, MN

Comments

220. Debra Gartley Minnetonka, MN

Comments

221. Robyn Barton Minnetonka, MN

Comments

222. Adam Pohle Minnetonka, MN

Comments
Larger lot size is what makes Minnetonka so special.

223. Barry Svee Minnetonka, MN

Comments
I oppose changing the character of Minnetonka by making tiny treeless lots the norm compared to the lot sizes of existing neighborhoods.
<table>
<thead>
<tr>
<th>Name</th>
<th>From</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>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></td>
<td>Minnetonka, MN</td>
<td>This development doesn’t fit with the look and feel of our Minnetonka lifestyle.</td>
</tr>
<tr>
<td>Judy Ramsey</td>
<td>Minnetonka, MN</td>
<td></td>
</tr>
</tbody>
</table>
Cudd's April 2019 Proposal

Orchard Road Neighbors Group Suggestion

Created April 18th, 2019
From: Brad Wiersum <bwiersum@eminnetonka.com>
Sent: Monday, April 29, 2019 11:52 AM
To: Geralyn Barone <gbarone@eminnetonka.com>; Julie Wischnack <jwischnack@eminnetonka.com>; Loren Gordon <lgordon@eminnetonka.com>
Subject: RE: Proposed Rezoning of Bensman Property

Dear Mr. and Mrs. Ramsey:

Thank you for your note. I appreciate knowing your point of view regarding this important piece of property in the city. I urge you to stay involved in the process as this proposal is considered.

Sincerely,

Brad Wiersum
Mayor
City of Minnetonka

From: Brad Wiersum <bwiersum@eminnetonka.com>
Sent: Saturday, April 27, 2019 7:17 PM
To: Brad Wiersum <bwiersum@eminnetonka.com>
Subject: Proposed Rezoning of Bensman Property

Mayor Wiersum:

We live at 14609 Orchard Road and oppose the rezoning of the Bensman property.

Our first objection is on the basis of equity for all homeowners who purchased property in this neighborhood with the reasonable expectation that the residential zoning requiring a minimum half-acre lot per residence would be both preserved and enforced by the City of Minnetonka. Exceptions to the City's zoning ordinance would irrevocably alter the character of the neighborhood.

Secondly, we object to the increased traffic which would result from the high density project proposed by Bensmans and their developer. Traffic volume on Orchard Road is already adversely impacted by the Junior High School and Synagogue to the east off Baker Road and by the industrial park at Williston to the west. In fact, one of our cars was struck, while stopped at our mailbox on Orchard, by a St. Jude's employee using Orchard as a shortcut to work several years ago.

I first became a resident of Minnetonka in 1951 when my parents purchased a home near Glen Lake. My wife and I purchased our first home in Temple Village in 1972 and built a home on
Crestview Lane in 1986. We have been at our present address since 1997. So we have had a
starter home, a raising family home and a retirement home in Minnetonka. We like the
character of the City and our neighborhood. We would not like to see it changed, particularly
by an ex-homeowner and developer who are trying to maximize their financial gain and have
no commitment to the neighborhood or the City.

Sincerely,

Don and Judy Ramsey
April 27, 2019

City of Minnetonka
Minnetonka City Council
14600 Minnetonka Blvd
Minnetonka, MN 55345

Re: Proposed Highcroft Meadows Development

Dear City Council Members:

My name is Greg Raetz and I currently reside at 14523 Orchard Road in Minnetonka. I am writing this letter on behalf of my family as well as over two hundred other petitioners to urge the Minnetonka City Council to uphold the Minnetonka Planning Commission’s decision to not rezone the property as proposed for the Highcroft Meadows development at 14410 Orchard Road. The proposed rezoning would allow a change from R-1 to R-2 in support of smaller lots and higher density housing.

As stated in the numerous comments by concerned residents and reinforced by the planning commission’s vote, rezoning the property to allow higher density housing would greatly change the character of the neighborhood. It is understood that development will take place, and we welcome development that is done in such a way to preserve and even enhance the character of our community. Unfortunately, as evidenced by significant discussion at the April 25th planning commission meeting, the current Highcroft Meadows development, as proposed, would result in dramatic changes that are in contrast to the current neighborhood character. After careful consideration of the proposal and input from involved parties, the planning commission recommended that rezoning not be granted and that the developer reconsider the proposal to bring it more in line with the existing neighborhood character.

I am in full support of this decision for a number of reasons.

1.) We all live in Minnetonka because we love and appreciate that it is different from standard urban grid-style development. We love the trees, larger lots, rolling topography, privacy, and space for wildlife to roam. Many of us moved here just for those reasons.

2.) While it is true that any development will likely consist of homes that may be somewhat different in style than the surrounding homes, keeping similar lot sizes and fitting the homes into the natural land features will blend and enhance the current community, as opposed to razing trees, leveling terrain and packing homes tightly together.

3.) The developer has not offered solid evidence for increased property density beyond economic incentive. More homes allow a greater return on investment and a more substantial offer to the property owner.

4.) The burden of establishing justification for rezoning to higher density is on the applicant. They have not offered any concrete evidence that the type and cost of proposed homes is truly needed. The city planning staff did not seek such justification from the developer, but instead simply assumed that because the developer was offering to build there is an implied demand. This does not adequately establish a necessity for the extreme number of homes and rezoning to change the character of the existing neighborhood.
5.) The developer and city planning staff have stated that Villa type homes for empty nesters have always been built on small lots and located very close together. This in no way precludes the ability to build Villa type homes on larger lots. I argue that such homes on larger lots would be in even higher demand. The only reason for spacing closer together is to maximize investment. Also, given the price point of the proposed homes, they would not be considered any more affordable than traditional single-family homes.

I provided comments to the planning commission regarding concerns about upholding existing code, justifications for variances, and methodologies for determination of floor area ratio and density. This information is in the record and I do not want to belabor this issue in this letter. Instead, I would conclude with the simple plea that, *just because something can be done, does not mean that it should.*

A statement was made by a commissioner in the April 25th planning commission meeting that resonated deeply with me. It also imbodies one of the reasons I moved to Minnetonka and makes me proud to be a resident. This statement was, “Minnetonka is not a city of minimums and we do not want to be considered as such.” In context, the statement was made with regard to simply finding the minimum justification for a proposed project, or element of a project, and wedging it into the code to make it work. In that same spirit, I appeal to the city council; let us agree upon a project that will add to and build upon the character of the neighborhood, not detract from it. Let us not settle for something that can be made to fit by variances, averaging, and squeaking by. Let us not settle on something that will breed feelings of ill-content by many for the sake of the very few. We can do better.

Sincerely,


Gregory J. Raetz, PE
Environmental Engineer

14523 Orchard Road
Minnetonka, MN  55345
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
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:

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:

   • Preliminary Plat, dated April 5, 2019
   • Site Plan, dated April 5, 2019
   • Grading, 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 _____________, 2019.

Section 3. This ordinance is effective immediately.

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

Brad Wiersum, Mayor

Attest:

Becky Koosman, Acting 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 ______________, 2019.

Becky Koosman, Acting 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:


ABSTRACT

1.02 Rachel Development has submitted formal applications to redevelop the subject property. The submitted plans illustrate (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 a portion of the property from R-1 to R-2;
- Preliminary plat, with the following variances:

<table>
<thead>
<tr>
<th>Lot Area</th>
<th>Required</th>
<th>Variance to</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot 2</td>
<td>8,810 sq.ft.</td>
<td></td>
</tr>
<tr>
<td>Lot 3</td>
<td>8,810 sq.ft.</td>
<td></td>
</tr>
<tr>
<td>Lot 4</td>
<td>9,335 sq.ft.</td>
<td></td>
</tr>
<tr>
<td>Lot 10</td>
<td>9,745 sq.ft.</td>
<td></td>
</tr>
<tr>
<td>Lot 11</td>
<td>8,810 sq.ft.</td>
<td></td>
</tr>
<tr>
<td>Lot 12</td>
<td>8,810 sq.ft.</td>
<td></td>
</tr>
<tr>
<td>Lot Width At Right-of-Way</td>
<td>45 ft</td>
<td>50 ft</td>
</tr>
<tr>
<td>Lot Depth</td>
<td>125 ft</td>
<td>120 ft</td>
</tr>
<tr>
<td>Lot 5</td>
<td>120 ft</td>
<td></td>
</tr>
<tr>
<td>Lot 9</td>
<td>120 ft</td>
<td></td>
</tr>
</tbody>
</table>

- Variance to allow construction of detached structures; and
- Variance to establish maximum floor area ratio based on average lot size.
1.03 On April 25, 2019, the planning commission held a hearing on the proposed plats. 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 rezoning and the preliminary plat, with variances.

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 2.26 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 area, width, depth, 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 0.25-floor area ratio 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-floor area ratio be applied to the average proposed lot size: 0.25 x 17,535 square feet. This would result in a maximum floor area of 4,384 square feet per lot. As 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.

2) Documents for the city attorney’s review and approval. These documents must be prepared by an attorney knowledgeable in the area of real estate.
   1. Title evidence that is current within thirty days.
   2. A conservation easement on Lot 1, Block 2 depicted as a large drainage and utility easement on a preliminary plat dated April 4, 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 $65,000.

2. Subject to staff approval, HIGHCROFT MEADOWS must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:
   • Preliminary Plat, dated April 5, 2019
   • Site Plan, dated April 5, 2019
   • Grading, 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:

- 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 5, 2019:

  - No more than two high-priority trees may be removed from Lot 5
  - No more than three high-priority trees may be removed from Lot 6
  - No more than three high-priority trees may be removed from Lot 7.

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 13, 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. 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 permeable 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 13, Block 1 are subject to all R-2 zoning standards. In addition:

a) Maximum floor area per lot is 4,383 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 May 6, 2019.

_______________________________________
Brad Wiersum, Mayor

Attest:

_______________________________________
Becky Koosman, Acting 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 May 6, 2019.

_______________________________________
Becky Koosman, Acting City Clerk

SEAL