Minnetonka City Council

Regular Meeting, Monday, Oct. 28, 2019

6:30 p.m.

Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Calvert-Schack-Carter-Happe-Bergstedt-Ellingson-Wiersum
4. Approval of Agenda
5. Approval of Minutes:
   A. September 16, 2019 regular council meeting
   B. September 16, 2019 EDA meeting
6. Special Matters:
   A. Nov. 1, 2019 Extra Mile Day Proclamation
   B. Nov. 4, 2019 Minnetonka Charter Day Proclamation
   C. Nov. 30, 2019 Small Business Saturday Proclamation
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases: None
10. Consent Agenda - Items Requiring a Majority Vote:
    A. 2020 general liability insurance and workers’ compensation renewals
        Recommendation: Authorize renewal of policies as outlined (4 votes)
    B. Resolution approving a conditional use permit for telecommunication facilities at 4848 County Road 101
        Recommendation: Adopt the resolution approving the permit (4 votes)
C. Resolution regarding grant application to Hennepin County for the Lone Lake Park Multi-Use Mountain Bike Trail

Recommendation: Adopt the resolution (4 votes)

D. Resolution authorizing the City of Minnetonka to serve as the local government unit representing Eagle Ridge Academy in their application for a Hennepin County Youth Sports Program grant application

Recommendation: Adopt the resolution (4 votes)

E. Cooperative agreements with the Bassett Creek Watershed Management Commission and Hennepin County for the 2019 Ridgedale Drive project

Recommendation: Approve the agreements (4 votes)

F. Metropolitan Council 2017 Inflow and Infiltration Grant

Recommendation: Adopt the resolution authorizing the application and execute the grant (4 votes)

11. Consent Agenda - Items Requiring Five Votes: None

12. Introduction of Ordinances:

A. Ordinance rezoning of 4144 Shady Oak Road from R-1 to R-2

Recommendation: Introduce the ordinance and refer it to the planning commission (4 votes)

13. Public Hearings: None

14. Other Business:

A. Resolution approving a conditional use permit for an accessory structure in excess of 1,000 square feet at 4124 Thomas Ave.

Recommendation: Adopt the resolution approving the request (4 votes)

15. Appointments and Reappointments: None

16. Adjournment
Minutes
Minnetonka City Council
Monday, September 16, 2019

1. **Call to Order**

   Wiersum called the meeting to order at 6:32 p.m.

2. **Pledge of Allegiance**

   All joined in the Pledge of Allegiance.

3. **Roll Call**

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

4. **Approval of Agenda**


5. **Approval of Minutes:**

   A. **August 5, 2019 regular council meeting**

      Bergstedt moved, Schack seconded a motion to accept the minutes, as presented. Schack, Bergstedt, Ellingson, Calvert, Happe and Wiersum voted “yes”. Carter abstained. Motion carried.

6. **Special Matters:**

   A. **Retirement recognition of Donna Gause**

      Wiersum read a proclamation in full for the record recognizing Donna Gause and thanked her for her 17 years of dedicated service to the City of Minnetonka. He presented Ms. Gause with a plaque from the city and wished her well in her retirement. A round of applause was offered by all in attendance.

      Donna Gause thanked the council for this recognition and for being allowed to work for this great community.

      Mayor and council recognized Donna Gause.
B. Proclamation declaring September 17 – 23 as Constitution Week

Schack read a proclamation in full for the record declaring September 17 through September 23 as Constitution Week in the City of Minnetonka.

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on upcoming city events and council meetings. She welcomed newly hired Assistant City Manager Mike Funk to the City of Minnetonka.

Calvert reported she attended a city council forum where affordable housing, the environment and rank choice voting was discussed.

Calvert stated she attended the Improving Service Delivery Policy Committee meeting for the League of Minnesota Cities noting this group finalized policies that will be brought to the legislature.

Wiersum reported he attended the League of Minnesota Cities Board Retreat in Duluth, Minnesota last week. He explained this group received an update on PTSD with respect to how it was impacting public safety personnel and the group heard from Duluth Mayor Emily Larson.

8. Citizens Wishing to Discuss Matters not on the Agenda

Jack Hillen, 5201 Dominick Dr., explained he lived on Shady Oak Lake. He requested the council consider installing a culvert to assist with the rising water levels on his lake and questioned what the timeline would be for installing such a culvert. He reported he grew up on the lake and was concerned about the rising water levels and flooding.

Dr. Dennis Yockers, 3468 Hazelmore Place, reported he has lived in Minnetonka for the past six years. He indicated he was a professor of Natural Resources Management. He stated on August 2 he sent an email to the mayor and city council regarding the increase in stormwater management fees. He noted the city council went on record supporting his concerns. He reviewed the message he received from the mayor regarding his initial inquiry along with his response. He requested the council revisit this issue and be more progressive in addressing stormwater management. He reported the city was going to set records for precipitation this year. He encouraged the city to consider how all of this water would impact the community noting landowners needed to be educated on how to manage the water running off their land.

Lee Castor, 5442 Mayview Road, stated he lived on Glen Lake. He expressed concern with the flooding level on his lake. He explained he had spoken to Nine Mile Creek Watershed District and was informed there was blockage in the
creek. However, since the time he inspected the dam, the water level on the lake has continued to increase. He indicated he has lived on Glen Lake for the past 41 years and it was at its highest level. He stated he has been trying to reach out to city staff and was told to contact Will Manchester. He explained the drain line has to be cleared in order to reduce the flooding on Glen Lake, noting over 100 trees have already been lost.

9. Bids and Purchases:

A. Bids for the Main Lift Station

Director of Public works Will Manchester gave the staff report.

Calvert moved, Happe seconded a motion to award the contract to Shank Constructors, Inc. All voted “yes.” Motion carried.

B. New Park at Ridgedale design services contract and CIP amendment

Carol Hejl gave the staff report.

Happe requested further information regarding the park location. Carol Hejl stated the park was located on the south side of the Ridgedale parking lot and west of Sears.

Happe questioned what was happening with the Sears building. Community Development Director Julie Wischnack explained Sears has ideas of revamping the site and it was her understanding the building would not be taken down.

Happe asked if it was premature to be approving this park without fully understanding the plans for the surrounding area. Wischnack stated when the park was originally dedicated to the city the thought was if there was an opportunity to gain more parkland that this was a goal for the city.

Schack moved, Carter seconded a motion to approve the contract with Damon Farber Landscape Architects and amend the CIP. All voted “yes.” Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolution approving a conditional use permit for an accessory apartment at 13052 Stanton Drive

Ellingson moved, Bergstedt seconded a motion to adopt Resolution 2019-078 approving the request. All voted “yes.” Motion carried.

B. Preliminary and final plats of HIGHWOOD RIDGE, a two-lot subdivision at 14916 Highwood Drive
Ellingson moved, Bergstedt seconded a motion to adopt Resolution 2019-079 approving the plats. All voted “yes.” Motion carried.

C. Conditional use permit for an accessory apartment at 5304 Westmill Road

Ellingson moved, Bergstedt seconded a motion to adopt Resolution 2019-080 approving the conditional use permit. All voted “yes.” Motion carried.

D. Conditional use permit, with access variance, for a medical clinic at 12301 Whitewater Drive

Ellingson moved, Bergstedt seconded a motion to adopt Resolution 2019-081 approving the permit. All voted “yes.” Motion carried.

E. Resolution authorizing the Minnetonka Police Department to enter into a Towards Zero Death Traffic Enforcement grant agreement

Ellingson moved, Bergstedt seconded a motion to adopt Resolution 2019-082. All voted “yes.” Motion carried.

F. Resolution approving the final plat of BIRD SONG, a 13-lot subdivision at 2410 Oakland Road

Ellingson moved, Bergstedt seconded a motion to adopt Resolution 2019-083 approving the final plat. All voted “yes.” Motion carried.

11. Consent Agenda:

A. Temporary On-Sale Liquor License for the Rotary Club of Minnetonka Foundation, 14350 County Road 62.

Ellingson moved, Bergstedt seconded a motion to approve a temporary on-sale liquor license for the Rotary Club of Minnetonka Foundation. All voted “yes.” Motion carried.

12. Introduction of Ordinances:

A. Ordinance amending city code 400.300 Subd.6(3) pertaining to lot-behind-lot standards

City Planner Loren Gordon gave the staff report.

Calvert stated she supported the proposed ordinance amendment.
Bergstedt agreed noting this was a housekeeping matter that had to be addressed.

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

B. Items concerning the Hennepin County Medical Examiner’s Office Project at 14300 County Road 62

1) Major amendment to an existing master development plan;

2) Conditional use permit; and

3) Site and building plan review

City Planner Loren Gordon gave the staff report.

Tim Powers introduced himself to the council noting he was a project manager with LEO A Daly in Minneapolis. He commented on the proposed project and noted County Road 62 would remain an access point for both the medical examiner’s office and the home school complex. He reported a six foot privacy fence would be installed, along with landscaping between the home school complex and the medical examiner’s site. He reviewed the proposed site plan further with the council and asked for comments or questions.

Schack asked if the site would be secure given its proximity to the home school complex. Mr. Powers reported he has had numerous conversations with the county home school reps and the DOCCR that governs this facility. He reported the reps are comfortable with the proposed site plan.

Wiersum hoped this site worked well for Hennepin County. He stated this project would resolve a lot of the county’s concerns and was a great move in the right direction.

Calvert was so relieved the project has moved to the proposed site. She indicated the building was of high quality and noted she supported the proposed project.

Bergstedt agreed stating he was thrilled with the new plan for environmental reasons.

Wiersum discussed the challenges and environmental concerns with the former site. He thanked the county for moving to a new location that will work well for both the county and the city.
Calvert moved, Schack seconded a motion to introduce the ordinance and refer it to the planning commission. All voted “yes.” Motion carried.

13. Public Hearings:

A. Resolutions for special assessment of 2018-2019 projects

City Manager Geralyn Barone gave the staff report.

Wiersum opened the public hearing.

Wiersum closed the public hearing.

Wiersum commented on the process that was followed by the city for nuisance abatements and special assessments.


B. Temporary on-sale liquor license for Unmapped Brewing, LLC, 14625 Excelsior Boulevard

City Manager Geralyn Barone gave the staff report.

Wiersum opened the public hearing.

Anne Hossfeld, 14616 Glendale Street, explained she lived just south of Unmapped Brewing. She questioned when the live music would end for the upcoming event. Barone reported outdoor activities would have to end by 10:00 p.m.

Megan Park, Unmapped Brewing, discussed the upcoming Roots, Music and Beer Festival noting the live music was scheduled to end at 9:30 p.m. but noted a buffer was written in to ensure all outdoor activities would be ending by 10:00 p.m.

Wiersum closed the public hearing.

Carter commended the Park’s for being proactive to address the parking issues for this event.

Calvert stated she also appreciated the fact the Park’s were so willing to work with the neighbors. She noted her daughters band played at this festival last year and believed this was a wonderful community building event.
Bergstedt moved, Schack seconded a motion to hold the public hearing and grant the license. All voted “yes.” Motion carried.

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

City Manager Geralyn Barone gave the staff report.

Wiersum opened the public hearing.

Shannon McKenzie, owner and founder of Underdog Rescue, MN, discussed the great work being done by her organization and thanked the council for their consideration of her on-sale liquor license request. She stated this would be her third annual fundraising event. It was noted this event was free and open to the public.

Wiersum closed the public hearing.

Calvert stated she was the proud owner of three rescue dogs. She thanked Underdog Rescue for the great work they do.

Schack agreed and also commended Tonkadale Nursery for the generous donations they make in the community.

Happe moved, Carter seconded a motion to hold the public hearing and grant the license. All voted “yes.” Motion carried.

14. **Other Business:**

A. **Concept plan for Villas at Woodhill at 4323 and 4325 Woodhill Road and 14335 Coronet Drive**

City Planner Loren Gordon gave the staff report.

Happe stated this property was slated for a similar development in 2002, but the concern at that time was density. He asked how many homes were being requested in 2002. Gordon stated seven twinhomes were requested in 2002.

Schack inquired if the tree ordinance would apply to this development. Gordon explained the tree ordinance would be triggered.

Wiersum requested further information regarding the stormwater management plan for this project. Gordon indicated this was a detail staff does not have information on yet.
Happe stated he has received a great deal of feedback from the neighbors expressing concern regarding the stormwater runoff given the drainage problems in the area. Gordon reported staff would review the drainage in the area when more detailed plans were available.

Wiersum invited the applicant forward.

Mike Siskin, 535 Evergreen Lane, thanked staff for their presentation. He then provided the council with a presentation on the proposed concept plan. He noted he has taken his time with this project and stated he had held neighborhood meetings. He addressed the density, tree preservation, and buffering concerns noting he was proposing to have 11 single family homes on the site.

Kim Chatman, 1846 Berkley Avenue in St. Paul, discussed the conservation and hydrology work that would be completed on the site and noted he was an ecological designer. He commented on the ways the developer was proposing to apply conservative and low impact design principles to the proposed development. He reported the developer wanted to create a natural setting that would protect the oak canopy and native groundcover plants. He reiterated that all city regulations would be met with respect to stormwater management.

Mr. Siskin commented further on the proposed density for the project and noted he would be making an investment in the natural environment. He explained this project had costs that other developments do not have because of the habitat restoration work that would be completed by the developer. He anticipated the homes that would be offered in his development would be one story and would cost roughly $550,000.

Wiersum asked the council for comment on the proposed concept plan.

Happe thanked the developer for his presentation. He stated he had concerns with the buffering and understood this would be difficult given the fact the land was adjacent to Highway 7. He noted he was also concerned with the stormwater runoff. It was his hope the project would improve the drainage in the neighborhood. Lastly, he believed the proposed density was too high.

Carter explained density was a concern for her as well. She understood there was a careful balance between density and affordability. She stated she frequently drives by the Groveland Villas and she believed this development was out of place, was too dense and did not fit into the neighborhood. She encouraged the developer to reconsider the density for this development.

Calvert indicated this development was the classic tension point of competing needs and interests in the city. She explained the city needed more housing that was single level at the proposed price point. She commented it may make more sense to put this type of development along Highway 7 versus the development
that was constructed on Orchard Road. However, she also believed the proposed density should be further considered in order for the development to fit into the character of the neighborhood.

Schack stated how this development would change the landscape along Highway 7. She agreed the city needed this type of housing in Minnetonka and believed it would fit nicely along Highway 7. However, she feared the number of houses on the north side of the development was too high. She encouraged the developer to reconsider the placement of the houses within the development.

Bergstedt indicated the hydrology concerns would have to be addressed no matter what is developed on this site. He expressed concern with how the Groveland Villas development ended up. He thanked the developer for proposing to address the hydrology concerns while also working to create a conservation area for oaks. While he appreciated the developer's efforts with this concept plan he stated he could not support 11 new homes on the property.

Ellingson commented he appreciated the thorough presentation from the developer. He stated he would like to see the Highway 7 corridor preserved and recommended the developer consider reducing the density.

Calvert indicated buffering along Highway 7 and to the adjacent homes would be important for this development.

Wiersum explained one of the challenges the Minnetonka faces is that it was a large lot city. He understood there was a need for one level modest style homes. He anticipated the proposed density would not be approved by the council and understood that if the number of homes was reduce, this would drive up the cost for the remaining homes. He asked what made the most sense for the city and questioned what public purpose this PUD would have at this location. He commented on how developments had to exceed city requirements with respect to stormwater management. Lastly, he wanted to see the viewshed along Highway 7 being preserved.

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

B. Minor amendment to the existing Solbekken master development plan at 5734, 5742, and 5754 Shady Oak Road

City Planner Loren Gordon gave the staff report.

Happe asked if minor changes to exterior colors were always approved by the council. Gordon stated changes or minor amendments to a PUD were reviewed and approved by the council.
Happe commented he drives by this project on a daily basis and he feared the city has shoehorned a large development onto a small site. He indicated the proposed changes were fine and noted he could support the amendments.

Bergstedt agreed with Happe. He explained he was not happy with the three detached homes that were complete. He understood landscaping would be added which would help. He stated he could support the proposed amendments to the PUD.

Calvert indicated she believed the units looked fine and appreciated the reasons for the proposed changes.

Carter moved, Schack seconded a motion to adopt Resolution 2019-090 approving the amendment. All voted “yes.” Motion carried. (Happe was absent for the vote)

C. Resolution for the 2020 Twelve Oaks Center Drive/Parkers Lake Road Improvements

Director of Public Works Will Manchester gave the staff report.

Wiersum requested further information regarding the disruption that would occur from the sanitary sewer replacement work that would occur on these roadways. Manchester explained how access would be impacted for residents. He stated access would always be available in the mornings and evenings to allows residents to get to and from work. He reported the contractor would be knocking on doors in order to inform residents about the work that would be taking place.

Happe commented he was against the franchise fees that fund this type of project but he also understood this area needs an overhaul.

Schack thanked the engineering staff for always being professional and maintaining access during these large roadway improvement projects.

Wiersum agreed stating he was proud of the work city staff did to communicate with residents during these projects.

Happe moved, Calvert seconded a motion to adopt Resolution 2019-091. All voted “yes.” Motion carried.

D. Resolution for the Excelsior Boulevard trail project

Carol Hejl gave the staff report.

Calvert commented this was a very important stretch of city trail. She thanked staff for the thorough presentation.
Wiersum requested further information regarding crosswalks. Hejl explained the county controlled crosswalks across Excelsior Boulevard.

Calvert moved, Ellingson seconded a motion to adopt Resolution 2019-092. All voted “yes.” Motion carried.

Wiersum recessed the city council meeting.

Wiersum reconvened the city council meeting.

E. Items related to the 2020 preliminary tax levy

1) Resolution setting a preliminary 2019 tax levy and preliminary 2019 HRA levy, collectible in 2020, and a preliminary 2020 budget, and consenting to a special benefit tax levy of the Minnetonka Economic Development Authority

2) Resolution setting preliminary 2019 tax levy, collectible in 2020, for the Bassett Creek Watershed Management Tax District

City Manager Geralyn Barone gave the staff report.

Happe questioned how the budget was going up 9.3% but the levy was only going up 7.5%. Barone stated this was due to the fact the levy was impacted by more than just the General Fund Budget.

Wiersum opened the meeting to public comment.

David Sanders, 11650 Cedar Pass, recognized and thanked all who were in attendance at the meeting. He stated he was at this meeting to tell a story about democracy and explained there were high school students saying the city must do more to save the climate. He commented on the students idealism, inspiration, effort and impertinence. He noted the students efforts help all residents in Minnetonka. He described the efforts of this group of students and adults (the Minnetonka Climate Initiative) and how they were working to impact climate. He stated he was very impressed by the Initiative’s work and encouraged the council to consider their recommendations.

Jennifer Munt, 5261 Beachside Drive, reported she was the Chair of the Alliance for Sustainability. She spoke to the council as a proud member of the Minnetonka Climate Initiative and noted she wore green to show her solidarity for the environment. She urged the council to budget $200,000 for climate action in 2020. She reviewed the three recommendations from the Initiative as being the creation of a sustainability commission, the city hiring a consultant to develop a climate action plan, and that a full time staff member be hired to implement this
plan. She encouraged the council to be a leader and to find the funding to make climate a priority in the 2020 budget. She discussed how volunteers can band together to put wind in the city’s sails and noted the state’s goal was to reduce greenhouse gases by 30% by 2025 and 80% by 2050. She commented on the benefits of Minnetonka taking a leadership role towards climate action and suggested the council put the Initiative’s recommendations in place for 2020.

Skylar Seat, 26375 Edgewood Drive, explained she was a senior at Minnetonka High School and was the founder of the Minnetonka Climate Initiative. She thanked the council for allowing her to speak and for the incredible work the councilmembers do for the city. She commented climate change was something every level of government had to address and that Minnetonka could not wait for the state or federal government to take action. She encouraged the council to act now to protect Minnetonka and its residents. She reported this city had an incredibly passionate and dedicated community and had the capability to take on the Initiative’s goals. She believed the city did not have the option not to. She was of the opinion climate change was the most important issue of our time. In addition, she feared how the next generation would be impacted by this issue. She discussed how committed students at Minnetonka High School were to climate action. She stated these students were not going away but were engaged and stood ready to help.

Anne Hossfeld, 14616 Glendale Street, commented on how serious the recent rain events have been in the community and how they were connected to climate change. She reviewed several photographs with the council and discussed how the standing pool of water in her yard has only occurred in recent years. She encouraged the council to consider addressing the climate change and how to manage increased rainfall in the city. She recommended the council support an additional $200,000 in the 2020 budget to address climate change.

Wiersum closed the meeting to public comment.

Ellingson stated he supported the proposed budget and levy increase. He also supported the council finding $150,000 in funds to support the climate action plans.

Carter asked if staff could find $200,000 in funding to supplement the proposed recommendations for climate action without raising the levy or impacting the proposed bonding. Barone explained there were not additional funds available to cover these recommendations. She indicated the council could discuss the expense of a consultant next summer and place this item in the 2021 budget.

Happe stated he was looking forward to the city participating in the Partners In Energy Program. He believed it was important for a commission to be formed with Minnetonka residents in order to address energy concerns. He understood
that more had to be done, but at this time he did not support further increases to the 2020 levy or budget.

Calvert commented she has knocked on tens of thousands of doors in the past few years. She explained trees were important to her and so was the climate. She discussed how the city’s budget was a moral document that documents the council’s values. She indicated Minnetonka was a very well run city with great values, staff and leadership. She reported there was just not enough money in the world to address all the concerns being raised by residents. She indicated the council had to be good stewards of the dollars it had. She stated she supported the city moving forward with the Partners In Energy (PIE) Program at this time, but did support any additional increases to the 2020 budget or tax levy.

Schack thanked the Initiative members for their efforts. She understood climate change was an issue and that this was a non-partisan issue. She believed PIE would be a great starting point for the city, would inform the council and could potentially transition to a sustainability commission. She stated she did not want to duplicate services. She explained she could support $100,000 being set aside in 2020 for climate action.

Bergstedt commented this was a tough issue. He stated the city was already proposing a 7.5% tax levy which was a much higher increase than has been done in the past. He explained he was excited about the Partners In Energy Program and believed this program would be a good springboard for a potential sustainability commission. He reported he was not comfortable going higher than 7.5% at this time. He indicated staff has heard the council and he anticipated staff would begin finding ways to fund this important topic in the coming year.

Calvert stated she has spoken with dozens of residents regarding this issue. She encouraged the council to find some funding for 2020 for this issue in order to be proactive to the findings that will come about from the Partners In Energy Program. She believed this initiative was worthwhile.

Carter asked what the next steps would be to amend the budget and/or tax levy. Barone reported the council could amend the budget but noted the budget had to be passed at this meeting.

Carter questioned how a $100,000 increase in the budget would impact the tax levy. Finance Director, Darin Nelson stated the levy would increase the levy from 7.5% to 7.76%.

Bergstedt commented he was comfortable with the 7.5% tax levy increase and noted the council would be taking a deeper dive into the budget in November. It was his hope the council could find dollars at that time to assist with funding climate change.
Carter thanked Bergstedt for his comment. She feared that it would be a lot harder to find dollars than if the council simply increased the budget by $100,000 at this time. She stated she wanted to demonstrate readiness on Minnetonka’s part to move forward with a climate action plan.

Wiersum stated the council supports climate action now. He indicated the City of Minnetonka was a leader in climate action and sustainability. He discussed how Minnetonka was working to lead sustainability initiatives by being a GreenStep City, would be 100% solar by the end of 2019, participates in the Regional Indicators Initiative and shared public building energy consumption data, was a leader in recycling, was a Tree City USA, participated in the Mayor’s monarch challenge, while also having energy programs available to Minnetonka residents. He commented the Minnetonka Climate Initiative got off to a bad start with him. He did not believe the Initiative treated the council fairly and with respect, especially considering the fact the Initiative wanted funding from the city in order to complete their three recommendations.

Wiersum reported the council did care about the climate and about being a leader. He urged the members of the Initiative to be collaborative with the council versus being combative. He feared that if minds and thoughts were too narrow moving forward that future generations would be failed. He indicated there was more than one way for the city to move forward and address climate change.

Wiersum explained the council was facing a 7.5% levy increase, which was higher than normal. He noted last years levy increase was 3.9%. He stated he would be supporting the 7.5% levy increase tonight. He reiterated the fact that the Partners in Energy Program was not just a starting point for the city but rather was a continuation of the legacy efforts the council has been making to address energy use, the climate and sustainability. He understood this was a vital issue and he believed the council would find more dollars in the future to address climate action, but at this time he would support the 7.5% tax levy.

Ellingson thanked the mayor for his comments and for sharing his passion. He liked the idea of council reviewing the budget further in November to see if additional dollars can be set aside for climate action.

Ellingson moved, Schack seconded a motion to adopt Resolution 2019-093 with the addition of $100,000 in the budget for climate action, increasing the tax levy to 7.76%. Bergstedt, Ellingson, Calvert, Schack and Carter voted “yes”. Happe and Wiersum voted “no”. Motion carried.

Calvert moved, Schack seconded a motion to adopt Resolution 2019-094. Bergstedt, Ellingson, Calvert, Schack, Carter and Wiersum voted “yes”. Happe voted “no”. Motion carried.
15. **Appointments and Reappointments:** None

16. **Adjournment**

   Bergstedt moved, Calvert seconded a motion to adjourn the meeting at 10:56 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Becky Koosman
City Clerk
1. **Call to Order**

Wiersum called the meeting to order at 10:54 p.m.

2. **Roll Call**

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

3. **Approval of Agenda**

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

4. **Approval of Minutes:**

A. **November 26, 2018 EDA minutes**

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

B. **December 3, 2018 EDA minutes**

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

C. **December 17, 2018 EDA minutes**

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

D. **February 25, 2019 EDA minutes**

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

E. **March 18, 2019 EDA minutes**

Happe moved, Carter seconded a motion to accept the minutes, as presented. All voted “yes.” Motion carried.
5. Business Items:

   A. 2020 Preliminary HRA Levy

       City Manager Geralyn Barone gave the staff report.

       Carter moved, Bergstedt seconded a motion to adopt Res. 2019-005 setting a preliminary HRA levy. All voted “yes.” Motion carried.

6. Adjournment

       Bergstedt moved, Schack seconded a motion to adjourn the meeting at 11:02 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

Becky Koosman
City Clerk
City of Minnetonka
Proclamation
Extra Mile Day
Nov. 1, 2019

WHEREAS, Minnetonka, Minnesota is a community which acknowledges that a special vibrancy exists within the entire community when its individual citizens collectively “go the extra mile” in personal effort, volunteerism, and service; and

WHEREAS, Minnetonka, Minnesota is a community which encourages its citizens to maximize their personal contribution to the community by giving of themselves wholeheartedly and with total effort, commitment, and conviction to their individual ambitions, family, friends, and community; and

WHEREAS, Minnetonka, Minnesota is a community which choose to shine a light on and celebrate individuals and organizations within its community who “go the extra mile” in order to make a difference and lift up fellow members of their community; and

WHEREAS, Minnetonka, Minnesota acknowledges the mission of Extra Mile America to create 550 Extra Mile cities in America and is proud to support “Extra Mile Day” on November 1, 2019.

NOW THEREFORE, I, Mayor of Minnetonka, Minnesota, do hereby proclaim November 1, 2019, to be Extra Mile Day. I urge each individual in the community to take time on this day to not only “go the extra mile” in his or her own life, but to also acknowledge all those who are inspirational in their efforts and commitment to make their organizations, families, community, country, or world a better place.

Brad Wiersum, Mayor
Oct. 28, 2019
City of Minnetonka
Proclamation
Minnetonka Charter Day
Monday, Nov. 4, 2019

WHEREAS At an election held Nov. 4, 1969, Minnetonka voters approved the adoption of a city charter to govern the structure and powers of the city; and

WHEREAS members of the Minnetonka Charter Commission provide valuable services to city residents by recommending charter amendments that keep abreast of changes in the law and strengthen the city's ability to respond to local concerns; and

WHEREAS as a document equivalent to a city constitution, the city charter reflects the fundamental governing principles for the city, as approved by the voters and their elected representatives; and

WHEREAS Nov. 4, 2019 will mark the 50th anniversary of the adoption of the Minnetonka City Charter.

NOW, THEREFORE, BE IT RESOLVED, that the Minnetonka City Council declares Nov. 4, 2019, to be Minnetonka City Charter Day in the city of Minnetonka, and urges residents to celebrate their charter by participating in the regular municipal election on Nov. 5, 2019.

 Brad Wiersum, Mayor  Oct. 28, 2019
City of Minnetonka
Proclamation
Small Business Saturday
Nov. 30, 2019

WHEREAS, the City of Minnetonka, Minnesota, celebrates our local small businesses and the contributions they make to our local economy and community. According to the United States Small Business Administration, there are 30.7 million small businesses in the United States representing 99.7% of all firms with paid employees in the United States and are responsible for 64.9% of net new jobs created from 2000 to 2018; and

WHEREAS, small businesses employ 47.3% of the employees in the private sector in the United States; and

WHEREAS, 94% of consumers in the United States value the contributions small businesses make in their community; and

WHEREAS, 96% of consumers who plan to shop on Small Business Saturday said the day inspires them to go to small, independently-owned retailers or restaurants that they have not been to before, or would not have otherwise tried; and

WHEREAS, 92% of companies planning promotions on Small Business Saturday said the day helps their businesses stand out during the busy holiday shopping season; and

WHEREAS, 59% of small business owners said Small Business Saturday contributes significantly to their holiday sales each year; and

WHEREAS, Minnetonka, Minnesota supports our local businesses that create jobs, boost our local economy and preserve our communities; and

WHEREAS, advocacy groups, as well as public and private organizations, across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

Now, Therefore, I, Brad Wiersum, Mayor of Minnetonka do hereby proclaim, November 30, 2019 as Small Business Saturday and urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.

Brad Wiersum, Mayor

Oct. 28, 2019
City Council Agenda Item #10A  
Meeting of Oct. 28, 2019

Brief Description: 2020 general liability insurance and workers’ compensation renewals

Recommended Action: Authorize renewal of policies as outlined

Background
The city council is being asked to review the proposed insurance package for the city’s 2020 policy term, and formally authorize the coverage options for the package policies and workers’ compensation policy as outlined by staff.

LMCIT Program
The city has been with the League of Minnesota Cities Insurance Trust (LMCIT) since the early 1980s. The program continues to offer the broadest coverage for municipal operations at very reasonable rates. LMCIT also offers a program for return of excess premiums based on successful experience ratings, and the city continues to receive dividends for the general liability program. Staff recommends that the city remain in the LMCIT program.

Package Policies
The coverage provided by the package policies are:

- **General Liability**, which provides coverage when the city is liable for incidents such as sewer backups, injuries incurred on city property, employee actions, errors and omissions for elected officials, Open Meeting Law, and Inland Marine (coverage for vehicles not licensed for road use, such as the Zamboni).

- **Property**, which provides coverage for physical losses to city-owned facilities. Coverage is purchased for replacement of structures and contents due to damage by fire or acts of nature.

- **Automobile**, which provides liability and physical damage coverage for all city vehicles.

Premiums and Recommended Coverage

**Premiums**
The city’s general liability premium increased from $331,214 to $361,248. The primary factor for the increase was a rise in the city’s liability rating. This rating is based on the actual cost of the city’s liability claims during a three year period.

Staff recommends the city increase the coverage for data breach and crime limits from $250,000 to $500,000 for each. Additional premium costs of $1,800 for data breach and $2,345 for crime limit are included in the overall general liability premium increase listed above.

Staff recommends the city stay with the $25,000 per claim and $150,000 annual deductibles.

**Open Meeting Law**
Staff recommends that the city continue with the Open Meeting Law coverage at 100% coverage.
Waiver of Statutory Limits
LMCIT writes its coverage to mirror the liability caps for governmental agencies. Staff continues to recommend that the city not waive those statutory limits.

These premiums are paid from the Insurance Fund, and a sufficient balance is maintained in that fund for these expenses.

Workers’ Compensation
The premium quotation for renewal of the city’s worker’s compensation for the upcoming insurance year through LMCIT, minus credits for a $10,000 deductible, is $579,102. The workers compensation premium in 2019 was $628,685. The decrease was due to the city’s mod factor decreasing from 0.90 to 0.72. The mod factor relates to the frequency and severity of an employer’s claims over a three-year period, and it is used to calculate the premium. A mod factor of 1.00 is considered average for an employer’s particular industry.

The workers’ compensation premium fits within the budget allocation for the year.

Recommendation
Staff recommends that the city council renew the city’s insurance policies through LMCIT for package policies with the following options:

- $25,000/$150,000 deductible for the package policies
- Increased coverage for data breach and crime limits
- 100% Open Meeting law coverage
- No waiver of statutory limits

Staff recommends that the council also authorize renewal of the LMCIT workers’ compensation policy with a $10,000 deductible.

Submitted through:
Geralyn Barone, City Manager
Mike Funk, Assistant City Manager

Originated by:
Moranda Dammann, Administration Manager
Brief Description  Resolution approving a conditional use permit for telecommunication facilities at 4848 County Road 101.

Recommendation  Adopt the resolution approving the permit

Background

The city’s current telecommunication ordinance was adopted in March 2018. Under the ordinance, a conditional use permit (CUP) is required for the installation of new telecommunication towers and for telecommunication facilities located on any support structure for which a CUP has not already been approved. Conversely, staff may administratively approve a one-time extension of existing towers and installation of facilities on support structures that previously received a CUP.

Proposal

Julie Plante, on behalf of Verizon Wireless, is requesting a CUP for installation of three small cell wireless antenna on the existing Target store at 4848 County Road 101. All of the antenna would be located on the roof of the building; two would be located near the east/front façade and one near the rear/west. The antenna are intended to provide better wireless coverage within the Target building and parking lot for customers and employees.

Planning Commission Hearing

The planning commission considered the request on Oct. 3, 2019. The commission report, associated plans, and meeting minutes are attached. Staff recommended approval of the permit, noting:

- The proposed antenna would meet all conditional use permit standards applied to telecommunication facilities. These standards are outlined in the “Supporting Information” section of this report.

- The proposal has been evaluated by the city’s telecommunications consultant who finds:
  - It would provide required coverage and eliminate the present existing poor coverage area and capacity.
  - It is not predicted to cause any interference to public safety radio frequencies and is not predicted to be a radio frequency (RF) radiation hazard.

Planning Commission Recommendation

On a 7-0 vote, the commission recommended that the city council approve the request with two additional conditions of approval, as recommended by the city’s telecommunications consultant.

---

1 A CUP is not required for small cell wireless facilities on new towers/poles located within public rights-of-way unless located in a residential area.
• Rooftop facilities must be surrounded by an appropriate safety barrier.

• Radio frequency measurements must be taken within the building after installation.

Minutes from the meeting are attached. The resolution has been updated to include these conditions.

**Staff Recommendation**

Staff recommends the city council adopt the resolution approving a conditional use permit for telecommunication facilities at 4848 County Road 101.

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

Originator: Susan Thomas, AICP, Assistant City Planner
MINNETONKA PLANNING COMMISSION  
Oct. 3, 2019

**Brief Description**  Conditional use permit for telecommunication facilities at 4848 County Road 101.

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

---

**Background**

The city’s current telecommunication ordinance was adopted in March 2018. Under the ordinance, a conditional use permit (CUP) is required for installation of new telecommunication towers and for telecommunication facilities located on any support structure for which a CUP has not already been approved. Conversely, staff may administratively approve a one-time extension of existing towers and installation of facilities on support structures that previously received a CUP.

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**Staff Analysis**

Staff finds that the proposed wireless installation is reasonable, as:

- The proposed antenna would meet all conditional use permit standards applied to telecommunication facilities. These standards are outlined in the “Supporting Information” section of this report.

- The proposal has been evaluated by the city’s telecommunications consultant who finds:
  - It would provide required coverage and eliminate the present existing poor coverage area and capacity.
  - It is not predicted to cause any interference to public safety radio frequencies or and is not predicted to be a radio frequency (RF) radiation hazard.

**Staff Recommendation**

Recommend the city council adopt the resolution approving a conditional use permit for telecommunication facilities at 4848 County Road 101.

---

1 A CUP is not required for small cell wireless facilities on new towers/poles located within public rights-of-way unless located in a residential area. See “Supporting Information” section.
1. Roof top facilities must be surrounded by an appropriate safety barrier.

2. Radio frequency measurements must be taken within the building after installation.
Supporting Information

Surrounding Land Uses

<table>
<thead>
<tr>
<th></th>
<th>Use</th>
<th>Zoned</th>
<th>Guided</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>wetland</td>
<td>R-1</td>
<td>open space</td>
</tr>
<tr>
<td>South</td>
<td>retail</td>
<td>PUD</td>
<td>commercial</td>
</tr>
<tr>
<td>East</td>
<td>Co Rd 101</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>West</td>
<td>single-family homes</td>
<td>R-1</td>
<td>low-density residential</td>
</tr>
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Subject Property

<table>
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<tr>
<th></th>
<th>Existing</th>
<th>Proposed</th>
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</thead>
<tbody>
<tr>
<td>Use</td>
<td>Target store</td>
<td>No change</td>
</tr>
<tr>
<td>Zoning</td>
<td>PUD</td>
<td></td>
</tr>
<tr>
<td>Guide Plan Designation</td>
<td>commercial</td>
<td></td>
</tr>
</tbody>
</table>

Small Cell Wireless Facilities

In 2017, the Minnesota legislature passed a bill granting telecommunication providers relatively far-reaching rights to install small wireless facilities in public rights-of-way and on public property. Essentially, the city must administratively approve installations of small cell facilities on existing or new towers/poles – up to 60 feet in height – within rights-of-way and on public property. The only exception is for new towers/poles located in rights-of-way within residential districts. The city may require a CUP for new tower/poles in these areas.

Though described as small cell facilities, the applicant’s proposal does not qualify for the administrative review afforded by state law and the city’s telecommunication ordinance, as the installation would be on private property.

CUP Standards

The proposal would meet the general and specific CUP standards associated with telecommunication facilities:

**General Standards**

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

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

**Finding.** There are no historic places within 400 feet of the property.

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

**Finding.** The rooftop installation was specifically designed to meet reasonable coverage and capacity needs.

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

**Finding.** No new towers are proposed.

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

**Finding.** The antenna design would have a minimum visual impact on the immediate area.

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

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

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

**Finding.** Appropriate Target representatives signed the conditional use permit application. Further, this has been included as a condition of approval.

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

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

Specific Standards

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

Finding. The property is zoned PUD.

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

<table>
<thead>
<tr>
<th>Land Use Designation</th>
<th>Single-User Tower</th>
<th>Multiple-User Tower</th>
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<tbody>
<tr>
<td>Low and Medium Density Residential</td>
<td>60 feet</td>
<td>90 feet</td>
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<tr>
<td>High Density Residential</td>
<td>75 feet</td>
<td>90 feet</td>
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<tr>
<td>Office, Commercial</td>
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<tr>
<td>Industrial</td>
<td>150 feet</td>
<td>150 feet</td>
</tr>
<tr>
<td>Institutional</td>
<td>60 feet</td>
<td>90 feet</td>
</tr>
</tbody>
</table>

The city council may increase height if the applicant can demonstrate that the increase would not have a significant impact on surrounding properties because of things like proximity, topography, or screening by trees or buildings. The council may likewise waive height restrictions for towers wholly or partially for essential public services, such as public safety.

Finding. No new tower is proposed. The antenna would be located on the Target rooftop.

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

Finding. No new tower is proposed. The antenna would be located on the Target rooftop.
4) Horizontal Projection. Antennas may not project out from an antenna support structure or tower unless it is physically impossible to locate the antenna with the structure or tower, in which case they may not project out more than three feet.

**Finding.** The antenna would be located on the rooftop and would not project horizontally beyond the building façade.

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

**Finding.** The antenna would be less than three feet in height and, along with its mounting, would project vertically above the rooftop by just five feet.

6) Accessory Equipment. Accessory equipment or buildings must be architecturally designed to blend in with the surrounding natural or built environment or must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood. No more than one accessory building is permitted for each tower. If additional space is needed to accommodate the co-location of antennas, the existing accessory building must be expanded, or a new accessory building must be constructed adjacent and complementary to the existing building. Design of the building or equipment cabinet, screening and landscaping are subject to a site plan review under section 300.27 of this code.

**Finding.** Accessory equipment would be mounted on the rear building wall. It would not be visible from off-site.

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

**Finding.** The antenna and associated equipment would be gray in tone and would not contrast noticeably from the building color scheme.

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

**Finding.** This has been included as a condition of approval.
Voting Requirement

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

Motion Options

The planning commission has three options:

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

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

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

Neighborhood Comments

The city sent notices to 88 area property owners and received no comments to date.

Deadline for Decision

Dec. 16, 2019
August 1, 2019

Ashley Cauley, Senior Planner
City of Minnetonka
Department of Community Development
14600 Minnetonka Boulevard
Minnetonka, MN 55345

RE: Commercial Antenna Install – 4848 County Road 101 – Target

Dear Ashley Cauley,

Verizon Wireless has partnered with Target Corporation to provide enhanced wireless coverage inside Target stores and in the parking areas using a distributed antenna system with antennas located interior at the ceiling level and exterior on the rooftop level. The antennas located exterior use small cell equipment that will consist of three (3) outdoor antennas. The outdoor antennas are 24.1” x 18.8” x 6.3” and 15 pounds. The antenna will be mounted to a non-penetrating ballasted tripod.

Enclosed you will find a Telecommunications Facility CUP Application, required fees, and construction drawings for installing antennas on an existing structure.

Land Owner: Target Corporation
Site Address: 4848 County Road 101, Minnetonka, MN 55345
Legal Description: Lot 1 Block 1 Seven Hi Shopping Center 2nd Addn
PIN: 3011722110007

Verizon Wireless is currently licensed by the FCC to provide services to the market. The proposed service meets or exceeds the requirements of the FCC.

I welcome an opportunity to meet with you or answer questions about this project. I appreciate your time to review the proposed project and provide feedback.

Respectfully,

Julie Plante
Contractor, Verizon Wireless
612-242-3673
jplante@jplanteconsulting.com

Enclosures
**Verizon #1356**

**Site Address**
4848 County Road 101
Minnetonka, MN 55345

**Hennepin County**

**Site Coordinates**
Latitude: 44° 54' 58.85"
Longitude: -93° 30' 18.7"

Ground Elevation: 898' (Google Earth)

**Project Type**
SMC/INB

**Location Code**
524186

**Project Number**
20191902066

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**NOTES**

**Technical Specifications**

**Painting**
Contractor is to paint all wall mounted equipment and accessories including, but not limited to, all antennas, enclosures, coax, conduit, electrical equipment, and any related hardware or parts associated, to match the surface to which the item is mounted. Confirm material, paint color, and systems with Target. See Technical Specification provided by Target to Verizon Wireless.

**Penetration Requirement**
Seal all penetrations with Target approved (SNLT-1) Low Modulus Sealant. See Technical Specification provided by Target to Verizon Wireless.

**Landscape**
Contractor is to leave Target property as found, replacing all landscaping to Target standards after work is complete.

**Photo Documentation**
Photos of the exterior antennas, equipment, fiber path, and roof conduit are to be sent to Target for review at completion of the project. If any of the items installed do not meet Target's required design criteria and these construction documents, that item will need to be corrected.

---

**PROJECT DESCRIPTION**

**Work Product**

**Supplied By**

**Installed By**

| Electrical Conduit | Verizon | Contractor |
| Fiber Conduit | Verizon | Contractor |
| Fiber Conduit between Hand Hole/Demarc and Enclosure | Fiber Provider | Fiber Provider |
| Fiber Conduit within Right of Way | Fiber Provider | Fiber Provider |
| Fiber Hand Hole | Fiber Provider | Fiber Provider |
| Verizon-Owned Small Cell Equipment | Verizon | Contractor |

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<tr>
<td>E4</td>
<td>GROUNDING DETAIL</td>
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</tr>
</tbody>
</table>

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**CONTACTS**

**Verizon Project Manager**
Contact: Amanda Turner
Phone: (612) 720-1657

**Verizon Construction Manager**
Contact: Scott Lawler
Phone: (507) 251-3021

**Designer**
Contact: Chris Iser
Phone: (803) 403-8558

**Target Store Contact**
T1356.STL@target.com
T1356.PMT@target.com

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**Landscape**
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Notes: Information shown above was reproduced from Google Earth and is provided here for illustrative purposes only.
Two (2) proposed handholes near Right of Way (one for Verizon Wireless and one for Target)

Proposed underground route for (2) proposed 2" diameter HDPE conduits (one for Verizon Wireless and one for Target) from Verizon Wireless equipment to Right of Way (1,090' Total Length)

Two (2) proposed handholes (one for Verizon Wireless and one for Target)

Proposed location of Verizon Wireless wall mounted equipment and Target fiber termination

Notes:
1. Information shown above was reproduced from local jurisdiction GIS parcel data, and is provided here for illustrative purposes only.
2. Potential fiber route shown above is subject to change pending Verizon Wireless procurement of fiber provider's services.
3. Contractor is to leave Target property as found, replacing all landscaping to Target standards after work is complete.
4. Contractor is solely responsible for locating of existing underground utilities prior to routing of proposed underground conduit.
Notes:

1. Aerial shown above was reproduced from Google Earth and is provided here for illustrative purposes only.
2. Proposed conduit is to route near existing utility routing.
3. Conduit routing and lengths shown are approximate and should be verified by contractor prior to ordering material.
4. Routing around existing conflicts may be required.
5. See Electrical drawings for conduit size and type, and any additional electrical requirements.
6. Proposed radios to be located on antenna mounts.

Legend:

- Solid line: Proposed Rooftop Fiber Conduit Routing
- Dotted line: Proposed Rooftop Electrical Conduit Routing
This document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reproduction or improper retention or disclosure without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

Notes:

1. Elevations shown above were provided by Target.
EXISTING PHOTO
#1 VIEWED WEST
PROPOSED IMAGE
#3 VIEWED NORTH
REPORT REGARDING CONSTRUCTION
OF A SMALL CELL COMMUNICATIONS SYSTEM
AT 4848 COUNTY ROAD (TARGET STORE)
in the CITY OF MINNETONKA, MINNESOTA
FOR VERIZON COMMUNICATIONS

PREPARED BY:
GARRETT G. LYSIAK, P.E.
SEPTEMBER 25, 2019
EXECUTIVE SUMMARY

The City of Minnetonka Ordinance for telecommunications towers requires the demonstration of a need (gap in coverage) or a showing of need for the proposal. This analysis demonstrates the proof of need requirement is satisfied. This new communications system located at the Target property system will eliminate both coverage and capacity problems. It would provide the required Personal Communication System ("PCS") coverage to eliminate the present existing poor coverage area and capacity requirements for the expanded service.

There are no existing towers identified that could provide the required coverage and eliminate the predicted coverage gap. All towers in the nearby area were examined and none were found that could be used. Due to the lack of any existing towers or support structures in the vicinity, the new site would need to locate very near to the proposed location in order to fill the coverage gap.

There is no evidence to show this new tower will cause interference to the present frequencies and also any Public Safety or City communications systems. There is no demonstrated RF Radiation hazard to the general public, even when other additional PCS systems are added to the study.

As required by the ordinance, this tower will accommodate additional communications systems, and it is in compliance with all the structural requirements of the ordinance.
Engineering Statement
The documents submitted by Verizon Communications to the City of Minnetonka for the proposed small cell communications system were reviewed for compliance with the technical requirements of Ordinance.

The proposed Verizon Wireless communications system (tower) is designed to provide enhanced wireless coverage inside the Target store and in the parking lot areas using a distributed antenna system with antennas located interior at the ceiling level and exterior on the rooftop level. The antennas located exterior use small cell equipment that will consist of three (3) outdoor antennas. The outdoor antennas are 24.1" x 18.8" x 6.3" and 15 pounds. The antenna will be mounted to a non-penetrating ballasted tripod. The site description is included in the application on page G1 and shows an aerial view of the Target property including the parking lot area.

Coverage Study
In reviewing the submitted data it was determined that additional information for nearby Verizon Communications telecommunications sites was needed in order to make a signal coverage study determination. The requested information was provided and the data was analyzed. This analysis shows how Verizon Communications has designed its communications facilities in the Minnetonka area with several surrounding sites providing area wide coverage. The proposed communications system is designed to provide enhanced coverage and service to the Target property and not to enhance service in nearby areas.

Existing Towers
The ordinance requires that existing towers or structures that are capable of supporting the proposed facility be identified nearby the proposed tower site. A search of both Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) tower databases did not show any existing towers that would provide the desired system coverage.

Site Construction
The site construction plans show the antennas that are planned for this project. The plans did show compliance with the requirements of EIA-222 standard which requires loading for winds of 80 mph with ½” of radial ice. The plans also included a roof-top antenna system that shows compliance with structural standards for loading for the proposed system.
Since the tower is less than 200-feet and does not increase the existing building height by more than 20-feet there is no requirement for any lighting or marking requirements as required by the FAA.

The proposal shows that the tower is currently designed to only accommodate the Verizon system.

**Interference Study**
A search was performed using the FCC frequency database to determine the frequency and location of any city or county public safety facilities within one-mile from the proposed tower location. Using all the identified frequencies either utilized by the city or county an intermodulation (interference) study was performed to determine if any predicted interference products would be generated by the proposed Verizon Communications facility. Frequency bands used in the interference study are: 700 MHz, 850 MHz, 1900 MHz and 2100 MHz

The results of the study indicate that there are no interference products predicted to be generated that would cause interference to any of the identified protected frequencies.

**RF Radiation Analysis**
Using the data submitted by Verizon Communications we performed a “Worst-Case” radiation analysis to determine the amount of RF energy that would be present at the base of the roof-antennas as well as the levels at ground level. In making our calculations we assumed that all of the RF energy generated by the facility would be directed downward. This is not the real-world situation since the antennas used by PCS systems are designed to radiate towards the horizon. However, using this analysis method we are able to determine that the maximum level of RF radiation reaching the ground at the tower base is less than 1 percent of the ANSI standard value and as such is not classified as an RF radiation hazard. This proposal satisfies the current Federal guidelines for RF Exposure.

The location of the roof-top antenna is shown in page S2 of the application. The maximum distance from the front the antenna array is 4-feet, maximum, and the safety distance for the maximum RF Exposure level is calculated to be approximately 2-feet. This should allow safe areas to any workers in the vicinity of the antenna.

Based on information supplied by Verizon, access to the roof is restricted by locked doors preventing unauthorized personnel from entering the area. The required signage both on the entry areas as well as on the antenna areas will be installed after construction.
Summary

The review of the proposed Verizon Communications tower indicates that:

- It would provide the required PCS system coverage to eliminate the present existing poor coverage area and capacity.

- The site is not predicted to cause any interference products to any protected frequency in the area and is not predicted to be an RF radiation hazard.

- The system is not designed to accommodate additional communications systems.

- The proposal is in compliance with the structural requirements of the ordinance.

- Due to the lack of any existing towers or support structures in the vicinity, the site would need to locate very near to the proposed location to fill the coverage gap and capacity.

Respectfully submitted,

Garrett G. Lysiak, P.E.
Sewall moved, second by Hanson, to adopt the resolution denying the sign plan amendment request.

Henry, Knight, Luke, Powers, Sewall, Hanson, and Kirk voted yes. Motion carried.

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

D. Conditional use permit for telecommunication facilities at 4848 County Road 101.

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

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

Julie Plant, representing the applicant, stated that:

- She agreed with the conditions of approval recommended by staff.
- She was available for questions.

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

Powers moved, second by Luke, to recommend that the city council adopt the resolution approving a conditional use permit for telecommunication facilities at 4848 County Road 101.

Henry, Knight, Luke, Powers, Sewall, Hanson, and Kirk voted yes. Motion carried.

9. Adjournment

Sewall moved, second by Hanson, to adjourn the meeting at 8:20 p.m. Motion carried unanimously.

By: __________________________

Lois T. Mason
Planning Secretary
Resolution No. 2019-
Resolution approving a conditional use permit for telecommunication facilities
at 4848 County Road 101

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

Section 1. Background.

1.01 Julie Plante, on behalf of Verizon Wireless, is requesting a conditional use permit for installation of three, small cell wireless antenna on the existing Target store at 4848 County Road 101

1.02 The property is legally described as:
Lot 1, Block 1, SEVEN HI SHOPPING CENTER 2nd ADDITION

1.03 On Oct. 3, 2019, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. Standards.

2.01 City Code §310.13 Subd.5(a) outlines the general regulations for telecommunication facilities. These standards are incorporated into this resolution by reference.

2.02 City Code §310.13 Subd.6(a) outlines the specific regulations for telecommunication facilities. These standards are incorporated into this resolution by reference.

Section 3. Findings.

3.01 The proposal would meet the general conditional use permit standards outlined in City Code §310.13 Subd.5 (a).

1. Verizon is the identified service provider.

2. There are no historic places within 400 feet of the property.
3. The rooftop installation was specifically designed to meet reasonable coverage and capacity needs.

4. No new towers are proposed.

5. The antenna design would have a minimum visual impact on the immediate area.

6. As a condition of this resolution:
   a) The facilities must comply with all building and electrical code requirements. Structural design, mounting, and installation of the telecommunications facilities must comply with the manufacturer's specifications.
   b) The property owner must sign an approval document provided by the city agreeing to the permit conditions, agreeing to remove the telecommunication facilities when they are unused, obsolete, or become hazardous, and agreeing to the city's right to assess removal costs as outlined by city code.
   c) Obsolete facilities must be removed within 90 days after cessation of their use at the site unless an exemption is granted by the city council.

3.02 The proposal would meet the specific conditional use permit standards outlined in City Code §310.13 Subd. 6(a).

1. The property is zoned PUD.

2. No new tower is proposed. As such, height and setback standards do not apply.

3. The antenna would be located on the rooftop and would not project horizontally beyond the building façade.

4. The antenna would be less than three feet in height and, along with its mounting, would project vertically above the rooftop by just five feet.

5. Accessory equipment would be mounted on the rear building wall. It would not be visible from off-site.

6. The antenna and associated equipment would be gray in tone and would not contrast noticeably from the building color scheme.

7. As a condition of this resolution, the facilities may not be artificially illuminated unless required by law, necessary to protect the public's health and safety, or necessary to facilitate service to ground-mounted equipment.
Section 4. City Council Action.

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

1. This resolution must be recorded with Hennepin County.

2. The facilities must comply with all building and electrical code requirements. Structural design, mounting, and installation of the telecommunications facilities must comply with the manufacturer's specifications.

3. Rooftop facilities must be surrounded by an appropriate safety barrier.

4. Radiofrequency measurements must be taken within the building after installation.

5. The property owner must sign an approval document provided by the city agreeing to the permit conditions, agreeing to remove the telecommunication facilities when they are unused, obsolete, or become hazardous, and agreeing to the city's right to assess removal costs as outlined by city code.

6. Obsolete facilities must be removed within 90 days after cessation of their use at the site unless an exemption is granted by the city council.

7. The facilities may not be artificially illuminated unless required by law, necessary to protect the public's health and safety, or necessary to facilitate service to ground-mounted equipment.

8. 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 Oct. 28, 2019.

_______________________________________
Brad Wiersum, Mayor

Attest:

_________________________________
Becky Koosman, City Clerk

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on Oct. 28, 2019.

__________________________
Becky Koosman, City Clerk
Brief Description: Resolution regarding grant application to Hennepin County for the Lone Lake Park Multi-Use Mountain Bike Trail

Recommended Action: Adopt the resolution

Background

Since 2009, Hennepin County has allocated funding to local government units (LGU), which include municipalities and school districts, to work with non-profit community partners to improve youth sports, athletic fields, and recreational amenities. Funding is available from the .15% sales tax surcharge instituted when Target Field was constructed, and made available through the Hennepin County Youth Sports Grant (HCYSG) program.

Grants can be requested in three categories that include Equipment Grants (up to $10,000), Facility Grants ($10,000 to $300,000) and Playground Grants (up to $125,000). Hennepin County has commissioned the Minnesota Amateur Sports Commission (MASC) to administer the grant program. More information on the program can be found at https://www.mnsports.org/hennepin-county-youth-sports-grant/

The deadline to apply for 2019 requests for facility grants is November 4, 2019. Facility grant applications must include a resolution in support of the project from an LGU. The City of Minnetonka is the owner of the project and serves as the LGU for this grant request. The request is to help fund the construction of a multi-use mountain bike trail in Lone Lake Park. The estimated project budget is $280,000, of which $140,000 is being requested from the HCYSG program. The council may recall that the estimated budget stated in the Aug. 26, 2019 staff report requesting council approval of the project was $230,000. The difference in the estimated project budget is due to the addition of in-kind donations from volunteer work. The grant application specifically asks for in-kind donations to be included within the project budget.

Recommendation

Staff recommends adoption of the resolution regarding the grant request to Hennepin County for the Lone Lake Park Multi-Use Mountain Bike Trail project.

Submitted through:
- Geralyn Barone, City Manager
- Corrine Heine, City Attorney
- Darin Nelson, Director of Finance

Originated by:
- Kelly O'Dea, Recreation Services Director
RESOLUTION NO. 2019-XXX

Resolution regarding grant application to Hennepin County for the Lone Lake Park Multi-Use Mountain Bike Trail

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

Section 1. Background

1.01 Hennepin County, via its Youth Sports Grant Program, provides for capital funds to assist local government units of Hennepin County for the development of sport or recreation facilities.

1.02 The City of Minnetonka (hereinafter LGU) desires to develop a Multi-Use Mountain Bike Trail in Lone Lake Park (hereinafter PROJECT) for the purpose of providing outdoor recreational experiences for children. The project has been in the LGU’s Capital Improvement Program since 2018.

Section 2. Council Action

2.01 The estimate of the total cost of developing the PROJECT is $280,000. LGU is requesting $140,000 from the Hennepin County Legacy Grant program and will assume responsibility for a matching funds requirement.

2.02 LGU agrees to own, assume one hundred (100) percent of operation costs for PROJECT, and will operate PROJECT for its intended purpose for the functional life of the facility, which is anticipated to be in perpetuity.

2.03 LGU agrees to enter into necessary and required agreements with Hennepin County for the specific purpose of constructing a sport or recreational facility and long-term program direction.

2.04 The city manager is authorized and directed to execute said application on behalf of the LGU. The director of the LGU’s Recreation Services Department is authorized and directed to serve as official liaison with Hennepin County or its authorized representative, with respect to the grant application and grant.
Adopted by the City Council of the City of Minnetonka, Minnesota, on October 28, 2019.

Brad Wiersum, Mayor

ATTEST:

Becky Koosman, City Clerk

ACTION ON THIS RESOLUTION:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on October 28, 2019.

Becky Koosman, City Clerk
City Council Agenda Item #10D  
Meeting of Oct. 28, 2019

**Brief Description:** Resolution authorizing the City of Minnetonka to serve as the local government unit representing Eagle Ridge Academy in their application for a Hennepin County Youth Sports Program grant application

**Recommended Action:** Adopt the resolution

**Background**

Since 2009, Hennepin County has allocated funding to local government units (LGU), which include municipalities and school districts, to work with non-profit community partners to improve youth sports, athletic fields, and recreational amenities. Funding is available from the .15% sales tax surcharge instituted when Target Field was constructed, and made available through the Hennepin County Youth Sports Grant (HCYSOG) program.

Grants can be requested in three categories that include Equipment Grants (up to $10,000), Facility Grants ($10,000 to $300,000) and Playground Grants (up to $125,000). Hennepin County has commissioned the Minnesota Amateur Sports Commission (MASC) to administer the grant program. More information on the program can be found at [https://www.mnsports.org/hennepin-county-youth-sports-grant/](https://www.mnsports.org/hennepin-county-youth-sports-grant/)

The deadline to apply for 2019 requests for facility grants is November 4, 2019. Facility grant applications must include a resolution in support of the project from an LGU. The City of Minnetonka has been approached by Eagle Ridge Academy to serve as the LGU for a grant request to help fund the construction of a second gymnasium at their Minnetonka location scheduled to open in August of 2020. The city served as the LGU in 2015 for the grant application of their first gymnasium. The school’s renovation costs for the current project are estimated to be $900,000, of which $125,000 is being requested from the HCYSOG program.

**Recommendation**

Staff recommends adoption of the resolution to serve as the LGU for the Hennepin County Youth Sports Program grant request to Hennepin County from Eagle Ridge Academy.

Submitted through:
- Geralyn Barone, City Manager
- Corrine Heine, City Attorney
- Darin Nelson, Director of Finance

Originated by:
- Kelly O'Dea, Recreation Services Director
RESOLUTION NO. 2019-XXX

Resolution authorizing the City of Minnetonka to serve as the Local Government Unit Representing Eagle Ridge Academy in their application for a Hennepin County Youth Sports Program Grant Request

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

Section 1. Background

1.01. Hennepin County, via its Youth Sports Grant Program, provides for capital funds to assist local government units of Hennepin County for the development of sport or recreation facilities.

1.02. The City of Minnetonka (local government unit, hereinafter LGU) desires to assist in developing a gymnasium facility for the purpose of providing recreational and athletic opportunities for students of the Eagle Ridge Academy charter school and the broader community (hereinafter PROJECT).

1.03. The PROJECT will be constructed and owned by Eagle Ridge Academy Affiliated OBuilding Company (the OWNER), a Minnesota nonprofit corporation, and will be part of a school house facility that is leased by the OWNER to Eagle Ridge Academy, a public charter school.

1.04. The project will be constructed at 11111 Bren Road, Minnetonka 55343 and anticipated for completion in August, 2020.

Section 2. Council Action

2.01. The estimate of the total cost for developing the PROJECT is $900,000. LGU is requesting $125,000 from the Hennepin Youth Sports Program and the OWNER will assume responsibility for a matching funds requirement.

2.02. LGU agrees to enter into an agreement with OWNER, requiring OWNER to own and assume one hundred percent (100%) of operational and maintenance costs for the PROJECT and to operate the PROJECT for its intended purpose for the functional life of the facility, which is estimated to be 15 years.

2.03. LGU agrees to enter into necessary and required agreements with Hennepin County for the specific purpose of developing PROJECT and managing its long-term operation.

2.04. The city manager is authorized and directed to execute the application to Hennepin County for the PROJECT, on behalf of the LGU. The director of the LGU’s Recreation Services Department is authorized and directed to serve as official liaison with Hennepin County or its authorized representative, with respect to the grant application and grant.
Adopted by the City Council of the City of Minnetonka, Minnesota, on October 28, 2019.

Brad Wiersum, Mayor

ATTEST:

Becky Koosman, City Clerk

ACTION ON THIS RESOLUTION:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on October 28, 2019.

Becky Koosman, City Clerk
Brief Description: Cooperative agreements with the Bassett Creek Watershed Management Commission and Hennepin County for the 2019 Ridgedale Drive project

Recommended Action: Approve the agreements

Background

On May 20, 2019, the city council adopted a resolution approving conditional award of the contract to Eureka Construction for the 2019 Ridgedale Drive Project No. 19501. The project is located on Ridgedale Drive from Plymouth Road east to I-394 and proposed to correct deficiencies of the underlying utilities and aged watermain as well as reconstruct the roadway surface consistent with the Ridgedale Village Center Study and Public Realm Guidelines, providing new pedestrian trail and sidewalk connections. Three roundabouts are proposed in place of traffic signals at Wayzata Boulevard, YMCA Lane and the Hennepin County Government Center entrance.

BCWMC Cooperative Agreement

The project includes an agreement with the Bassett Creek Watershed Management Commission (BCWMC) to provide additional sustainable storm water treatment for the drainage area to Crane Lake. These improvements have been identified and approved for partial funding by the BCWMC in the amount of $380,000 (less approximately $23,000 in BCWMC administration expenses). On Sept. 19, 2019, the BCWMC adopted a resolution ordering the project improvements, certifying costs to Hennepin County and approving the cooperative agreement.

The city attorney has reviewed and approved the agreement.

Hennepin County Cooperative Agreement

A cooperative agreement with Hennepin County has been prepared for the reconstruction of the traffic signal and intersection at Plymouth Road (County Road 61) and Ridgedale Drive. The cooperative agreement includes financial reimbursement of $100,000 to the city of Minnetonka from Hennepin County; $60,000 of the estimated cost for county supplied equipment and $40,000 as construction reimbursement. There are cost savings to both agencies for coordination of this work.

The city attorney has reviewed and approved the agreement.

Recommendation

Staff recommends council approve the attached cooperative agreements with the Bassett Creek Watershed Management Commission and Hennepin County.
Submitted through:
   Geralyn Barone, City Manager
   Will Manchester, Director of Public Works
   Phil Olson, City Engineer

Originated by:
   Chris Long, P.E., Assistant City Engineer
COOPERATIVE AGREEMENT
(Crane Lake Improvement Project CL-3)

This Cooperative Agreement ("Agreement") is made as of this 19th day of September, 2019 by and between the Bassett Creek Watershed Management Commission, a joint powers watershed management organization ("Commission"), and the City of Minnetonka, a Minnesota municipal corporation ("City"). The Commission and the City may hereinafter be referred to individually as a “party” or collectively as the “parties.”

RECITALS

A. The Commission adopted the Bassett Creek Watershed Management Commission Watershed Management Plan on September 17, 2015 ("Plan"), a watershed management plan within the meaning of Minnesota Statutes, section 103B.231.

B. The Plan includes a capital improvement program ("CIP") that lists a number of water quality project capital improvements including the Crane Lake Improvement Project (CL-3).

C. The proposed Project in the City of Minnetonka, will be designed and constructed in conjuction with a larger City project to reconstruct Ridgedale Drive ("City Reconstruction") and as more fully described in the feasibility report for the Project prepared by WSB, Inc. entitled Feasibility Report: 2020 Crane Lake Improvement Project dated March 2019 ("Feasibility Report"), which is attached hereto as Exhibit A.

D. The total cost estimate directly related to the Project, including feasibility study, design, construction and Commission costs directly related to the Project, is $582,837.00.

E. The Plan specifies that the Project will be funded by a County tax levy under Minnesota Statutes, section 103B.251.

F. The City has agreed to contribute $202,837.00 of funding toward the project costs.

G. On September 19, 2019, the Commission adopted a resolution ordering the Project and directing that it be constructed by the City.

H. Project costs in the amount of $380,000 will be certified to Hennepin County, which will levy taxes throughout the watershed for the Commission’s portion of Project costs in 2019 for collection and settlement in 2020.

I. The City is willing to construct the Project in accordance with the terms and conditions hereinafter set forth.
AGREEMENT

In consideration of the mutual covenants and agreements hereinafter set forth, and intending to be legally bound, the parties hereby agree as follows:

1. Project. The Project will consist of the work identified as Concept 3 in Section IV of the Feasibility Report, which involves construction of an underground stormwater storage and pretreatment chamber along with a series of filtration/infiltration basins. Stormwater management or nutrient-reduction capacity created by the Project, if any, may be utilized by the City in accounting for compliance with federal and/or state regulatory obligations, but may not be utilized to comply with regulatory requirements imposed by or on behalf of the Commission. The City will determine, at its cost, available credit from the Project. The Commission makes no representation or warranty as to credit that will be available from, or results that will be achieved by, the Project.

2. Design and Plans. The City has designed the Project and prepared plans and specifications for construction of the Project. The 50% and 90% plans and specifications were previously submitted to the Commission, reviewed and approved in accordance with the Commission’s required plan review procedures. Minor change orders that do not materially change either the effectiveness of the Project to meet its intended purposes or the environmental impacts of the Project may be approved by the City without requiring approvals by the Commission.

3. Contract Administration. The City has advertised for bids and awarded contracts for the Project in accordance with all requirements of law, including without limitation Minnesota Statutes, section 16C.285, and the City has further required the contractor to provide all payment and performance bonds required by law. The City will supervise and administer the construction of the Project to ensure that it is completed in accordance with the approved plans and specifications. The City will require the Contractor to name the Commission as additional insured on all liability policies required by the City of the contractor and the Commission shall be given the same notification of cancellation or non-renewal as is given to the City. The City will require the contractor to defend, indemnify, protect and hold harmless the Commission and the City, their agents, officers, and employees, from all claims or actions arising from negligent acts, errors or omissions of the contractor. The City will supervise the work of the contractor. However, the Commission may observe and review the work of the Project until it is completed. The City will display a sign at the construction site stating “Paid for by the Taxpayers of the Bassett Creek Watershed”.

4. Contract Payments. The City will pay the contractor and all other expenses related to the construction of the Project and keep and maintain complete records of such costs incurred, including a clear indication of costs directly related to this Project versus the costs attributable to the larger nature center reconstruction project.

5. Commission Reimbursement. The Commission will use its best efforts to secure payment from the County in accordance with Minnesota Statutes, section 103B.251 in the amount of Three Hundred Eighty Thousand Dollars ($380,000) by tax levy in 2019 for collection in 2020. The total reimbursement paid by the Commission to the City for the Project will not exceed Three
Hundred Eighty Thousand Dollars ($380,000), less Commission expenses. Out-of-pocket costs incurred and paid by the Commission related to the Project including, but not limited to, feasibility studies, publication of notices, securing County tax levy, preparation of contracts, review of engineering designs, review of proposed contract documents, grant application development, grant administration, administration of this contract, and up to a 2.5% administrative charge are expected to be approximately $23,000 and shall be repaid from the amount specified above from funds received in the tax settlement from Hennepin County. All such levied funds in excess of such expenses are available for reimbursement to the City for costs incurred by the City in the design and construction of the Project. Reimbursement to the City will be made as soon as funds are available, provided a request for payment has been received from the City that contains such detailed information as may be requested by the Commission to substantiate costs and expenses. The City shall complete and submit with its final reimbursement request to the Commission a final report on the Project using the Commission’s final reporting form and providing such other information as may be requested by the Commission.

6. **Limits on Reimbursement.** Reimbursement to the City will not exceed the amount specified above from the amount received from the County for the Project, less any amounts retained by the Commission for Commission expenses. Reimbursement will not be increased by grants or other revenues received by the Commission for the Project. Reimbursement will not exceed the costs and expenses incurred by the City for the Project, less any amounts the City receives for the Project as grants from other sources. All costs of the Project incurred by the City in excess of such reimbursement, shall be borne by the City or secured by the City from other sources.

7. **Audit.** All City books, records, documents, and accounting procedures related to the Project are subject to examination by the Commission and either the State Auditor or the Legislative Auditor for at least six years after completion of the Project.

8. **Environmental Review.** The City will perform all necessary investigations of site contamination and secure all necessary local, state, or federal permits required for the construction of the Project and will not proceed with the Project until any required environmental review and remediation of site contamination is completed or a plan for remediation is approved by appropriate regulatory agencies.

9. **Ongoing Maintenance.** Upon completion of the Project, the City shall be responsible for its ongoing maintenance. The City agrees to perform, at its cost, such maintenance as may be required to sustain the proper functioning of the improvements constructed as part of the Project for their useful life.

10. **Data Practices.** The City shall retain and make available data related to the letting of contracts and construction of the Project in accordance with the Minnesota Government Data Practices Act.

11. **Term.** This Agreement shall be in effect as of the date first written above and shall terminate once the Project is completed and the Commission has completed its reimbursement payments to the City as provided herein.
12. **Entire Agreement.** The above recitals and the exhibits attached hereto are incorporated in and made part of this Agreement. This Agreement contains the entire understanding between the parties regarding this matter and no amendments or other modifications of its terms are valid unless reduced to writing and signed by both parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on behalf of the parties as of the day and date first above written.

BASSETT CREEK WATERSHED
MANAGEMENT COMMISSION

By: ____________________________
   Its Chair

And by: ____________________________
   Its Secretary

Date: ____________________________
CITY OF MINNETONKA

By: ________________________________
   Its Mayor

And by: ________________________________
   Its City Manager

Date: ________________________________
EXHIBIT A
Feasibility Report

[attached hereto]
COST PARTICIPATION
COOPERATIVE AGREEMENT

THIS AGREEMENT, made and entered into this ______ day of __________, 20____, by and between the County of Hennepin, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the “County”, and the City of Minnetonka, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the “City”.

WITNESSETH:

WHEREAS, the County desires to replace a traffic signal system and upgrading pedestrian ramps to be in compliant with the Americans with Disabilities Act (ADA) requirements at intersection of Plymouth Road (County State Aid Highway (CSAH) 61) and the Ridgedale Drive in conjunction with the Ridgedale Drive Reconstruction Project in the city of Minnetonka, as shown under City Project No. 19501, County Project (CP) No. 2183501, and which shall hereinafter be referred to as the “Project”; and

WHEREAS, the work to be performed under this Agreement will be in conjunction with the Ridgedale Drive Reconstruction Project from Plymouth Road (CSAH 61) to Interstate 394 that the City is the lead agency; and

WHEREAS, the County has asked the City to include this Project into the City’s Ridgedale Drive Reconstruction Project and the City has indicated its willingness to accept the request; and

WHEREAS, the County will participate in its share of the costs to construct the Project as set forth herein; and

WHEREAS, the City Engineer has prepared a Summary of Estimated Quantities (SEQ) for the Project and a copy of the SEQ marked Exhibit “A”, is attached hereto and by this reference made a part hereof; and

WHEREAS, the City or its agents shall be responsible for developing the plans and administering the Project’s work; and

WHEREAS, the City has requested that the County approve the plans and specifications, and the County has indicated its willingness to approve the plans and specifications; and

WHEREAS, to ensure compatibility with the County’s existing network of traffic signal
systems, the County will furnish the video detection equipment, controllers, control equipment and control cabinet to be installed as a part of the Project; and

WHEREAS, the County requires that the traffic control signal system included in the Project be interconnected with adjacent traffic control signal systems along Plymouth Road (CSAH 61); and

WHEREAS, the Project is anticipated to commence in 2019 and be completed by Fall of 2020; and

WHEREAS, it is contemplated that the work be carried out by the parties hereto under the provisions of Minnesota Statutes, Section 162.17, Subdivision 1 and Section 471.59.

NOW THEREFORE, IT IS HEREBY AGREED:

I
Contract Award and Administration

The City or its agents shall prepare the necessary plans, specifications, and proposal; obtain approval of the plans and specifications from Minnesota Department of Transportation (MnDOT) and the County; advertise for bids for the work and construction; receive and open bids pursuant to the advertisement; enter into a contract with the successful bidder at the unit prices specified in the bid of such bidder; administer the contract; and perform the required engineering and inspection; all in accordance with the plans and specifications set forth below.

II
Plans and Specifications

All design work performed by the City and its agents that is to be incorporated into the bidding documents for the Project shall be prepared and certified by a Professional Engineer licensed in the State of Minnesota. All designs, which affect County facilities, shall conform to MnDOT Design Standards applicable to County State Aid Highways and to the requirements of the Americans with Disabilities Act (ADA) and be approved by the County Engineer. The City or its agents shall complete the form for each curb ramp constructed as part of the Project and submit the forms by using the “Asset Management” site, which requires registration to access. The City understands and agrees that payment will not be made by the County until all required ADA certification forms have been received and verified by the County. (For instructions on how to fill and submit the form, visit https://www.hennepin.us/residents/transportation/ada-transition-plan).

Prior to beginning construction, the City shall furnish the County with plans and specifications for review and approval as follows: electronic submittals at 60%, 90%, and 100%; comment response letter with 90% and 100% package; electronic copy of plans at 100% with title sheet for county signature. Title sheet for county signature must arrive two weeks prior to project
advertisement and include city signature. Upon completion of the Project, the City or its agents shall furnish the County with a complete set of as-built plans certified as to their accuracy by the City Engineer. The as-designed plans, specifications and as-built plans for the Project shall be provided by the City at no cost to the County. All designs and plans shall be submitted to Public Works Transportation Project Delivery Design Division Manager.

All construction and materials sampling and testing for the Project shall be accomplished in accordance with all applicable standards and requirements of the Minnesota Department of Transportation’s (MnDOT) State Aid for Local Transportation Division in effect at the time of Contract award. Material samples sent to MnDOT will not include the County’s State Aid Number.

III
Construction Supervision and Inspection

The City or its agents will administer the construction contract, perform all necessary engineering, inspection and testing of all the contract work. All work for the Project shall be completed in compliance with the approved plans and specifications. The County Engineer or designated representatives shall have the right, as the work progresses, to enter upon the job site to make any inspections deemed necessary and shall cooperate with the City Engineer and staff at their request to the extent necessary.

IV
Plan Changes and Additional Construction

The County agrees that the City may make changes in the plans or in the character of the contract construction that are reasonably necessary to cause the construction to be in all things performed and completed in a satisfactory manner. The County agrees that the City may enter into any change orders or supplemental agreements with the City’s contractor for the performance of any additional construction or construction occasioned by any necessary, advantageous or desirable changes in plans, within the original scope of the Project. These changes and resulting costs increase or decrease will be borne by the City and not affect the County's cost participation herein.

V
Right of Way

The City or its agents shall acquire all additional right of way, permits and/or easements required for the construction of the Project, at no cost to the County.

Upon completion of this Project, all permanent right of way acquired for Plymouth Road (CSAH 61) as provided herein shall be conveyed to the County by the City with no consideration required.
VI
Cost Participation

The County will participate in the construction costs for the Project as provided herein. The County’s cost participation shall be a not to exceed (NTE) amount of One Hundred Thousand Dollars and No Cent ($100,000.00). The City understands and agrees that the County’s total and only cost participation for the Project shall be a NTE of $100,000.00.

The City agrees that the County intends to use County State Aid funds to reimburse the City for the County’s share of the Project costs. It is further understood and agreed by the City that the County’s cost participation must be eligible for County State Aid funding and that the County’s contribution to the Project’s costs must be for construction that benefits the County highways included in the Project.

Further, the City understands and agrees that the County’s cost participation in the Project is contingent upon submittal to the County by the City of the MnDOT approved plans for the Project.

The County reserves the right not to make payment to the City for its share of the costs for the Project if any action or inaction of the City causes MnDOT’s State Aid Engineer to determine that the County’s costs are not eligible for State Aid funding.

VII
Payment

Upon completion of the Project the City shall notify the County and submit an invoice for one hundred percent (100%) of the County’s share of the costs for the Project. The invoice shall include summary documentation of total project costs. Upon approval and acceptance of the completed Project as well as all MnDOT ADA Compliance Checklist forms by the County Engineer or designated representative and within forty-five (45) days of the invoice, the County shall reimburse the City for its share of the costs for the Project.

The invoice should include the date of the invoice, the invoice number, the name of the County’s project manager (Mr. Stanley Lim, P.E.), project name and county project number (C.P. 2183501), contract number and purchase order number. Invoices and supporting documentation should be mailed to:

Hennepin County Accounts Payable,
P.O. Box 1388,
Minneapolis, MN 55440-1388.

An electronic copy of all invoices should also be submitted to Mr. Stanley Lim, P.E. at Stanely.Lim@hennepin.us
The City's point of contact is Mr. Will Manchester, P.E., City of Minnetonka.
14600 Minnetonka Blvd, Minnetonka, MN 55345.
Office: 952-939-8232. wmanchester@eminnetonka.com

VIII
County Supplied Equipment

The County will supply traffic signal cabinet, controller, video detection equipment, and control equipment (County Supplied Equipment) for the traffic control signal system included in the Project.

The City agrees to reimburse the County for one hundred percent (100%) of the cost of the County Supplied Equipment. The estimated cost for the County Supplied Equipment is $60,000. The cost of the County Supplied Equipment is an estimate and that the actual quantities of equipment, as determined by the County Engineer shall govern in computing the total final cost to the City.

The City or its agents shall notify the County's Signal Shop Supervisor thirty (30) working days in advance of need of the County Supplied Equipment. The County shall notify the City when the County Supplied Equipment is ready to be picked up for field installation. It shall be the responsibility of the City or its agents to pick up the County Supplied Equipment at the Hennepin County Department of Transportation, Public Works Facility in Medina, Minnesota and install the equipment on the Project.

Upon picking up of the County Supplied Equipment by the City or its agents, the County will invoice the City for the County Supplied Equipment. Payment shall be made to the County by the City for the full amount due stated on the invoice within forty five (45) days of the invoice date.

All payments to the County must be postmarked by the date due or a late penalty of one (1) percent per month, or fraction thereof, on the unpaid balance will be charged to the City. The City shall pay the amount due as stated on the statement, notwithstanding any dispute of such amount. Should a disputed amount be resolved in favor of the City, the County shall reimburse the disputed amount plus daily interest thereon calculated from the date such disputed amount was received by the County. Daily interest shall be at the rate of one percent (1%) per month on the disputed amount.

IX
Traffic Signal/EVP Related Work

The City shall install, cause the installation of, or perpetuate the existence of an adequate three wire, 120/240 volt, single phase, alternating current electrical power connection to the permanent traffic control signal systems and integral streetlights included in the Project, at no cost to the County. Further, the City, at its sole cost and expense shall provide the electrical energy for the operation of all permanent and temporary traffic control signal systems and integral streetlights installed as a part of the Project.
The City shall not revise by addition or deletion, nor alter or adjust any component, part, sequence, or timing of the traffic control signal, however, nothing herein shall prohibit prompt, prudent action by properly constituted authorities in situations where a part of such traffic control signals may be directly involved in an emergency.

The Emergency Vehicle Preemption (EVP) Systems provided for herein shall be installed, operated, maintained or removed in accordance with the following conditions and requirements:

1. Emitter units may be installed and used only on vehicles responding to an emergency as defined in Minnesota Statutes Chapter 169.01, Subdivision 5 and 169.03. The City will provide the County Engineer or their designated representative a list of all such vehicles with emitter units.

2. The City shall report malfunctions of EVP systems to the County immediately after discovery of the malfunction.

3. In the event the EVP Systems or components are, in the opinion of the County, being misused or the conditions set forth herein are violated, and such misuse or violation continues after receipt by the City of written notice thereof from the County, the County shall remove the EVP Systems.

4. All timing of the EVP Systems shall be determined by the County.

The City shall notify the County a minimum of one (1) week prior to the date of any traffic signal turn on (energizing). The County's Traffic Operations Engineer or designated representative must be present at the time any traffic signal systems are turned on.

The County hereby reserves the right to perform final inspection of the traffic control signal system at the time of energizing and also the right to require any modifications prior to approving the system for operation. No traffic control signal system may be placed in operation without approval of the installed system by the County.

X

Maintenance Responsibilities

Maintenance by the City:

It is understood and agreed that upon completion of the Project, all newly constructed concrete sidewalk, pedestrian ADA ramps, driveways, fencing, landscaping improvements, storm treatment structures, and miscellaneous components including but not limited to items specifically identified below shall be the property of the City and all year-round maintenance, restoration, repair, replacement or other work or services required thereafter shall be performed by the City at no cost to the County.
Traffic Signal Components: Upon completion of the Project, the City shall be responsible for maintenance of all luminaire systems including the lamp on the luminaire extension, the fuse, and the wire from the lamp to the load side of the meter socket.

Storm Sewer Drainage System: After the completion of the Project, the City shall own and bear maintenance responsibilities for components of the roadway storm sewer drainage system within the County right of way, constructed as a part of this Project including but not limited to all trunk lines, ponds, and storm water treatment structures, except what is identified as County’s responsibilities below.

Sidewalks: All required routine maintenance of the sidewalks constructed as a part of the Project shall be performed by the City at no cost to the County.

Crosswalk Markings: The newly installed durable crosswalk markings shall be maintained by the City at no cost to the County.

Landscaping: Upon completion of the Project, all streetscape, landscaping and associated landscaping structures, shall become the property of the City and all maintenance, restoration, repair, replacement or other work or services required thereafter shall be performed by the City at no cost to the County.

Maintenance by the County:

It is understood and agreed that upon completion of the Project, all newly constructed traffic signal system components, storm sewer catch basins and their lead pipes, and concrete curb & gutter included in the improvements shall become the property of the County and all maintenance, restoration, repair, replacement or other work or services required thereafter shall be performed by the County.

Traffic Signal Components: The County shall thereafter maintain and repair the traffic control signal system at the expense of the County except for those items identified as City’s responsibilities above.

County Road Pavement Striping: The County shall thereafter maintain and repair all pavement striping (except crosswalk markings) for roadway users installed as a part of the Project at the expense of the County.

Storm Sewer Catch Basins and Lead Pipes: Upon completion of the Project, the County shall retain ownership of and maintenance responsibilities for those portions of the roadway storm sewer drainage system functioning as catch basins and associated lead pipes that are within or between the outermost curb lines of the County roadways as well as those within the radius return limits of intersecting municipal streets, at no cost to the City. Additionally, the County shall own and perform routine maintenance of cross road culverts at no cost to the City.
XI
Records/Audits

All records kept by the City and the County with respect to the Project, including Force Account Work if applicable and work performed by agents hired by either of the parties, shall be subject to examination by the representatives of each party.

XII
Indemnification

The City agrees to defend, indemnify and hold harmless the County, its officials, officers, agents, volunteers, and employees from any liability, claims, causes of action, judgments, damages, losses, costs or expenses, including reasonable attorneys’ fees, resulting directly or indirectly from any act or omission of the City or the City’s consultant or sub consultant, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable in the performance of the services required by this contract, and against all loss by reason of the failure of the City to perform fully, in any respect, all obligations under this contract. The City’s liability shall be governed by the provisions of Minnesota Statutes, Chapter 466 or other applicable law.

The County agrees to defend, indemnify and hold harmless the City, its officials, officers, agents, volunteers, and employees from any liability, claims, causes of action, judgments, damages, losses, costs or expenses, including reasonable attorneys’ fees, resulting directly or indirectly from any act or omission of the County or the County’s consultant or sub consultant, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable in the performance of the services required by this contract, and against all loss by reason of the failure of the County to perform fully, in any respect, all obligations under this contract. The County’s liability shall be governed by the provisions of Minnesota Statutes, Chapter 466 or other applicable law.

This section is not intended, nor shall it be interpreted, to operate as a waiver by the City or County of defenses and limitations of liability under common law or Minnesota Statutes, Chapter 466, with respect to claims made against the City or County by third parties.

The County and the City each warrant that they are able to comply with the aforementioned indemnity requirements through an insurance or self-insurance program.

XIII
Insurance

The City also agrees that any contract let by the City or its agents for the performance of the work on the Project as provided herein shall include clauses that will: 1) Require the Contractor to defend, indemnify, and hold the County, its officials, officers, agents and employees harmless from any liability, causes of action, judgments, damages, losses, costs or expenses including,
without limitation, reasonable attorneys' fees, arising out of or by reason of the acts and/or
omissions of the Contractor, its officers, employees, agents or subcontractors in performing work
on the Project; 2) Require the Contractor to be an independent contractor for the purposes of
completing the work provided for in this Agreement; and 3) Require the Contractor to provide and
maintain insurance in accordance with the following:

1. Commercial General Liability on an occurrence basis with
   Contractual Liability and Explosion, Collapse and Underground
   Property Damage (XCU) Liability coverages:

<table>
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<tr>
<th>Limits</th>
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<tbody>
<tr>
<td>General Aggregate</td>
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<tr>
<td>Products--Completed Operations Aggregate</td>
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<tr>
<td>Personal and Advertising Injury</td>
</tr>
<tr>
<td>Each Occurrence - Combined Bodily Injury and Property Damage</td>
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</tbody>
</table>

   Hennepin County shall be named as an additional insured for the Commercial General Liability coverage with respect to operations covered under this Agreement.

2. Automobile Liability:

   Combined Single limit each occurrence coverage or the equivalent covering owned, non-owned, and hired automobiles:

   $1,500,000

3. Workers' Compensation and Employer's Liability:

   A. Workers' Compensation

      If the Contractor is based outside the State of Minnesota, coverages must apply to Minnesota laws.

   B. Employer's Liability - Bodily injury by:

<table>
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<th>Limits</th>
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<tr>
<td>Accident - Each Accident</td>
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<tr>
<td>Disease - Policy Limit</td>
</tr>
<tr>
<td>Disease - Each Employee</td>
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</tbody>
</table>

4. Professional Liability – Per Claim
   Aggregate

   $1,500,000

   $2,000,000
Agreement No. PW 04-15-19
CSAH 61; C.P. 2183501

The above listed Professional Liability insurance will not be required in any construction contract let by City if the City's Contractor is not required to perform design engineering as part of the construction contract.

An umbrella or excess policy over primary liability coverages is an acceptable method to provide the required insurance limits.

The above subparagraphs establish minimum insurance requirements. It is the sole responsibility of the City's Contractor to determine the need for and to procure additional insurance which may be needed in connection with the Project.

All insurance policies shall be open to inspection by the County and copies of policies shall be submitted to the County upon written request.

XIV
Worker Compensation Claims

Any and all employees of the City and all other persons engaged by the City in the performance of any work or services required or provided for herein to be performed by the City shall not be considered employees of the County, and that any and all claims that may or might arise under the Workers' Compensation Act or the Unemployment Compensation Act of the State of Minnesota on behalf of the employees while so engaged and any and all claims made by any third parties as a consequence of any act or omission on the part of the employees while so engaged on any of the work or services provided to be rendered herein shall in no way be the obligation or responsibility of the County.

Also, any and all employees of the County and all other persons engaged by the County in the performance of any work or services required or provided for herein to be performed by the County shall not be considered employees of the City, and that any and all claims that may or might arise under the Workers' Compensation Act or the Unemployment Compensation Act of the State of Minnesota on behalf of the employees while so engaged and any and all claims made by any third parties as a consequence of any act or omission on the part of the employees while so engaged on any of the work or services provided to be rendered herein shall in no way be the obligation or responsibility of the City.

XV
Authorized Representatives

In order to coordinate the services of the County with the activities of the City so as to accomplish the purposes of this Agreement, the Hennepin County Highway Engineer or designated representative shall manage this Agreement on behalf of the County and serve as liaison between the County and the City.

In order to coordinate the services of the City with the activities of the County so as to
accomplish the purposes of this Agreement, the City Engineer or designated representative shall
manage this Agreement on behalf of the City and serve as liaison between the City and the County.

XVI
Amendment

The entire Agreement between the parties is contained herein and that this Agreement
supersedes all oral agreements and negotiations between the parties relating to the subject matter
hereof. All items referred to in this Agreement are incorporated or attached and are deemed to be
part of this Agreement.

Any alterations, variations, modifications, or waivers of provisions of this Agreement shall
only be valid when they have been reduced to writing as an amendment to this Agreement signed
by the parties hereto.

XVII
Whereas Clauses and Exhibits

The whereas clauses and Exhibit “A” are incorporated herein and are hereby made a part of
this Agreement.

XVIII
Effective/Expiration Dates

This Agreement will be effective on the date the County has obtained all required signatures
per the requirements stipulated in the laws in the State of Minnesota.

This Agreement will expire when all obligations set forth herein have been satisfactorily
fulfilled by each party.

XIX
Cancellation/Termination

This Agreement may be terminated or cancelled by each party by mutual agreement with or
without cause by either party upon thirty (30) day written notice. This Agreement shall be
terminated or cancelled by any party upon a material breach by the other party.

XX
Survival of Terms

Provisions that by their nature are intended to survive the term, cancellation or termination
of this Agreement do survive such term, cancellation or termination. Such provisions include but
are not limited to: Maintenance Responsibilities, Records/Audits, Indemnification, Insurance,
Worker Compensation Claims, Cancelation and Termination, and Minnesota Laws Govern.
If any provision of this Agreement shall be found to be invalid or unenforceable, the parties agree that such invalidity shall not affect the remaining provisions of this Agreement, which shall continue in full force and effect.

XXI
Nondiscrimination

The provisions of Minnesota Statute Section 181.59 and of any applicable local ordinance relating to civil rights and discrimination and the Affirmative Action Policy statement of Hennepin County shall be considered a part of this Agreement as though fully set forth herein.

XXII
Minnesota Laws Govern

The laws of the state of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the parties and their performance. The appropriate venue and jurisdiction for any litigation will be those courts located within the County of Hennepin, state of Minnesota. Litigation, however, in the federal courts involving the parties will be in the appropriate federal court within the state of Minnesota.

(this space left intentionally blank)
IN TESTIMONY WHEREOF, The parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF MINNETONKA

(Seal) By: ________________________________
Mayor Date: _____________________________

And: ________________________________
Manager Date: __________________________

COUNTY OF HENNEPIN

ATTEST:

By: ________________________________
Deputy/Clerk of the County Board Date: __________________________

By: ________________________________
Chair of its County Board Date: __________________________

APPROVED AS TO FORM:

By: ________________________________
Assistant County Attorney Date: __________________________

And: ________________________________
County Administrator Date: __________________________

And: ________________________________
Assistant County Administrator, Public Works Date: __________________________

APPROVED AS TO EXECUTION:

By: ________________________________
Assistant County Attorney Date: __________________________

RECOMMENDED FOR APPROVAL

By: ________________________________
County Highway Engineer Date: __________________________

RECOMMENDED FOR APPROVAL

By: ________________________________
Department Director, Transportation Operations Date: __________________________
## Exhibit A - Summary of Estimated Quantities (SEQ)

### Statement of Estimated Quantities - Actual Bid

<table>
<thead>
<tr>
<th>Item No</th>
<th>Description</th>
<th>Note</th>
<th>Task</th>
<th>Unit Price</th>
<th>Project Total</th>
<th>City of Minnetonka</th>
<th>City of Minnetonka - Chain O' Lakes Road</th>
<th>City of Minnetonka - Storm Sewer Non-Participating</th>
<th>City of Minnetonka - Local Participation</th>
<th>City of Minnetonka - Local Participation Non-Participating</th>
<th>Water Supply and Sewer Non-Participating</th>
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### Details

- **Project Total**: Sum of the estimated quantities for the entire project.
- **City of Minnetonka**: Estimated quantities for the City of Minnetonka.
- **City of Minnetonka - Chain O' Lakes Road**: Estimated quantities for the Chain O' Lakes Road.
- **City of Minnetonka - Storm Sewer Non-Participating**: Estimated quantities for the Storm Sewer Non-Participating.
- **City of Minnetonka - Local Participation**: Estimated quantities for the Local Participation.
- **City of Minnetonka - Local Participation Non-Participating**: Estimated quantities for the Local Participation Non-Participating.
- **Water Supply and Sewer Non-Participating**: Estimated quantities for the Water Supply and Sewer Non-Participating.
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<th>Item No.</th>
<th>Description</th>
<th>Note</th>
<th>Unit</th>
<th>Unit Price</th>
<th>PROJECT TOTAL</th>
<th>CITY OF MINNETONKA</th>
<th>HENNEPIN COUNTY</th>
<th>CITY OF MINNETONKA NON-PARTICIPATING</th>
<th>CITY OF MINNETONKA LOCAL WATER SHED</th>
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Brief Description: Metropolitan Council 2017 Inflow and Infiltration Grant

Recommended Action: Adopt the resolution authorizing the application and execute the grant

Background

In 2017, the Metropolitan Council Environmental Services (MCES) offered an Inflow and Infiltration (I&I) grant program. The program was offered to cities for capital improvements to their wastewater collection system to reduce the amount of inflow and infiltration into the MCES treatment system. The grant dollars available would cover a percentage of actual I&I mitigation construction costs that occurred between May 31, 2017 and Nov. 1, 2019.

The city applied for the grant program and received a Grant Program Letter of Intent on Oct. 13, 2017, which allowed the city to complete Phase VII of the Prioritized Manhole Rehabilitation. The project included lining 365 vertical feet of sanitary manholes (33 structures), replacing adjusting rings and chimney seals on 10 structures and replacing castings and covers on three structures. The total project cost was $138,629, of which $41,574.76 was eligible for grant reimbursement through the program.

The Letter of Intent requires the city at this time to submit summaries of work completed, a certification confirming ownership or easements for locations where the work was completed and a resolution from the city council authorizing the application and executing the grant to MCES to receive the reimbursement.

Recommendation

Adopt the resolution and execute the grant.

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

Originated by:  
Mike Kuno, Utility Operations Engineer
Resolution No. 2019-XXX

Resolution that authorizes the application and executes the Metropolitan Council Environmental Services 2017 Inflow and Infiltration Grant

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

Section 1. Background.
1.01. The Metropolitan Council Environmental Services (MCES) offered the 2017 Inflow and Infiltration (I&I) Grant Program to eligible cities within the MCES service area.
1.02. The City of Minnetonka was eligible, applied for the program in September 2017 and received a Notice of Intent from MCES in October 2017.
1.03. The grant program provides reimbursable dollars for a percentage of actual I&I mitigation construction costs that occurred between May 31, 2017 and Nov. 1, 2019.
1.04. The city contracted with HydroKlean to complete a sanitary sewer manhole rehabilitation project in 2017.
1.05. The city must submit a resolution from the city council that authorizes the application and executes the grant as part of the grant final documentation submittal process.

Section 2. Statement of Support.
2.01. The city council hereby authorizes the application and executes the MCES 2017 Inflow and Infiltration Grant.

Adopted by the City Council of the City of Minnetonka, Minnesota, on Oct. 28, 2019.

Brad Wiersum, Mayor

ATTEST:

Becky Koosman, City Clerk

ACTION ON THIS RESOLUTION:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on Oct. 28, 2019.

__________________________________________
Becky Koosman, City Clerk
City Council Agenda Item #12A  
Meeting of Oct. 28, 2019

Brief Description
Ordinance rezoning of 4144 Shady Oak Road from R-1 to R-2

Recommendation
Introduce the ordinance and refer it to the planning commission

Proposal

Roman Olshansky has submitted an application and plans for the rezoning of a property at 4144 Shady Oak Road from R-1 to R-2. As proposed, a duplex would be constructed on the property.

Property Information

- Existing Zoning: R-1
- Land Use Designation: Low-density Residential
- Lot Area: 26,656 square feet (0.6 acres)
- Buildings: None. The subject lot is currently vacant.
- Street Frontage: Lake Street Extension (south) and Shady Oak Road, service road (east)
- Natural Features: 100-year floodplain on the west side of the property

Issue Identification

The purpose of introducing an ordinance is to allow the city council the opportunity to review a new application before referring it to the planning commission for a recommendation. Introducing an ordinance does not constitute an approval. The planning commission review of the proposal is tentatively set for Nov. 14, 2019.

Based on a preliminary review of the proposal, staff has identified items that will be closely analyzed as the formal review continues:

- **Consistency with the Neighborhood.** The proposal is to rezone the property to R-2. The property is surrounded by:
  - R-1 properties to the south and west;
  - R-2 properties to the north; and
  - Single-family homes in the City of Hopkins to the east, across Shady Oak Road.

- **Buildable Area.** In addition to property line setbacks, the subject site has a 100-year storm area on the west side of the property, which reduces the buildable area of the lot.
Staff Recommendation

Staff recommends the council:

1. Generally discuss the proposed rezoning, thereby providing direction to city staff and the applicant.

2. Introduce the rezoning ordinance and refer it to the planning commission.

3. Approve or modify the attached notification area.

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

Originated by:
  Drew Ingvalson, Planner
Ordinance No. 2019-

Ordinance rezoning the existing property at 4144 Shady Oak Road from R-1, low density residential, to R-2, low density residential

The City Of Minnetonka Ordains:

Section 1.

1.01 The property at 4144 Shady Oak Road is hereby rezoned from R-1, low density residential, to R-2, low density residential.

1.02 The property is legally described as:

Tract C, Registered Land Survey No. 1183, Hennepin County, Minnesota.

Section 2.

2.01 This ordinance is based on the following findings:

1. The rezoning would be consistent with the intent of the zoning ordinance and comprehensive guide plan.

2. The rezoning would be consistent with the public health, safety, and welfare.

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, 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 correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on ____________, 2019.

______________________________
Becky Koosman, City Clerk
Brief Description  Resolution approving a conditional use permit for an accessory structure in excess of 1,000 square feet at 4124 Thomas Ave.

Recommendation  Adopt the resolution approving the request

Proposal

The property owners, Nicholas and Stephanie Gerten, recently purchased the property at 4124 Thomas Avenue. While gathering the necessary information for the submittal of a building permit application, it was discovered that a storm sewer pipe bisects the property. Restoration work appearing in aerial photography suggests that the pipe was installed in the early 1970s, but the city does not have a recorded easement over the pipe.

The property owners are proposing to construct a 1,500 square foot accessory structure, with an 8-foot overhang, in the southwest corner of the property. The structure would be constructed into the hill and would have a code-defined building height of 10.5 feet.

Accessory structures in excess of 1,000 square feet are conditionally-permitted uses in residential districts. Accessory buildings 1,000 square feet and smaller, require an administrative building permit.

Planning Commission Hearing

The planning commission considered the request on Oct. 3, 2019. The commission report, associated plans, and meeting minutes are attached.

Staff recommended approval, finding:

- The city does not have a record of a recorded easement over the existing five-foot deep storm sewer pipe. For a pipe of this depth, the city would typically reserve ten feet on either side of the pipe to ensure adequate room to repair, maintain, or replace the pipe as needed. The 10-foot area is illustrated in yellow in the above image. But for two small intrusions, the property owner has located the accessory structure outside of the maintenance area. The public works department has been consulted on the proposed location of the structure and found it to be reasonable.

- While the front of the structure – as viewed from the street – would be roughly 24 feet tall from grade to the roof peak, the structure would have a code-defined height of 10.5 feet. This is due to the accessory structure being “set into” the hill in the rear of the property. By city code, the building height is measured from grade to the midpoint of the roof. When the
grade changes within the footprint of a building – and that change is 10 feet or less – height is measured from the highest grade to the midpoint.

- The structure would meet all of the conditional use permit standards outlined in city code, including setback requirements.

- At the commission meeting, a public hearing was opened to take comments, and three residents appeared to speak. These residents/owners generally expressed concern related to the size, design, and location of the structure.

Following the public hearing, the commission asked questions about the proposal and generally discussed:

- The large size and use of the structure;
- The design of the structure in relation to the existing home; and
- The conditional use permit standards.

**Planning Commission Recommendation**

On a 6-1 vote, the commission recommended that the city council approve the proposal. The meeting minutes are attached.

**Since Planning Commission Hearing**

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

**Staff Recommendation**

Staff recommends the adoption of the resolution approving a conditional use permit for an accessory structure in excess of 1,000 square feet at 4124 Thomas Ave.

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

Originator: Ashley Cauley, Senior Planner
Location Map

Project: Gerten Residence
Address: 4214 Thomas Ave
MINNETONKA PLANNING COMMISSION
Oct. 3, 2019

Brief Description  Conditional use permit for an accessory structure in excess of 1,000 square feet at 4124 Thomas Ave

Recommendation  Recommend the city council approve the request

Introduction
Nicholas and Stephanie Gerten recently purchased the property at 4124 Thomas Ave. The property is 0.95 acres (41,700 square feet) in size and is improved with a single-family home.

The property owners were gathering the necessary information in order to submit a building permit application when it was discovered that a storm sewer pipe bisects the property. Restoration work appearing in aerial photography suggests that the pipe was installed in the early 1970s. The city currently does not have a recorded easement over the pipe.

Proposal
The property owners are proposing to construct an accessory structure in the southwest corner of the property. The structure would be 1,500 square feet in size with an 8-foot overhang along the north side of the structure. The existing driveway would be extended to provide access to the new structure.

The structure would be constructed into the hill in the rear of the property and would have a code-defined building height of 10.5 feet.

The proposal requires a conditional use permit to allow an accessory structure in excess of 1,000 square feet in size.
Staff Analysis

Staff finds that the applicant’s proposal is reasonable as:

- The city does not have a record of a recorded easement over the existing five-foot deep storm sewer pipe. For a pipe at this depth, the city would typically reserve ten feet on either side of the pipe to ensure enough room to repair, maintain or replace the pipe as needed. This 10-foot area is illustrated in yellow in the above image. But for two small intrusions, the property owner has located the accessory structure outside of this maintenance area. Both engineering and public works are comfortable with the location of the proposed structure in relation to the pipe.

- While the front of the structure – as viewed from the street – would be roughly 24 feet tall from grade to the peak, the structure would have a code-defined height of 10.5 feet\(^1\). This is due to the accessory structure being “set into” the hill in the rear of the property.

- The structure would meet all of the conditional use permit standards outlined in city code, including setback requirements.

Staff Recommendation

Recommend that the city council adopt the resolution approving a conditional use permit for an accessory structure in excess of 1,000 square feet at 4124 Thomas Ave.

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

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\(^1\) By City Code §300.02 building height is defined as the vertical distance between the ground elevation abutting a building and the midpoint of the highest gable of a pitched or hipped roof, the deck line of a mansard roof, or the highest point of a flat roof or a parapet wall. The ground elevation used to measure building height will be selected from one of the following, whichever results in the greater height:

a) When the change in grade within the footprint of the building is equal to or less than 10 feet, highest ground elevation abutting the building will be used.

b) When the change in grade within the footprint of the building is greater than 10 feet, an elevation 10 feet above the lowest ground elevation abutting the building will be used.
Supporting Information

Project No. 19040.19a

Property 4124 Thomas Ave

Applicant Property owner, Nicolas Gerten

Surrounding Land Uses All surrounding properties are zoned R-1, guided for low density residential and improved with single family homes.

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

Storm sewer The city does not currently have an easement over the storm sewer pipe. The city and the property owners may choose to continue conversations regarding a potential easement in the future.

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

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

The proposal would meet the general conditional use permit standards as outlined in City Code §300.16 Subd. 3(f) for detached garages, storage sheds, or other accessory structures in excess of 1,000 square feet or 12 feet in height:

1. side and rear setbacks equal to the height of the structure or 15 feet, whichever is greater;
   
   **Finding:** The structure would have a code-defined height of 10.5 feet and would be set back 15 feet from the property line. This complies with this standard.

2. no additional curb cuts to be permitted;
   
   **Finding:** Access to the structure would be via an extension from the existing driveway. No additional curb cuts are proposed.
3. not to be used for commercial activities;

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

4. structure to be architecturally consistent with the principal structure;

Finding: The intent of this standard is to ensure that accessory structures within residential zoning districts appear to be residential in nature. While the structure may have a different architectural form than the existing home, the structure would incorporate similar materials as the existing home. Staff finds that the design is residential in nature and would meet this standard.

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

Finding: The structure would be reasonably screened by existing topography and vegetation along the property line.

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

Finding: The structure would meet the site and building plan standards as outlined in city code.

Review

The city’s planning, building, engineering, natural resources, fire, and public works staff have reviewed this proposal to ensure general consistency with the city’s water resources management plan and applicable codes and ordinances. Any concerns raised by staff during this review have already been addressed or have been included as conditions of approval in the staff drafted resolution. The proposal will require a building permit, at which time a more thorough review by staff will occur, and staff will ensure that any conditions of approval are addressed.

Natural Resources

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

Pyramid of Discretion

[Diagram with description: This proposal]
### Voting Requirement

The planning commission will make a recommendation to the city council. Both the commission’s recommendation and the city council’s final approval require an affirmative vote of a simple majority.

### Motion Options

The planning commission has three options:

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

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

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

### Neighborhood Comments

The city sent notices to 20 area property owners and received no comments to date.

### Deadline for Decision

Jan. 10, 2020
Gerten Accessory Building

4124 Thomas Avenue
Minnetonka, MN

Submitted by Applicant.

Overhang
Accessory structure

2-ft intrusion
1-ft intrusion
To: Planning Commission

From: Loren Gordon, AICP, City Planner

Date: Oct. 3, 2019

Subject: Change Memo for the Oct. 3rd Planning Commission Agenda

AGENDA

The original agenda posted has an incorrect staff recommendation for item 8C, the Chipotle request. Please correct as follows:

Recommendation: Adopt the resolution approving denying the request

The agenda notes an incorrect project planner for the item 8D, the Verizon request. Please correct as follows:

Project planner: Ashley Cauley, Susan Thomas

ITEM 7A – Sponsler & Alsdurf Residence, 18908 Shady Lane

This item has been pulled from the agenda at the request of the applicant. Revised plans will be submitted and the application placed on an upcoming agenda.

ITEM 8A – Truax Residence, 3217 Larchmore Ave.

Please add the following condition to page 3 of the resolution:

2. Prior to issuance of a building permit:
   a) This resolution must be recorded with Hennepin County.
   b) Submit a revised survey showing the proposed addition, driveway and turn around area (if any).

ITEM 8B – Gerten Residence, 4124 Thomas Ave.

The attached comments were received after the distribution of the packet.
Hallo Ashley:

I received your flyer re the project today
I hereby veto the project
I am the owner of 4112 Thomas ave
I am building g a 600000 house plus land=800000 there. Plans are already approved
and a form of semi commercial project would diminish my future property value
It is also not clear if there is living space planned for the project which would go against the
building guidelines for this area which only allows 1 house per lot

Please respond after your vacation via email or at [REDACTED]

Thank you

Dean peter
I received notice of the Gerten Residence accessory structure public hearing by mail on Monday night. I have several objections to the proposal and wish to have these objections put on the record for the planning commission meeting scheduled for October 3, 2019. There was no notice given to neighbors prior to the mailed notice of the hearing, either by Mr. Gerten or the city, and the information and time available for neighbors to respond has been minimal. This proposal appears to be the first thing that Mr. Gerten did following his purchase of the property.

Based on the plans shown on the city website, the proposed structure has a footprint that is larger than his entire house, including the attached garage. It is a two story structure that is 24 feet tall and cannot be considered simply a garage. My property is adjacent to Mr. Gerten’s property with our backyards meeting. Again, based on the plans, it appears that this structure will cover almost one-half of the length of my backyard, with the balance of my backyard being next to a long driveway. The view from my entire house will therefore be no longer green space, but a building bigger than my house, and a driveway. This will cause a decrease in the value of my property and certainly diminishes my enjoyment of the property I have owned for 26 years. This size of structure is more appropriate for a rural property of several acres, not a residential lot in Minnetonka.

The existence of this building on what is currently grass and trees will reduce the amount of rainwater that can be absorbed by the property, and will increase the amount of water that will be entering the storm sewers. Several years ago, Minnetonka undertook a plan to reduce the amount of such runoff into the sewer system, and I believe that this is a consideration in evaluating this proposal. There is also no assurance that the natural course of the water downhill will be maintained and that water will not be diverted to my property.

I am also concerned as to the use of this building. If Mr. Gerten is going to be using it for construction work, there are additional concerns that I have regarding noise, light pollution, and a loss of the quiet use of my property. I am asking that the planning staff, and members of the planning commission come to view the property, including my home, before the planning commission meeting so that they have a sense of the scope of the project beyond just looking at the plans submitted by the applicant. I will be happy to schedule any time that is convenient to meet with you to view the properties.

Theresa Kowalski
Good day,

I am writing in response to the notice I received about the upcoming meeting on Oct 3. I hope to attend because the new owner of the property next to mine (Nick Gerten, 4124 Thomas Ave.) has applied for a variance to build a 1500 square foot shop in his back yard.

I have several concerns.

This building, if allowed, would be very large and would forever change the view from my house.

Along with the driveway required to get to this new building, it will change water runoff in the area.

I was told by the new owner that he was going to "build a garage" in the back yard. The drawing that I see does not look like a garage. It is a two story, 30 x 50 foot building, possibly to provide space to support his business?

I would have no problem with anyone adding a garage to their property, but that is not what this appears to be.

Lastly, there is something in the plan called "proposed utility easement" which looks as if it runs through my property at 15004 Belvoir Drive.

I don't understand this part of it, but I hope to make it to this meeting to learn more and possibly add to the meeting.

Thank you for your concern,

Craig J Faber
15004 Belvoir Drive
Ashley Cauley

From: Dianne & John Thomas >
Sent: Wednesday, October 2, 2019 7:14 PM
To: Ashley Cauley; Bob Ellingson
Subject: Gerten Residence 4124 Thomas Avenue

Ashley & Bob,

I am unable to attend the meeting on Thursday regarding the new accessory building Mr. Gerten wants to build in his backyard. I don’t think the council should approve this building because it is larger then the house on that property and when the 4038 Thomas Avenue property sold you only approved one house on that lot and it is larger then the 4124 lot. It also looks more like a small business building then an extra garage and this neighborhood does not need a small business running out of this neighborhood and the street is to narrow for extra vehicles parked on this street.

Please do not approve the building.

Thank you.
Dianne

Dianne & John Thomas
B. Conditional use permit for a structure in excess of 1,000 square feet at 4124 Thomas Ave.

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

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

Powers asked if the proposed structure would be located over the stormsewer pipe. Cauley answered in the negative. Engineering and public works staff are comfortable with the building having two small point intrusions into the stormsewer pipe maintenance area.

Hanson asked if moving the structure was considered. Cauley explained that the proposed location is a compromise. The original location would have been above the stormsewer pipe. The property owner worked with staff to move the proposed building to a suitable location outside most of the pipe’s maintenance area.

Luke confirmed with Cauley that the proposal meets all city requirements except that the square footage exceeds 1,000 feet, so the proposed building would be allowed if it would meet all conditional use permit standards.

Sewall confirmed with Cauley that a commercial business would be prohibited from operating in the proposed structure.

In response to Henry’s question, Cauley answered that a living space would not be allowed in the proposed accessory structure.

Nicholas Gerten, 4124 Thomas Ave., applicant, stated that he would not operate a commercial business in the proposed building. He works as a contractor out of a one-car garage. He has no plans of expanding that. He was not sure what would be done with the second level. It made sense to add that space to this type of building. When he purchased the property, he met with staff to find out what would be possible. He received the all clear from staff. When his surveyor visited the site, the surveyor noticed the manhole and sewer pipe. The compromise that made the most sense is the proposed location.

In response to Powers’ question, Mr. Gerten stated that the building would provide room for him and his kids to do hobbies including welding, woodworking and automobile maintenance.

In response to Luke’s question, Mr. Gerten answered that there is a hedge on one side that would block the view from the adjoining neighbor.
In response to Powers’ questions, Mr. Gerten stated that there would probably be a motion light on the front. The walls would be insulated and sheet rocked. Nothing would create loud noise. He has two small children.

Mr. Gerten stated that there would be no drainage issues. His property is the lowest in the area.

Chair Kirk asked if another roof design had been considered to decrease the mass of the building. Mr. Gerten explained that a gamble roof is a very efficient way to gain space. The overhang off of one side would break-up the height. The grade increase on the left side would break-up the view on that side.

The public hearing was opened.

Terry Kowalski, 15014 Belvoir Drive, stated that:

- She provided written comments already given to commissioners.
- Her house is adjacent to the site.
- She would view a 24-foot tall building instead of a back yard through some pine trees. She is not happy that he wants to “replicate a rural-area building.”
- She received no communication from Mr. Gerten.
- Mr. Gerten offered to install a fence if the row of lilacs would not be sufficient, but that would make her feel “boxed in.”
- She requested that the application be denied. A garage could be built next to the house and not in her sight lines.
- She did not want the second story on the proposed structure.

Bill Fuller, 14920 Belvoir Drive, stated that:

- The structure would be huge.
- His porch looks into the applicant’s garage.
- He did not want to hear noise.
- A 1,500-square-foot structure seems a little bit odd.

James Besonen, 4104 Thomas Ave., stated that:

- He wanted to build a building like the proposal. His builder told him that he had to stay within 1,000 square feet in size. His builder told him that the height restriction would prevent the gable roof. He built a 1,000 square-foot garage. He does welding and wood-working and has room for six vehicles.
- He questioned why the rules were created.
- The applicant would still “get his money back” if the building would be 1,000 square feet in size. He made a good investment and his garage blends into the neighborhood.
- The property next to the applicant’s property is a little lower.
- He supports a 1,000-square-foot garage that would meet the rules.

No additional testimony was submitted and the hearing was closed.

Henry asked for staff’s rationale for recommending approval of a conditional use permit for the proposal. Cauley explained that structures up to 1,000 square feet are allowed with a building permit. Structures over 1,000 square feet are allowed with a conditional use permit that requires certain standards to be met and city council approval. Staff found that the proposal meets all of the conditional use permit standards provided in city ordinances and listed in the staff report.

Sewall confirmed with Cauley that a very large house could be built on an acre-size lot.

Knight asked if the city has a restriction on the size of an accessory structure in relation to the size of the principle house. Cauley answered in the negative. She explained that she researched similar proposals and found that over the last five years, the city has approved ten structures ranging in size between 1,300 square feet and 2,500 square feet on sites ranging from half an acre to four and a half acres in size.

Henry confirmed with Cauley that locating an accessory structure on the existing driveway nearer to the house would cause more tree loss and encroach further into the maintenance area of the sewer pipe.

Chair Kirk noted that there is no protected view requirement in regard to making land use decisions. He confirmed with Cauley that staff found that the structure would meet all conditional use permit standards. Thomas pointed out the standards listed on Page 3 of the staff report.

Hanson clarified with Cauley that the proposal meets all setback requirements and does not require a variance for approval.

Sewall noted that it is not within the commission’s purview to consider what a space would be used for as long as ordinances regarding the type of use would be followed. He felt the building would be too big, but it meets all of the conditional use permit standards so he supports staff’s recommendation.

Hanson noted that the proposal meets the guidelines and rules for a conditional use permit. He encouraged the property owner to be an active communicator with neighbors.

Powers will reluctantly vote to recommend that the city council approve the proposal.
Luke thought the proposed structure would not look like the principle residence. It would not fit in the neighborhood. There are other options. The cost per square foot does not matter.

Henry did not think the proposal would be in keeping with the architectural style of the principle structure. He would not support it because of that issue.

Knight thought the appearance of the building would be cute if it would be smaller. In this case, it would look like a barn. He would support the application because it does meet the conditional use permit standards. He would like councilmembers to consider an alternative.

Sewall noted that the neighbor opposes a fence. He agreed that a fence would be unsightly.

Chair Kirk noted that the applicant changed the location of the structure to follow the rules. He encouraged councilmembers to take a look at the rules if that would help the next similar proposal result in a better outcome. He noted that if the structure had been there for 100 years and the property owner wanted to tear it down, residents would be upset. It would be difficult to defend not seeing the similar characteristics of the proposed structure and the principle, residential structure. He supports staff’s recommendation.

_Powers moved, second by Sewall, to recommend that the city council adopt the resolution approving a conditional use permit for an accessory structure in excess of 1,000 square feet at 4124 Thomas Ave._

Knight, Luke, Powers, Sewall, Hanson, and Kirk voted yes. Henry voted no. Motion carried.

Chair Kirk stated that this item is scheduled to be reviewed at the city council meeting on Oct. 28, 2019.
Resolution No. 2019-

Resolution approving a conditional use permit for an accessory structure in excess of 1,000 square feet at 4124 Thomas Ave

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

Section 1. Background.

1.01 Property owners, Nicholas and Stephanie Gerten, are requesting a conditional use permit to construct a 1,500 square foot accessory structure, with an 8-foot overhang, at 4124 Thomas Avenue.

1.02 The property is legally described as:

Lot 7, Block 2, First Subdivision Williston Park Acres, Hennepin County, Minnesota.

1.03 On Oct. 3, 2019, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. Standards.

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

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

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

Section 3. Findings.

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

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

1. The structure would have a code-defined height of 10.5 feet and would be set back 15 feet from the property line. This complies with this standard.
2. Access to the structure would be via an extension from the existing driveway. No additional curb cuts are proposed.
3. As a condition of this resolution, the structure cannot be used for commercial activities.
4. While the structure may have a different architectural form than the home, the structure would incorporate similar materials as the existing home. The design is residential in nature.
5. The structure would be reasonably screened by existing topography and vegetation along the property line.
6. The structure would meet the site and building plan standards as outlined in the city code.

Section 4. City Council Action.

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

1. This resolution must be recorded with Hennepin County.
2. The building must comply with all requirements of the Minnesota state building code, fire code, and health code.
3. The accessory structure cannot be used for commercial activities.
4. 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 Oct. 28, 2019.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

**Action on this resolution:**

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on Oct. 28, 2019.

Becky Koosman, City Clerk