Agenda
Minnetonka City Council
Regular Meeting, Monday, September 14, 2015
6:30 P.M.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Wiersum-Bergstedt-Wagner-Ellingson-Allendorf-Acomb-Schneider
4. Approval of Agenda
5. Approval of Minutes: August 31, 2015 regular meeting
6. Special Matters: None
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases: None
10. Consent Agenda - Items Requiring a Majority Vote:
   A. Resolution approving the preliminary and final plat of MEETING RIDGE, a two-lot subdivision at 2360 Meeting Street
   B. Resolution approving the final plat of BUCKMAN ADDITION at 15700 Highwood Drive
11. Consent Agenda - Items Requiring Five Votes: None
12. Introduction of Ordinances:
   A. Items concerning Williston Woods West, at 5431 and 5439 Williston Road:
      1) Ordinance rezoning properties from R-1 to PUD;
      2) Master development plan;
      3) Site and building plan review;
      4) Preliminary plat.
Recommendation: Introduce the ordinance and refer to the planning commission (4 votes)

13. Public Hearings:
   A. Resolutions approving a vacation of right-of-way easements and final plat for SAVILLE WEST, a 12-lot subdivision at 5290 & 5300 Spring Lane, 5325 C.R. 101, 5301 & 5311 Tracy Lynn Terrace, and an unassigned address
      Recommendation: Hold the public hearing and adopt the resolutions approving the vacations and final plat (5 votes)
   B. On-sale wine and on-sale 3.2 percent malt beverage liquor licenses for Cheers Pablo Twenty Three Holdings LLC (Cheers Pablo), 13027 Ridgedale Drive
      Recommendation: Continue the public hearing and grant the licenses (5 votes)
   C. On-sale liquor licenses for Three Amigos Minnetonka, L.L.C. (Salsa A La Salsa)
      Recommendation: Continue the public hearing and grant the licenses (5 votes)
   D. Southwest Light Rail Transit (Green Line Extension) Revised Preliminary Design Plans
      Recommendation: Hold the public hearing and adopt the resolution (4 votes)
   E. Items concerning Marshes of Meadowwoods:
      1) Preliminary and final plat for Marshes of Meadowwoods 2nd Addition
      2) Vacation of easements
      3) Amendment of stewardship fund contributions
      Recommendation: Adopt the resolution approving the request (5 votes)

14. Other Business:
   A. Items concerning a licensed daycare facility at 14730 Excelsior Boulevard:
      1) A conditional use permit; and
      2) Final site and building plans
      Recommendation: Adopt the resolution approving the conditional use permit and plans (4 votes)
B. Preliminary plat of RIDGEMOUNT COVE, with lot width at setback variances, at 12601 Ridgemount Avenue

Recommendation: Adopt the resolution denying the proposed plat (4 votes)

C. Concept plan review for Villa West

Recommendation: Discuss concept plan with applicant. No formal action required.

D. Concept plan for redevelopment of the property located at 10101 Bren Road E

Recommendation: Discuss the concept plan with applicant. No formal action required.

E. Items related to the 2016 preliminary tax levy:

1) Resolution setting a preliminary 2015 tax levy, collectible in 2016, and preliminary 2016 budget

2) Resolution setting a preliminary 2015 tax levy, collectible in 2016, for the Bassett Creek Watershed Management Tax District

Recommendation: Adopt the resolutions (4 votes)

15. Appointments and Reappointment: None

16. Adjournment
Minutes  
Minnetonka City Council  
Monday, August 31, 2015

1. Call to Order

Schneider 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 Patty Acomb, Brad Wiersum, Tim Bergstedt, Tony Wagner, Dick Allendorf and Terry Schneider were present. Bob Ellingson was excused.

4. Approval of Agenda

Wiersum moved, Wagner seconded a motion to accept the agenda with an addendum to item 10E. All voted “yes.” Motion carried.

5. Approval of Minutes: August 17, 2015 meeting

Bergstedt moved, Allendorf seconded a motion to approve the August 17, 2015 minutes. All voted “yes.” Motion carried.

6. Special Matters: None

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on the schedule for upcoming council meetings.

Wagner reported he attended a meeting about the proposed Highway 169 reconstruction area. Residents near the 16th Avenue exit that is proposed to be closed, expressed concern about the closure. Staff is working with MnDOT to hold a public meeting for Minnetonka residents.

8. Citizens Wishing to Discuss Matters not on the Agenda

Ashwin Patel, 2431 Emerald Trail, said he and his neighbors would like the city to address a safety issue in the neighborhood. There is no sidewalk on Plymouth Road from Amy Lane to Hilloway Road. Because of the amount of traffic it is very dangerous to walk down to Hilloway. The neighborhood has residents of all ages. He said Wagner had notified him the cost for a sidewalk would be around
$100,000 without a simultaneous road reconstruction and about half of that amount if it was included with road reconstruction. Patel questioned what the cost would be if the city waited another five years. If done five or ten years ago, the cost would have been a lot cheaper. Because it is a county road, the group contacted Hennepin County who informed them to work with the city. He noted examples from other cities who have installed sidewalks separate of road projects. The group is looking for safe access to all the services around Ridgedale and to get to the trails.

Schneider said the council discussed the item at the recent budget study session. He said there was a general approach and philosophy of enhancing pedestrian access particularly around commercial areas. The area Patel identified would qualify. It had been a while since the council had gone through and reevaluated all the sidewalk and trail connections to reprioritize where the limited money should be spent. He said the council would have a study session in the next few months to discuss the issue. There was a possibility there may come a point in time when the council decides to do a community bond referendum to enhance community access and trails.

Wagner noted the segment was relatively easy compared to other segments that had things like retaining walls. He thought the item was worth the council’s attention with a number of young families coming into the area.

Acomb said the entire length of Plymouth Road could be looked at.

Wiersum said the idea of looking at reprioritizing the list made sense because trails had gone from being an amenity to being part of a transit solution. This would make what had been categorized as unfunded significantly different.

Barone noted the area would be included in the walkability study being done for the Ridgedale area. The park board annually reviews the trail segments so it could play a further role in the process. She said the philosophy in the past has been to construct trails as part of a road reconstruction project because of costs and what was being discussed would be a change to that philosophy. However it was known that some of the county roads that could use trails for connectivity would not be reconstructed for a long time.

9. **Bids and Purchases:**

   **A. Bids for Wells 16A and 16B**

   Barone gave the staff report.
Wiersum moved, Bergtstedt seconded a motion to award the contract, including the base bid and both alternates, to Rice Lake Construction Group in the amount of $756,200.00. All voted “yes.” Motion carried.

B. Authorize execution of solar garden subscriber contracts

Public Works Director Brian Wagstrom gave the staff report.

Wiersum asked if the three developers were working together to develop a single solar garden that the city would participate in or if they were each developing individual solar gardens with the city having a part of each. Wagstrom said the three developers were working independently and the city would have a portion of what the developers were developing.

Acomb noted carbon credits currently did not have value yet other cities had used them for improvements. She asked if the carbon credits were similar to the renewable energy credits. Swanson said there was a short period of time when the Chicago Board and Trade was trading the credits but the cost and value of the credits had gone way down. Right now Xcel Energy was giving credit of two cents per kilowatt hour for the renewable energy credits. The market currently was only at a quarter of that so the opportunity to sell the credits was limited.

Allendorf said a recent media article indicated the developers were having difficulty finding land upon which to develop. He asked where the three developers were in the process of finding the land upon which the solar gardens will be developed. Gary Swanson, Energy Management Solutions, said all the developers went through a vetting process to determine that they were financially sound and had land that was selected for the sites. Each of the developers had selected the land, had permits in place with the landowners, and had submitted the gardens to Xcel Energy. The process requires them to submit $100,000 as a placeholder for the individual gardens. Allendorf asked if the various counties and municipalities had given approval. Swanson said not all of the county and municipality approval process had been completed. Also, no one had yet received the interconnection agreement with Xcel Energy.

Schneider indicated if any of the three developers did not achieve their end goal, the agreement provided that the city would not get the value of the savings but would not lose anything by participating in the process. Wagstrom confirmed that was correct. The only thing the city would lose would be the time involved. Schneider said his only concern related to actually getting the lines connected or qualifying for the credits by the end of 2016. He asked if a final interconnection agreement with Xcel met the requirement for the tax credit or if the connection to the grid had to be in place in order to qualify.
Swanson said the majority of the plant had to be connected to the grid by the end of 2016 in order to qualify for the tax credit. Xcel Energy had committed as part of the Public Utilities Commission negotiations to turn around the interconnection agreements within 50 days. He said there was a very high likelihood the agreements would be approved at a very low cost. Schneider said the one major caveat was Xcel performing in a timely manner to get the connections to happen. There also was the possibility the tax credit would be extended.

Acomb moved, Wagner seconded a motion to execute contracts with Innovative Power Systems, Solar Stone and TruNorth Solar, subject to approval of the final language by the city manager and city attorney. All voted “yes.” Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolutions pertaining to levying the 2015 Special Assessments

Allendorf moved, Wagner seconded a motion to adopt resolution 2015-065 for project No 4894 (1-year). All voted “yes.” Motion carried.

Allendorf moved, Wagner seconded a motion to adopt resolution 2015-066 for project No 4894 (3-year). All voted “yes.” Motion carried.

Allendorf moved, Wagner seconded a motion to adopt resolution 2015-067 for project No 4894 (5-year). All voted “yes.” Motion carried.

Allendorf moved, Wagner seconded a motion to adopt resolution 2015-068 for project No 4894 (10-year). All voted “yes.” Motion carried.

Allendorf moved, Wagner seconded a motion to adopt resolution 2015-069 for project No 4902 (1-year). All voted “yes.” Motion carried.

Allendorf moved, Wagner seconded a motion to adopt resolution 2015-070 for project No 4902 (3-year). All voted “yes.” Motion carried.

Allendorf moved, Wagner seconded a motion to adopt resolution 2015-071 for project No 4902 (5-year). All voted “yes.” Motion carried.

Allendorf moved, Wagner seconded a motion to adopt resolution 2015-072 for project No 4902 (10-year). All voted “yes.” Motion carried.

Allendorf moved, Wagner seconded a motion to adopt resolution 2015-073 for 2015 city court fines, Project No. 1020 (1-year). All voted “yes.” Motion carried.
B. **Amendment to the conservation easement for 1906 Linner Woods Court**

Allendorf moved, Wagner seconded a motion to approve the amendment. All voted “yes.” Motion carried.

C. **Resolution approving the final plat of Applewood Pointe of Minnetonka**

Allendorf moved, Wagner seconded a motion to adopt resolution 2015-074 approving the final plat received August 25, 2015 subject to conditions. All voted “yes.” Motion carried.

D. **Amendment of the On-sale liquor license for Redstone American Grill, Inc. 12401 Wayzata Boulevard**

Allendorf moved, Wagner seconded a motion to approve the amendment to the liquor license. All voted “yes.” Motion carried.

E. **Resolution ordering the abatement of nuisance conditions existing at 3348 Plymouth Road**

Wagner moved, Wiersum seconded a motion to postpone the item until September 28, 2015. If item is resolved before then, no further council action is required. All voted “yes.” Motion carried.

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

12. **Introduction of Ordinances:** None

13. **Public Hearings:**

A. **On-sale licenses for Kona Sushi, inc. (Kona Grill), 12401 Wayzata Boulevard**

Barone gave the staff report.

Schneider closed the public hearing at 7:13 p.m.

Wiersum said he was impressed by Kona Grill’s management plan related to the sale of liquor. He thought they did a thorough job that could act as a model for others.
Wiersum moved, Acomb seconded a motion to grant the license. All voted “yes.” Motion carried.

B. On-sale liquor license for Nordstrom, Inc. (Nordstrom Ruscello)

Barone gave the staff report.

Kate Becker, the attorney working with Nordstrom on the application, introduced Karen Ingram from Nordstrom Ruscello. Ingram said the restaurant would be Mediterranean inspired with salads and sandwiches. The food would have a one day shelf life. She said she was well versed in responsible alcohol service. She was excited about the restaurant.

Schneider closed the public hearing at 7:17 p.m.

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

C. On-sale liquor licenses for Three Amigos Minnetonka, LLC (Salsa A La Salsa)

Barone gave the staff report.

Allendorf moved, Acomb seconded a motion continue the public hearing to September 14, 2015. All voted “yes.” Motion carried.

14. Other Business:

A. Items regarding private fire hydrants
   1. Ordinance regarding private fire hydrants
   2. Resolution adopting Council policy 12.9 regarding maintenance of fire protection water supplies

Barone gave the staff report.

Heine responded to a question Allendorf had raised at a prior meeting related to the responsible party for payment in a condominium association situation. She said state law provides that for the common elements owned by a condominium development or planned community, the assessment had to be divided among all the units. The condominium association would be billed if payment was not received or if the association requested the amount be assessed.

Bergstedt said the city had worked diligently over the past couple of years to make sure that 100 percent of publically owned and maintained fire
hydrants were operational. The one grey area had been with privately owned hydrants. There was agreement that the public safety could not be split between the public and private sectors because when the hydrants are needed by the fire department, there had to be certainty they were working. He said the ordinance and policy went toward achieving that.

Allendorf said the staff report indicated that 577 fire hydrants had been identified as privately owned. He asked if the owners would be notified about the policy. Barone said notice would be sent to the owners and the ordinance did not become effective until January 1, 2016 to give the city time to work on the necessary administrative procedures. Allendorf said when the item was last discussed it was noted that many of the associations do not even know that the hydrants are privately owned. He said hopefully with approval of the policy, the associations would now know about the privately owned hydrants.

Wiersum asked if the ordinance provision providing for the transfer of private ownership to public ownership came with no cost to the property owner. Wagstrom said it depended on how clearly the city could determine if a hydrant was publically or privately owned. There were a number of hydrants where it was not clear. The approach would be if the city could not prove a hydrant was privately owned the assumption would be it was publically owned. Wiersum said it was a great policy to provide an inducement to transfer ownership of a private hydrant to the city.

Schneider said the discussion had been there should not be privately owned hydrants and the city needed to work toward full ownership. There likely would be a cost associated with acquiring the rights and replacing the hydrants that are not in working condition. The incentive for a property owner to transfer ownership would be the annual costs for inspection and maintenance. It was likely property owners would not want to continue the ownership of a hydrant so if the city could make the transition easy and fair it would go a long way toward full public ownership. His one concern was the requirement of the property owner to grant a utility easement over the right of way not just for the fire hydrant but also for the water line. In many situations involving an association in order to get a formal easement recorded it required agreement from all the individual owners and their mortgage companies. This could be difficult if not impossible. He suggested rather than requiring a formal utility easement, that language be added to allow a similar agreement that provided the same rights. Heine said her discussions with Wagstrom were that the city would only get control of the hydrant itself up to the gate valve and not all the piping. She said every circumstance would need to be looked at individually. Schneider said the piping leading to the hydrant had to be maintained in order for it to work and if the city was starting from scratch the service to
the hydrant would be maintained by the city. Wagstrom said the idea was to control the city’s exposure by limiting the city’s responsibility at least from the gate valve to the hydrant. Without knowing the amount of pipe lying underneath private property he would be a little hesitant to take on that exposure and potential replacement of the pipe. Schneider said he agreed with looking at each situation on a case by case basis. Wagstrom said there would be discussions with the owners to find a happy medium.

Heine said the policy provided the flexibility about the easements that Schneider had mentioned. It specifies the city manager was authorized to enter into an agreement that included the conveyance of the facilities. In many of the townhome and condominium situations she expected many of the hydrants to be located on common elements. State statute specifically allows associations to convey public easements for public purposes over common elements. Wagstrom said the good news was there were a lot of private hydrants in the Opus area that the fire chief indicated could currently not be accessed because the area was designed for fire trucks to get access by driving on the trails. Many of the bridges did not allow that. Many of these hydrants would be eliminated.

Wiersum moved, Wagner seconded a motion to:
1. Adopt ordinance 2015-14 regarding private fire hydrants
2. Adopt resolution 2015-075 adopting council policy 12.9 regarding the maintenance of fire protection water supplies. All voted “yes.” Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

   Wiersum moved, Wagmer seconded a motion to adjourn the meeting at 7:34 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
Brief Description  Resolution approving preliminary and final plat of MEETING RIDGE, a two-lot subdivision at 2360 Meeting Street

Recommendation  Adopt the resolution approving the preliminary and final plats

Proposal

Estate Development Corporation is proposing to divide an existing 1.8-acre property on the west side of Meeting Street into two, single-family residential lots.

Planning Commission Hearing

The planning commission considered the subdivision proposal on August 27, 2015. The staff report from that meeting is attached and various plans and documents describing the proposed project may be found on pages A1–A11. Staff recommended approval of the subdivision, noting:

1. The proposed lots would meet minimum R-1 lot standards.
2. The generalized grading plan would result in tree removal less than that allowed by the tree ordinance.
3. The proposed subdivision would be consistent with the Meeting Street general development plan developed by city staff in the mid-1990s.

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

Planning Commission Recommendation

On a 6-0 vote, the commission recommended that the city council approve the subdivision. Meeting minutes may be found on page A16.

Since Planning Commission Hearing

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

Staff Recommendation

Adopt the resolution approving the preliminary and final plats of MEETING RIDGE. (See pages A12–A15.)
Through:    Geralyn Barone, City Manager  
           Julie Wischnack, AICP, Community Development Director

Originator: Susan Thomas, AICP, Principal Planner
MINNETONKA PLANNING COMMISSION
August 27, 2015

Brief Description
Preliminary and final plat of MEETING RIDGE, a two-lot subdivision at 2360 Meeting Street

Recommendation
Recommend the city council adopt the resolution approving the preliminary and final plats.

Introduction
The 1.8-acre subject property is located on the west side of Meeting Street. The property is improved with an approximately 3,100 square foot home, which is situated at the highest point of the lot. The property slopes downward in all directions from the home; the grade change over the lot is 24 feet. The property contains several mature trees including a variety of oaks. (See pages A1–A2.)

Proposal
Estate Development Corporation is proposing to divide the property into two, single-family residential lots. The existing home would be removed and two new homes constructed. The applicant is requesting approval of both preliminary and final plats. (See pages A3–A5.)

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

- Are the proposed lots reasonable?
  Yes. The proposed subdivision would result in two properties meeting and exceeding minimum R-1 lot standards.

- Would the proposal meet the tree ordinance?
  Yes. The property does not contain a woodland preservation area. However, it does contain 35 high-priority trees. Based on the generalized grading plan submitted by the applicant, 12 high priority trees – or 34 percent – would be removed or significantly impacted. This would meet the tree preservation ordinance. (See pages A6–A7.)
Staff Comment

Meeting Street was originally developed as private roadway surrounded by large estate lots served by private wells and septic systems. In the mid-1990s several residents of the area petitioned the city to upgrade the road to a public street and to install public utilities. As part of the public project – to anticipate future utility use and calculate construction cost dispersal among property owners – city staff drafted a general development plan for the area illustrating future subdivision of the large estates. The plan suggested that the subject property would ultimately be divided into two lots. (See page A8.) The applicant’s proposal generally reflects this decades-old plan.

Staff Recommendation

Recommend that the city council adopt the resolution approving the preliminary and final plats of MEETING RIDGE. (See page A12–A15.)

Originator: Susan Thomas, AICP, Principal Planner
Supporting Information

**Surrounding Land Uses**
- Northerly: Single-family homes
- Easterly: Single-family homes
- Southerly: Single-family homes
- Westerly: Single-family homes

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

**Lot Standards**

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All numbers rounded down to nearest 5 FT or 5 SF

**Steep Slope**
By city code definition, a “steep” slope is one that: (1) rises at least 25 feet; (2) has an average grade of at least 20%; and (3) has a width of at least 100 feet. While there are two areas on the site that have slopes of over 20%, the areas do not rise 25 feet and are not 100 feet in width. As such, the areas are not classified as “steep.”

**Grading**
As required by the subdivision application process, generalized home footprints, locations, and grading plans have been submitted by the applicant. Specific plans would be submitted and reviewed by staff at the time of building permit applications.

**Stormwater**
The site is located within 500 feet of a designated wetland. Given this, stormwater management in compliance with the city’s stormwater resources management plan would be required for both lots. The proposed stormwater practices would be reviewed in conjunction with the new home building permit applications.

**Trees**
The property contains several mature trees of oak, basswood, and ash varieties. At the time the application was submitted 36 of the trees were classified as high priority. A recent site visit revealed that one of the trees has been infected with Oak wilt. There are now 35 high priority trees on the property. Under the
generalized grading plans 12 high priority trees would be removed or significantly impacted. (See pages A6–A7.) Oak wilt may result in further reduction of the site’s high priority trees. A reduction through this unfortunate, though natural, cause would not be “held against” the developer/builder/future property owner. (For more information on Oak Wilt see pages A9–A11.)

It is important to note that the tree protection aspects of the tree ordinance would apply to the properties from the date of the subdivision approval until two years after issuance of a certificate of occupancy. As with any subdivision, unless wooded areas are covered by conservation easements, once a home has been occupied and unaltered for two years, a homeowner may choose to remove trees on their property without mitigation.

**Natural Resources**

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

**Motion Options**

The planning commission has three options:

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

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

**Neighborhood Comments**

The city notified 52 property owners of the proposed subdivision and has received no comments to date.

**Deadline for Action**

October 26, 2015
HIGH PRIORITY TREES
EXISTING CONDITIONS

LEGAL DESCRIPTION

NOTES

The survey and legal description were prepared by a registered surveyor.

MEETING RIDGE
2360 Meeting Street
#15023.15a

LEGEND

N

SCALE: 1" = 100'
Oak Wilt in Minnesota

David W. French
Jennifer Juzwik
Oak wilt, caused by a fungus Ceratocystis fagacearum, is responsible for killing large numbers of oaks annually in Minnesota. Oaks are undoubtedly the most valuable and plentiful of our shade trees. In contrast to Dutch elm disease, which has been very difficult to control, oak wilt can be more readily controlled and this valuable resource saved.

Oak wilt, present in many of the eastern states, is most common in the Upper Midwest, including Minnesota. It has spread very slowly north to approximately North Branch and St. Cloud and west to Mankato.

The greatest concentrations are in and adjacent to the seven-county metropolitan area surrounding Minneapolis and St. Paul (Figure 1).

![Figure 1. Distribution of oak wilt in Minnesota.](image)

### Symptoms

Red oaks, such as Northern Red Oak and Northern Pin Oak, are highly susceptible to infection by the oak wilt fungus (Figure 2). Oak wilt is easily identified in red oaks by the rapid wilting of affected trees. After symptoms first appear, a red oak will generally wilt completely in two to six weeks. The trees wilt from the top of the crown down and individual leaves wilt from leaf tip and margins to the bases, turning bronze to brown (Figure 3). Fallen leaves are often green at the base. White oaks range in susceptibility from moderate (Bur Oak) to low (White Oak) (Figure 2). Infected white oaks die slowly, a branch at a time, often surviving for many years. Leaf discoloration of affected white oaks resembles autumn colors.

In both red and white oaks, the outer ring of springwood vessels will be plugged with brown material (fyllodes and gums) and streaks of brown may be obvious on the outside of the wood. The vascular discoloration is most easily seen in cross sections of infected branches of white oaks (Figure 3), and less readily observed in affected red oak branches.

![Figure 2. The four most common species of oaks in Minnesota.](image)

### Infection Process

The oak wilt fungus spreads in two ways. Most new infections are the result of the fungus moving from infected to healthy oaks via grafted root systems, which are common. Trees as much as 50 feet apart may be grafted together. Root grafts may occur occasionally between different species of oaks.

The only way that the fungus can cross highways, rivers, and open fields is by insect vectors, primarily by sap beetles of the Family Nitidulidae. This spread occurs infrequently, but is important as the means by which new oak wilt infection centers are started. Sap beetles are commonly attracted to the sporulating mats produced by the fungus between the bark and wood of oak wilt-killed trees. These mats are commonly produced between April and late June on red oaks that wilted during the previous summer (Figure 4). This is also the same period of time that red oaks produce large springwood vessels and are particularly susceptible to infection. Several species of the same sap beetles are also attracted to fresh wounds on healthy oaks during spring (mid-April to late June). Visitation of such wounds by Ceratocystis fagacearum—contaminated beetles then results in oak wilt infection. Oak bark beetles, important oak wilt vectors in some parts of the U.S., are not considered important vectors in Minnesota.
MANAGEMENT STRATEGIES

Stopping spread of the fungus through common root systems is most important and can be done by mechanical barriers using a vibratory plow with a 5-foot blade. Barriers in the soil must be positioned outside of trees with the fungus. Often two lines are recommended: a primary line outside of apparently healthy trees and a secondary barrier outside of every obviously infected tree (Figure 5). The fungus can be in a tree for 2-3 weeks without leaf symptoms appearing. Barrier placement requires experience. If buried utilities are present, the soil sterilant, Vapam, can be used, but it is not nearly as effective as the mechanical barrier.

Overland spread by insects can be prevented by following these guidelines on when to prune and when to paint.

- **High Risk Period.** April, May and June: don’t wound or prune! If trees are accidentally wounded or pruning is unavoidable, cover the wounds immediately-within minutes-with one of the preferred materials such as water-based paint or shellac.

- **Low Risk Period.** July through October. On rare occasions depending on weather conditions and insect populations-infections may occur. Covering wounds is optional.

- **Safe Period.** November through March. This is the preferred time for pruning since the fungal pathogen and insect vectors are inactive.

- **Tree climbing irons should never be used on living oak trees.**

As further precaution, infected red oaks on which spores may form in spring (Figure 4) should be eliminated by debarking, burning, burying, or wrapping and sealing in 4-6 mil plastic until July 1. Experience is needed to detect these trees before spores are produced. The spores are carried by the sap beetles to wound oaks during May and June.

Logs from wilting, or recently wilted trees should not be moved in any form, including firewood, to areas where oak wilt is not present. Oak wilt mats may form on these logs. Long distance movement of firewood obtained from such logs has accounted for establishment of oak wilt centers in distant areas that previously had been unaffected by the disease.

In high value white oaks, systemic injection with propiconazole by qualified arborists may prevent infection of trees adjacent to oak wilt affected ones. Propiconazole treatment of white oaks exhibiting early symptoms of oak wilt (less than 30% of crown affected) can also prevent further disease development for at least 2 years.

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David W. French is a past professor of Plant Pathology and Forest Resources, at the College of Natural Resources, University of Minnesota.

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**Figure 5.** Diagram of root graft barriers around infected trees.

[Diagram of root graft barriers around infected trees]

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MI-3174-Z
Revised 1999
Resolution No. 2015-

Resolution approving the preliminary and final plats of MEETING RIDGE at 2360 Meeting Street

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

Section 1.  Background.

1.01 Estate Development Corporation has requested preliminary and final plat approval for MEETING RIDGE, a two-lot subdivision.

1.02 The property is located at 2360 Meeting Street. It is legally described as: Registered Land Survey No. 205, Tract J, Hennepin County, Minnesota.

1.03 On August 27, 2015, the planning commission held a hearing on the proposed plats. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council grant plat approval.

Section 2.  General Standards.

2.01 City Code §400.025 outlines preliminary and final plat requirements for residential subdivisions. These requirements are incorporated by reference into this resolution.

2.02 City Code §400.030 outlines design standards for residential subdivisions. These requirements are incorporated by reference into this resolution.
Section 3. Findings.

3.01 The plats meet the requirements and standards outlined in the subdivision ordinance, City Code §400.


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

1. Prior to release of the final plat for recording purposes:
   a) Submit the following:
      1) Revised final plat clearly illustrating a minimum 10-foot wide drainage and utility easement adjacent to the public right-of-way and minimum 7-foot wide drainage and utility easements along all other lot lines.
      2) Two sets of mylars for city signatures.
      3) An electronic CAD file of the plat in microstation or DXF.
      4) Park dedication fee of $5,000.
      5) Meeting Street Hookup Assessment in the current amount of $7,375.25.
      6) Hookup fee in the current amount of $17,381.15.
      7) Title evidence that is current within thirty days before release of the final plat for the city attorney’s review and approval.
   b) This resolution must be recorded with Hennepin County.

2. Prior to issuance of a building permit for each lot:
   a) Submit a letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
   b) Submit a grading and tree removal plan. The plan must be in substantial conformance with Grading and Tree Removal
Plan revised date August 5, 2015. In addition, grading on the south side of Lot 2 must be designed to direct all stormwater runoff to the rear of the property or to the street. Drainage cannot be directed to the adjacent property to the south.

c) Submit a stormwater management plan for review and approval of the city engineer.

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

e) Submit evidence of closure/capping of any existing wells, septic systems, and removal of any existing fuel oil tanks.

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

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

a) Separate sewer and water services are required for each home. If the existing sewer and water service is not used for one of the two homes, the sewer service must be removed back to the main, the wye cut out, and main sleeved. The water service must be removed back to the main and the corporation stop turned off.

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

4. Unless the city council approves a time extension, the final plat must be recorded by September 14, 2016.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 14, 2015.
Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on September 14, 2015.

David E. Maeda, City Clerk
Brief Description  Resolution approving the final plat of BUCKMAN ADDITION at 15700 Highwood Drive

Recommendation  Adopt the resolution approving the final plat

Request

On July 13, 2015, the city council approved the preliminary plat of BUCKMAN ADDITION. The plat will divide an existing property on Highwood Drive into two single-family residential lots. The property owner is now requesting approval of the final plat of BUCKMAN ADDITION. (See pages A1–A3.)

Staff Comment

Approval of the final plat is reasonable, as the submitted final plat is consistent with the previously approved preliminary plat.

Recommendation

Adopt the resolution approving the final plat of BUCKMAN ADDITION received September 4, 2015. (See pages A4–A6.)

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

Originated by:
  Susan Thomas, AICP, Principal Planner
Location Map

Project: Buckman Addition
Applicant: Linda Buckman
Address: 15700 Highwood Dr
(15019.15a)
Resolution No. 2015-

Resolution approving the final plat of
BUCKMAN ADDITION at 15700 Highwood Drive

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

Section 1. Background.

1.01 Linda Buckman has requested approval of the final plat of BUCKMAN ADDITION at 15700 Highwood Drive.

1.02 The property to be included in the plat is legally described on EXHIBIT A of this resolution.

1.03 On July 13, 2015, the city council approved the preliminary plat of BUCKMAN ADDITION.

Section 2. Findings.

2.01 The final plat meets the requirements and standards outlined in the subdivision ordinance, City Code §400.

2.02 The final plat is consistent with the previously approved preliminary plat.

Section 3. Council Action.

3.01 The city council approves the final plat of BUCKMAN ADDITION. Approval is subject to the following conditions:

1. Prior to release of the final plat for recording, submit the following:

   a) An existing utility diagram and, in the event that existing utilities cross the new property line, private utility easements for the review and approval of the city attorney.
b) Two sets of mylars for city signatures.

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

d) Park dedication fee of $5000.

2. Unless the city council approves a time extension, the final plat must be recorded by September 14, 2016.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 14, 2015.

_________________________________
Terry Schneider, Mayor

ATTEST:

_________________________________
David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on September 14, 2015.

_________________________________
David E. Maeda, City Clerk
EXHIBIT A

That part of the following described Parcel:
All that part of Lot 6, Block 4, "Tonkawood Farms", described as follows, to-wit:
Commencing at a point on the Westerly line of said lot a distance of 201.06 feet South of the Northwest corner of said lot; thence East a distance of 443.5 feet to the Easterly line of said lot; thence Southwesterly along the Easterly line of said Lot a distance of 289.08 feet to the Southeast corner of said lot; thence Northwesterly along the Southerly line of said Lot a distance of 403.35 feet to the Southwest corner of said lot; thence North along the Westerly line of said lot a distance of 175.64 feet to the point of beginning, according to the United States Government Survey thereof except the West 134.83 feet thereof, lying West of the following described line:

Beginning at the point of intersection of the South line of said Lot 6 and the West line of the East 110.00 feet of said lot; thence Northerly along said West line a distance of 73.30 feet; thence Northeastly deflecting to the right 57 degrees 49 minutes 18 seconds to the West line of the East 70.00 feet; thence Northerly along said West line to the North line of the above described Parcel.
City Council Agenda Item #12A
Meeting of September 14, 2015

Brief Description
Items concerning Williston Woods West, at 5431 and 5439 Williston Road:

1) Ordinance rezoning properties from R-1 to PUD;
2) Master development plan;
3) Site and building plan review;
4) Preliminary Plat.

Recommendation
Introduce the ordinance and refer it to the planning commission

Background
In July 2015, the city council conducted a concept plan review for redevelopment of the two existing properties at 5431 and 5439 Williston Road. As proposed, the existing structures would be removed and six new homes would be constructed. During the concept plan review the council generally expressed that such a development may provide a good transition between the commercial area to the south and east and the single-family residences to the north and west. However, some council members also generally expressed: (1) concern that the development would result in significant and undesirable impact to the sites’ existing topography and trees; (2) concern that the number of units may be too high based on the site characteristics; and (3) that the public benefit required by the planned unit development (PUD) ordinance must be met. (See pages A1–A7.)

Proposal
Lake West Development Co. LLC, has now submitted a formal application for redevelopment of the two lots. As proposed, the existing structures would be removed and six new homes would be constructed. The development would result in 3.75 residential units per acre, which is within the sites’ existing low-density guide plan designation. (See pages A9–A24.)

The proposal requires:

- **Rezoning.** The subject properties are currently zoned R-1. The applicant requests that the properties be rezoned to PUD.

- **Master Development Plan.** By city code, review and approval of a master development plan is required in conjunction with a rezoning to PUD.
- **Site and Building Plan Review.** By city code, site and building plan review is required for construction within a PUD.

- **Preliminary Plat.**

**Issue Identification**

The purpose of introducing an ordinance is to give 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 scheduled for October 15, 2015.

Based on preliminary review of the proposal, staff has identified two issues that will be particularly analyzed as the formal review continues:

- **PUD Zoning.** By city code, PUD zoning may be considered when the city finds that its use would result in one of several public benefits. The applicant has suggested that the proposal would result in: (1) greater preservation of existing trees than would otherwise be provided were the sites developed under the existing R-1 zoning; (2) a housing type that is desirable to the city; (3) an increased mix of land use types in the Glen Lake area; and (4) a variety of other goals of the Comprehensive Guide Plan. Staff will evaluate these assertions and formulate a professional opinion.

- **Site Design.** The proposed grading and resulting tree removal will be particularly reviewed for consistency with the city’s several natural resources ordinances. In addition, the number and location of vehicular access points will be reviewed.

**Staff Recommendation**

Staff recommends the city council:

1. Generally discuss the use of PUD zoning for the proposed redevelopment, thereby providing direction to city staff and the applicant.

2. Introduce the rezoning ordinance and refer it to the planning commission. (See pages A27–A30.)

3. Approve or modify the proposed notification area on page A26.
Submitted through:
   Geralyn Barone, City Manager
   Julie Wischnack, AICP, Community Development Director

Originated by:
   Susan Thomas, AICP, Principal Planner
LOCATION MAP

Project: Williston Woods West
Applicant: Lakewest Development
Address: 5431 & 5439 Williston Rd.
CONCEPT PLANS
B. Concept plan review for Williston Woods West at 5431 and 5439 Williston Road

Thomas provided the staff presentation.

Allendorf asked for more information about how the site plan would work topographically. Thomas said there was a significant drop along Williston Road going to the south. She said staff had not seen any topography or grading plans at this point. Allendorf said he wondered conceptually how the driveway would work because of the topography change.

Wiersum agreed with Allendorf’s comments about the topography. Generally he liked the plan given the Kraemer’s building would remain commercial, and the buffer would not be too dense. The most challenging issue would be the topography change and the design of the access road to the units. It may be better to have just one access point.

Bergstedt said that not only was there a steep decline on Williston Road, but also there was a severe slope on the site where the units were being proposed. If the Kraemer’s building was going to be redeveloped, he liked the detached villa idea. He thought that would function as a nice transition from commercial to mostly single family homes up and down Williston. As he walked the site he was amazed the developer thought they could get six homes on the property. He wasn’t sure six was the right number. With any private drive the city was always concerned about off street parking, snow storage, etc. He said as far as being developed under a planned unit development, the city would have to look at what the public benefit was. One argument being made as a public benefit was tree preservation and preserving the berm in the back. He viewed it more that if the berm wasn’t there the view would be of the back of the post office parking lot. No matter what, the berm was going to stay or even be enhanced. He didn’t necessarily see this as a public benefit but more a benefit to the developer and homeowners. He acknowledged because of the size of the lots, it would likely need to be a planned unit development.

Acomb asked since this was a private drive, if it could be developed as an R1-A property. Thomas said the planning commission asked the same question. The lots, as proposed, are under 15,000 square feet and therefore would be under the R1-A minimum. Acomb asked if it could be developed as an R1-A if there were fewer lots. Thomas said staff would have to look at the surrounding neighborhood but potentially R1-A could be considered if there were fewer lots. Acomb said even though it was acting as a transition from commercial to residential she would be more in favor of it being R1-A zoning rather than a planned unit development. She said there were at least one too many villas on the property given the
small setback. She was concerned about parking with some of the homes looking like they might not have enough room for two cars. She would prefer to see fewer units.

Wiersum said the detached townhome concept was one Lake West brought before the council on Minnetonka Boulevard and it was approved. Subsequently the plan did not move forward, but another plan came forward with the number of detached townhomes reduced by one. This development was under construction. He said a comparison between what was approved for that development and this plan was relevant to give a sense of scale.

Ellingson said Allendorf raised a good point about the grade changes. He thought this layout was very impractical given the grade changes. He agreed with Acomb that there were too many units.

Schneider said given the fairly heavy commercial and multi-family housing adjacent to the south and the east he thought the density and type of homes would be a great transition if it were on a relatively flat site. The challenge how to accommodate the number of units and type of design and make the transition. He didn’t think there were too many units but it would be difficult to get that many units on a site with that much grade change.

Wiersum said this plan was reminiscent of the Sanctuary, a development that was ultimately built. He has heard from constituents that parking has been and remains a big problem. The city had to be mindful that parking and access were big issues particularly in transition areas.

Allendorf said he wasn’t sure there were too many units but it depended on the size of the units and the topography. If the units were more modest and the topography taken into account, it might work. He agreed with Wiersum’s comments about parking at the Sanctuary. He thought the concept would be a great transition.

Reid Schulz, Landform Professional Services, 105 S 5th Avenue, Minneapolis, said a lot of things had developed during the time with what was happening with Kraemer’s and this site. He said some of the council’s feedback was the same as the comments from the neighborhood meeting. The topography has been looked at to determine the layout. Generally the site was going off on three different drainage directions. Lots one and two provide a nice walkout layout and the drainage heads northeast. Walking around to lots three and four is where the high point of the topography is on the site. Units four, five, and six drain off to the southwest. He said the road was placed based on the topography of the site. Williston Road going
to the north goes up hill. The northern entrance actually sits at the high point on the site. The exit point is where the current driveway is located. The access points are mimicking the two driveway points on the site. The neighbors had concerns about traffic and congestion and that was why there were two access points to give people a variety of ways to enter and exit on to the site. The idea for a planned unit development was based on preservation of trees and natural resources. A recent tree study showed a lot of the trees on the southeast part of the lot were high priority or large significant trees as well as some of the trees along Williston Road. The plan tries to preserve as many of those trees as possible.

Schulz said other uses have been looked at including three twin homes. This would require another access point on to Williston and potentially other tree impacts. R1 and R1-A zoning also were looked at. What drove them to this plan was a couple of potential builders indicating they liked the high quality villas that sell well and would be a great transition. A single builder could come in build all the units at all at once and minimize construction time. He said not only would the development be a transitional use from the residential to the north to the commercial to the south, it would also be a transitional type of use with the single family detached. Off street parking was a concern the neighbors, staff and the planning commission raised. The plan included six off street parking spots. Each unit would have at least a double garage with at least two spaces on the driveways.

Allendorf asked for information about the redevelopment of the Kraemer’s building. Jon Fletcher, Lake West Development, 14525 Highway 7, said a conditional use permit application had been submitted the previous Friday for a licensed child care facility, Prestige Preschools, for the site. A complete renovation of the hardware store would be done. He said Lake West was excited about the potential for the Williston Woods West development. It would provide a great transition on a lot of levels including from a density standpoint as well as a lifestyle standpoint. The topography would bring some variety to the site. He said the same concerns the council had were the concerns of Lake West primarily from a market driven standpoint.

C. Sign plan amendment for Ridgedale Center

Thomas gave the staff report.

Acomb said she supported increasing the height to 42 inches and agreed with the staff that the second sign was not appropriate. She thought expectations were important so having the sign on the tenant space was important. It might look nicer in the drawings to have the signs be in a
FORMAL APPLICATION
Williston Woods West

Minnetonka, MN

APPLICATION FOR REZONING,
PUD MASTER DEVELOPMENT PLAN,
AND PRELIMINARY PLAT

August 14, 2015
**INTRODUCTION**

Lakewest Development is pleased to submit this application for Rezoning, PUD Master Plan, and Preliminary Plat to create 6 homes at 5431 and 5439 Williston Road (PID # 3311722110012 and 3311722110013). We anticipate that these high-demand, owner-occupied homes will be a great addition to the Glen Lake neighborhood.

**PUD MASTER PLAN AND PRELIMINARY PLAT**

Lakewest Development is requesting approval of a PUD Master Plan to create 6 detached homes served by a private drive on Williston Road. Lakewest has been working with City planning staff to create a plan for a development that provides lower density residential than the formerly proposed multi-family residential project on the site, but still provides an important transitional density area from the single-family homes to the North to commercial uses to the South and East. Lakewest is proposing a product that has a high consumer demand in the area, multiple well-known custom home builders have already presented offers for the finished lots. The homes will feature a compact building footprint and a lower overall demand for space, decreasing owner maintenance while increasing the stability and overall appearance of the neighborhood.

Previously proposed development concepts for the site included higher-density multi-family housing, which City Council verbally supported throughout the planning process. As an important transitional link to the neighborhood community shopping center, grocery, and restaurants, the proposed product in this application provides a less-intense, but still higher density use, with a single-family feel. In addition, the product would still be compatible next to a higher-density housing development should that prospect come up in the future.

The subject property is currently zoned R-1, and is guided Low Density Residential in the Comprehensive Plan. Lots are designed to comply with the R-3 (Medium Density Residential) zoning district. While the current lots could be subdivided to allow for a traditional single-family product, the location of the lots leading to a commercial district on a well-traveled street makes this a less desirable location for potential buyers of a traditional single family product. Therefore, Lakewest is proposing a product with a smaller building footprint on a smaller lot that has been very successful and is an attractive option for home-buyers looking to downsize and live within walking distance of a walkable neighborhood community.

Lakewest also considered options to develop the property according to the R1-A zoning standards. Lot layouts in the R1-A zoning district would involve significant loss of high-priority trees. Section 300.28 (19) e) 3. c. requires rezoning to a PUD if the development would remove more than 35% of the site’s high priority trees. If the site were to be redeveloped under R1-A, 71% of the high priority trees would be removed. As proposed, only 29% of the site’s high-priority trees would need to be removed. Rezoning to
an R1-A district also requires that the new lots be served by a new street. Due to the constraints of the parcels, a new street would result in a cul-de-sac serving four lots. The attached exhibit shows the impacts of subdividing the properties according to the standards of the R1-A zoning district.

**Livable community**

The proposed home product strengthens the neighborhood by providing safe, attractive access to the neighboring commercial areas and increasing eyes on the street. The proximity of the homes to the commercial amenities on Excelsior provides safer, attractive opportunities for residents to walk to nearby shops and to make stronger neighborhood connections. The addition of a sidewalk within the proposed development with a connection to a future sidewalk along Williston Road adjacent to the current Kraemers Hardware Store improves accessibility and safety for neighborhood residents.

The smaller building footprint and lot size benefits the greater community by increasing the tax base and providing additional local customers for surrounding businesses. Additional community members in a community that is largely built-out helps support continued growth in Minnetonka and provides opportunities for residents that want less maintenance to sell their larger home and stay in Minnetonka with a smaller home. This allows more mobility in the community for different types of residents to stay in Minnetonka.

The neighborhood feel of the homes and increased connectivity to nearby amenities creates a more livable, walkable, attractive community. The development of the site with smaller home sites is an asset to Minnetonka by providing more housing options for residents, and supporting long-term community growth.

**PUD flexibility**

Lakewest is requesting PUD flexibility for side, front, and rear setbacks and units being served by a private drive. The setbacks requested are as follows:

<table>
<thead>
<tr>
<th></th>
<th>Required Setback (R-3)</th>
<th>Proposed Setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front</td>
<td>35'</td>
<td>25'</td>
</tr>
<tr>
<td>Side yard</td>
<td>15'</td>
<td>15' exterior</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5' interior</td>
</tr>
<tr>
<td>Rear</td>
<td>40'</td>
<td>25'</td>
</tr>
</tbody>
</table>

The proposed development is being proposed with an intent to provide a transition between single-family residential to the north and the more intensive commercial uses to the south and east. Plans have incorporated an outlot on the southern half of the site to increase uniformity of the lot lines and keep the land open for possible future redevelopment of the Kraemer’s site, per the request of City Staff.
Lakewest is proposing a private drive with access to homes provided by smaller driveways. Rather than six separate driveways, a private drive minimizes the number of access points on Williston Road, providing safer ingress and egress for the new and existing residents. The reduced access points increases safety to pedestrians on sidewalks and provides improved fire access to all of the properties.

Section 300.22 of Minnetonka’s City code says that PUD flexibility may be granted if it would result in one of the following public benefits:

a) Greater preservation of existing natural resources, in number or quality, than would otherwise be provided under non-PUD development;
b) Provision of affordable housing;
c) Provision of a housing type or target housing price that is desirable to the city;
d) A mix of land use types;
e) Development that is compatible with existing, surrounding development type and intensity that is no longer allowed in other existing zoning districts; or
f) Greater energy conservation through building and site design than would otherwise be achieved under non-PUD development;
g) Other public benefits as recognized by the city.

The proposed development would provide several public benefits identified in the Code, including:

a) Greater preservation of existing natural resources, in number or quality, than would otherwise be provided under non-PUD development;

**Tree Preservation.** The design of the site minimizes tree loss on site by providing a smaller building footprint and minimizing non-pervious surfaces through the use of a private drive. A cluster development with stepped down building pads allows for larger tree preservation and eliminates the need for mass grading of the site. Preservation provides many benefits to the community. They reduce the water capacity burden on public infrastructure, provide cooling effects in urban areas, and provide screening surrounding uses.

If the property were to be subdivided under a strict interpretation of the R-1 standards, private property owners could potentially cut down trees on the property. Approving the project as a PUD would give the City the opportunity to prevent long term tree loss on the property through a conservation easement.
In addition to saving trees on the site, the layout and density of the project allows for a reduction in the amount of soil disturbance on site. The proposed layout of the homes works in harmony with the existing topography allowing for potential variety of product types, including possible side-loaded walk out and lookout homes. The topography of the site is not conducive to the larger footprint of modern single family homes and would require more significant grading than is currently proposed. A shared private drive has less impact on the overall topography of the site than six individual driveways. The shared driveway incorporates vehicle traction features as well as meets or improves upon the grade of similar private roads throughout the city.

c) A mix of housing type or target housing price that is desirable to the city;

The City of Minnetonka’s 2030 Comprehensive Guide Housing Plan specifically describes the City’s role in achieving its housing goals, which include strengthening neighborhoods by improving the existing housing stock, and encouraging diversity in, among other items, the types and sizes of housing units available in Minnetonka. The 2030 Comprehensive Plan notes that 76% of the City’s housing stock is over 30 years old, emphasizing the need for continued reinvestment in new housing options that meet the requirement of providing a variety of lifecycle housing choices. In particular, the City has recognized the importance of providing housing options for seniors in the coming years. The proposed product type of this development may lend itself well to households preferring to downsize their homeownership commitment and minimize home and yard maintenance while still maintaining an independent single-family home experience. The City has also recognized in its Comprehensive Plan that its buildable land is nearly 100% developed and that infill development and redevelopment will be the primary ways to add new housing to meet these goals. Specifically, City action items include adding new housing units, where appropriate, while maintaining a balance of housing types in order to meet lifecycle housing needs.

d) A mix of land use types;

The proposed development would add a mix of land-density and use types to the area, providing a compelling option for Minnetonka residents who wish to downsize, but are not ready to give up a single-family-style home. This allows an attractive option for those residents that wish to stay in the community, but are looking for fewer maintenance commitments. In a community with fewer large-scale opportunities for higher-density land development, it is important to provide flexibility for alternative developments that provide a wide range of housing choices for residents. The proposed housing alternative will be an attractive alternative for many consumers.
e) Development that is compatible with existing, surrounding development type and intensity that is no longer allowed in other existing zoning districts;

The proposed housing is compatible with the existing, surrounding development types. Demand for a typical single-family home in this location is much lower due to the proximity of the properties to the neighborhood commercial uses on Excelsior and increased traffic loads on Williston. The smaller footprint and lot size home helps keep a low-density single-family character while providing a transition from single family residential to the high-intensity commercial uses along Excelsior. This preserves the feeling of a neighborhood and provides a high-demand product that is compatible with existing and future surrounding uses.

g) Other public benefits as recognized by the city.

The City of Minnetonka’s 2030 Comprehensive Guide Land Use Plan outlines the approach the City will use to address future demographic and overall city service challenges and opportunities in the coming years. Among other things, the approach includes preserving existing neighborhoods while broadening housing choice, revitalizing existing community and neighborhood commercial centers using a “village” concept, and to diversify housing opportunities in various mixed-use areas of the city. Specifically, the Land Use Plan notes the following overall themes:

- **Stability in Established Areas**
  - Redevelopment of the underdeveloped site proposed herein will help to preserve the existing neighborhood by meeting the evolving needs of future residents through a variety of residential options, maximizing the using of in-place infrastructure, and replacing current transient rental uses with long-term owner occupants.

- **Increased Vitality**
  - The proposed development will help to preserve economic vitality of the neighborhood commercial uses within Glen Lake. A proposed sidewalk extension and proximity to Glen Lake commercial uses will provide a convenient and enjoyable neighborhood experience for new long-term residents.

- **Connectivity to Improve Mobility**
  - As a part of the proposed development, the developer would propose the addition of a sidewalk connection to the south side of the current road frontage. Such new connection will increase transportation choices and support the potential for more active living among residents.

- **Glen Lake Station - Incorporation of Sidewalk and Trail improvements**
o Within the 2030 Comprehensive Guide Land Use Plan, Glen Lake Station is specifically called out as a Community Village Center and notes the incorporation of a sidewalk or trail as a guide to development in the area. We are pleased to incorporate a sidewalk as a part of our development as a recognized public benefit.

PARKING
For the 6 homes, there are 9 off street parking spaces provided for guests. Additionally, each home has a two-car garage and a drive that minimally holds two additional spaces. In total there are 33 parking spaces provided on site, or 5.5 stalls per residence. This is ample parking for the new home users as well as provides safe and secure off-street guest parking options for parties and other events throughout the year.

CODE COMPLIANCE
Section 300.22 Planned Unit Development District of the City of Minnetonka Code identifies General and Specific Standards for when a PUD may be approved:

Section 300.22.4 General Standards:

a) The PUD results in at least one of the public benefit as outlined in Section 300.22.2 of the ordinance.
   a. As noted above, we believe the site meets the intent of five areas of noted public benefits.

b) The PUD is consistent with and advances the community-wide goals of the comprehensive plan.
   a. As noted above, several public benefits are directly derived from the plans, strategies, goals, and approaches of the comprehensive plan. Most notably, diversity in housing, stability in established areas, increased vitality, connectivity to improve mobility, and incorporation of sidewalk and trail improvements within the Glen Lake Station area.

c) The PUD is appropriately integrated into existing and proposed surrounding development.
   a. The proposed PUD development provides an appropriate and meaningful transition from the commercial uses of Glen Lake Station and lower density residential housing to the north. In addition, the proposed PUD maintains the existing topography and natural resources (tree cover) which might otherwise be lost under existing zoning.

Section 300.22.5 Specific Standards

a) If a PUD includes provision of affordable housing, a specific housing type, or target housing price, details associated with the housing - including number of units, unit size, and price - must be
documented in a legally-binding agreement approved by the city and recorded against the properties within the PUD.

a. A specific home design or size has not yet been finalize, but once complete we will be happy to engage with City staff to comply with this provision.

b) If a PUD includes preservation of natural resources, those resources must be permanently protected through a conservation easement or other legally-binding agreement approved by the city and recorded against the properties with the PUD.

a. We would propose a conservation easement to protect the natural resources of the site, namely the tree inventory to the East of the home pads.

c) A homeowners association must be established where appropriate to ensure on-going maintenance of infrastructure and public spaces, required restoration and management of natural areas, or other actions and activities specific to the PUD.

a. We would propose a recorded maintenance agreement amongst the homeowners to ensure on-going maintenance of infrastructure on the site, namely the private drive and parking area.

**REZONING**

Lakewest Development is requesting approval to rezone the subject properties from R-1 (Low Density Residential) to a Planned Unit Development District (PUD). Section 300.09 of the Zoning Code allows map amendments “whenever consistent with the public health, safety or general welfare” and specifies that “all amendments shall be consistent with the intent of this ordinance and of the Comprehensive Plan.”

Rezoning to a PUD would be consistent with the public health, safety and general welfare of the City and would support economic development in the City. Rezoning to a PUD would be consistent with the intent of the Ordinance and the Comprehensive Plan. The development would broaden housing choices in the City while maintaining the feel of a single-family neighborhood and preserve the City’s natural resources while encouraging sustainable practices. The proven success of the housing product-type, opportunities for residents to transition into a lower-maintenance living and freeing up housing stock for other families supports the longevity of the City, and contributes to taxes that support the high quality community that residents have come to expect from the City.

Lakewest is excited to provide a high-quality housing development in the City ofMinnetonka. We look forward to introducing the rezoning to City Council on September 14, 2015, and presenting the PUD Master Plan and Preliminary Plat at Planning Commission on October 1, 2015 and City Council on October 12, 2015.
CONTACT INFORMATION
This document was prepared by:
Mary Matze, Planner
Landform
105 South Fifth Street, Suite 513
Minneapolis, MN 55401

Any additional questions regarding this application can be directed to Reid Schulz at rschulz@landform.net or 612.638.0245.
Ordinance No. 2015-

Ordinance rezoning the existing properties at 5431 and 5439 Williston Road from R-1, low density residential, to PUD, planned unit development.

The City Of Minnetonka Ordains:

Section 1.

1.01 The properties at 5431 and 5439 Williston Road are hereby rezoned from R-1, low density residential, to PUD, planned unit development.

1.02 The property are legally described in EXHIBIT A.

Section 2.

2.01 This ordinance is based on the following findings:

1. The rezoning would provide public benefit, as:
   a) .
   b) .

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

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

Section 3.

3.01 Approval is subject to the following conditions:
1. The site must be developed and maintained in substantial conformance with the following plans:
   
   a)  
   b)  

   The above plans are hereby adopted as the master development plan for WILLISTON WOODS WEST.

2. Development must further comply with all conditions as outlined in City Council Resolution No. 2014-XXX, adopted by the Minnetonka City Council on ____________, 2015.

Section 4. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 5. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on __________, 2015.

______________________________
Terry Schneider, Mayor

ATTEST:

______________________________
David E. Maeda, 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 ____________, 2015.

____________________________
David E. Maeda, City Clerk

Date:
EXHIBIT A

All that part of the East 1/2 of the West 1/2 of Section 14, Township 117 North, Range 22 West of the 5th Principal Meridian, lying Southerly of County Road No. 5 and Northeasterly of the right-of-way of the Minneapolis and St. Louis Railway Company and West of a line drawn parallel with and 489 feet at right angles West of the North and South center line of said Section 14, EXCEPT that part of the above described tract described as follows:

Beginning at the intersection of the West line of the Southeast 1/4 of the Northwest 1/4 of said Section 14 with the Northerly right-of-way line of the Minneapolis and St. Louis Railway Company; thence North along said West line to the South line of County Road No. 5; thence North 77 degrees 49 minutes East 57.72 feet along the Southerly line of said road; thence Easterly along the Southerly line of said road on a tangential curve to the right with a radius of 2,831.65 feet, a distance of 92.28 feet; thence South parallel with the West line of the Southeast 1/4 of the Northwest 1/4 of said Section 14 to the Northerly right-of-way of the Minneapolis and St. Louis Railway Company; thence Westerly along said railroad right-of-way line to the point of beginning, Hennepin County, Minnesota.
City Council Agenda Item #13A
Meeting of September 14, 2015

Brief Description
Resolutions approving a vacation of right-of-way easements and final plat for SAVILLE WEST, a 12-lot subdivision at 5290 & 5300 Spring Lane, 5325 C.R. 101, 5301 & 5311 Tracy Lynn Terrace, and an unassigned addresses

Recommendation
Hold the public hearing and adopt the resolutions approving the vacations and final plat

Request
On June 22, 2015, the city council approved the preliminary plat of SAVILLE WEST. The plat will result in creation of twelve single-family lots. Lake West Development Co. LLC is now requesting: (1) vacation of right-of-way and easements; and (2) approval of the final plat of SAVILLE WEST. (See pages A1–A5.)

Staff Comment
Approval of the vacation and final plat is reasonable:

1. The right-of-way and easements to be vacated will be rendered obsolete upon the filing of the SAVILLE WEST plat.

2. The submitted final plat is substantially consistent with the previously approved preliminary plat.

Staff Recommendation

1. Adopt the resolution approving the vacation of right-of-way and easements. (See pages A6–A8.)

2. Adopt the resolution approving the final plat of SAVILLE WEST. (See pages A9–A12.)

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

Originated by:
Susan Thomas, AICP, Principal Planner
LOCATION MAP

SAVILLE SUBDIVISION
TRACY LYNN TERRACE/SPRING LANE
#14002.15a

This map is for illustrative purposes only.
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly licensed Land Surveyor under the laws of the State of Minnesota.

ERIK B. LINDBERG
License No. 4816
Date: 07-31-19

PROPOSED R.O.W. VACATION LEGAL DESCRIPTION

VACATE ALL THAT PART OF TRACY LYNN TERRACE LYING EASTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 3, BLOCK 2, SAVILLE WEST, THENCE NORTHEASTERLY ALONG THE WESTERN LINE OF SAID LOT 3, HAVING AN ADJACENT BEARING OF NORTH 23 DEGREES 24 MINUTES 15 SECONDS EAST, 42.05 FEET, TO THE POINT OF BEGINNING,

THENCE NORTH 23 DEGREES 24 MINUTES 15 SECONDS EAST, 42.05 FEET, THENCE 67.15 FEET ALONG A TANGENTIAL CURVE, CONCENE TO THE WEST, HAVING A CENTRAL ANGLE OF 41 DEGREES 39 MINUTES 28 SECONDS, AND A RADIUS OF 200.00 FEET, THENCE NORTH 03 DEGREES 35 MINUTES 44 SECONDS EAST, 44.22 FEET TO THE NORTHEASTERLY RIGHT OF WAY OF TRACY LYNN TERRACE AND THERE TERMINATING.

SCALE IN FEET

0 10 20 30
PROPOSED EASEMENT VACATION LEGAL DESCRIPTION

ALL OF THE DRAINAGE AND UTILITY EASEMENTS OVER AND ACROSS LOTS 1 AND 2, BLOCK 2, TONKA COURT, AS DEPICTED IN SAID PLAT.
Resolution No. 2015-

Resolution vacating public right-of-way and drainage and utility easements at 5290 & 5300 Spring Lane, 5325 County Road 101, 5301 & 5311 Tracy Lynn Terrace, and unassigned addresses

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

Section 1. Background.

1.01 Lake West Development Co. LLC, has requested vacation of existing public right-of-way and easements at 5290 & 5300 Spring Lane, 5325 County Road 101, 5301 & 5311 Tracy Lynn Terrace, and unassigned addresses.

1.02 The right-of-way and easements are legally described as follows, to wit:

Vacate all that part of Tracy Lynn Terrace as dedicated in the recorded plat of TONKA COURT as Tonka Court Lane, lying easterly of the following described line:

Commencing at the southwest corner of Lot 3, Block 2, Tonka Court; thence northeasterly along the westerly line of said lot 3, having an assumed bearing of north 23 degrees, 24 minutes, 13 seconds east, 42.16 feet to the point of beginning; thence north 23 degrees 24 minutes 13 seconds east, 4.21 feet; thence 69.78 feet along a tangential curve, concave to the west, having a central angle of 19 degrees, 59 minutes 28 seconds, and a radius of 200.00 feet; thence north 03 degrees 35 minutes 44 seconds east, 40.33 feet to the northerly right of way line of Tracy Lynn Terrace and there terminating.

Except, reserving unto the city of Minnetonka, its successor or assigns, a perpetual easement for drainage and utility purposes over, under and across that part of said platted Tonka Court Lane, now vacated, which lies south of the northerly line of Lot 3, Block 2 and its westerly extension.
Vacate all those drainage and utility easements over and across Lots 1 and 2, Block 2, TONKA COURT, as dedicated on said plat, recorded in Hennepin County, Minnesota.

1.03 As required by law, a hearing notice on this request was published in the City of Minnetonka's official newspaper.

1.04 On September 14, 2015, the city council held a hearing on the request, at which time all persons for and against the granting of the request were heard.

Section 2. Standards.

2.01 Section 12.06 of the City Charter states that “No vacation shall be made unless it appears in the interest of the public to do so...”

Section 3. Findings.

3.01 The Minnetonka City Council makes the following findings:

1. Upon development of SAVILLE WEST no public need for the right-of-way or easements is anticipated.

2. The vacation is not counter to the public interest.


4.01 The city council vacates the right-of-way and easements as above-described.

4.02 Approval is subject to the following conditions:

1. Lake West Development Co. LLC must reimburse private utility providers for all cost associated with relocating any private utilities within the vacated right-of-way and easements.

2. This vacation is effective only upon proper filing of SAVILLE WEST.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 14, 2015.
Resolution No. 2015-

__________________________
Terry Schneider, Mayor

ATTEST:

__________________________
David E. Maeda, City Clerk

**Action on this resolution:**

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on September 14, 2015.

__________________________
David E. Maeda, City Clerk
Resolution No. 2015-

Resolution approving the final plat of SAVILLE WEST
at 5290 and 5300 Spring Lane, 5325 County Road 101, 5301 and 5311
Tracy Lynn Terrace, and unassigned addresses

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

Section 1. Background.

1.01 Lake West Development Co. LLC has requested approval of the final plat of SAVILLE WEST.

1.02 The property to be included in the plat is located at 5290 and 5300 Spring Lane, 5325 County Road 101, 5301 and 5311 Tracy Lynn Terrace, and unassigned addresses. It is legally described on EXHIBIT A of this resolution.

1.03 On June 22, 2015, the city council approved the preliminary plat of SAVILLE WEST.

Section 2. Findings

2.01 The final plat meets the requirements and standards outlined in the Subdivision Ordinance, City Code §400.

2.02 The final plat is consistent with the previously approved preliminary plat.

Section 3. Council Action.

3.01 The city council approves the final plat of SAVILLE WEST. Approval is subject to the following conditions:

1. Prior to release of the final plat for recording, submit the following:
a) An updated final plat drawing including:
   1) A 30-foot wide drainage and utility easement centered on the common property line between Lots 8 and 9.
   2) Drainage and utility easements across the rear yard swales of Lots 4, 5, 8, and 9.
   3) The existing sanitary sewer easement across Lots 11 and 12.

b) Two sets of mylars for city signatures.

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

d) Park dedication fee of $25,000.

2. Unless the city council approves a time extension, the final plat must be recorded by September 14, 2016.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 14, 2015.

______________________________
Terry Schneider, Mayor

ATTEST:

______________________________
David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption: 
Seconded by: 
Voted in favor of: 
Voted against: 
Abstained: 
Absent: 
Resolution adopted.
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on September 14, 2015.

______________________________
David E. Maeda, City Clerk
EXHIBIT A

Parcel 1: Tract M, Registered Land Survey No. 566, County of Hennepin, Minnesota.

Parcel 2:
- Part 1: The West 175 feet of the following described tract:
  - That part of the Southeast quarter of the Southeast quarter of Section 30, Township 117, Range 22, lying between the East line of said Section 34 and the Osseo Road, now known as Osseo Road '01, said land being a 100 foot strip of land which was formerly the right of way of the Minneapolis & St. Paul Suburban Railroad Company and which is accordingly bounded by the Northerly and Southerly lines of said right of way; Hennepin County, Minnesota.

- Part 2: That part of the Southeast Quarter of Section 30, Township 117, Range 22, described as follows: Commencing at a point on East line of said Section 30, 714.43 feet North of Southeast corner of said Section, thence North along said line 72.89 feet to Southwesterly line of Excelsior Boulevard, thence North 53 degrees 29 minutes West along said Southwesterly line of Excelsior Boulevard 141.53, thence South, 57 degrees 29 minutes West along the Southwesterly line of Excelsior Road 129.8 feet to North line of Minneapolis and St. Paul Suburban Railway Company's right of way; thence Southwesterly along the North line of said right of way 358.65 feet to place of beginning; Hennepin County, Minnesota.

Parcel 3: That part of the Southeast Quarter of the Southeast Quarter of Section 30, Township 117, Range 22, lying between the East line of said Section 30 and the Chanhassen Road, now known as State Highway No. 100, said land being a 100 foot strip of land which was formerly the right of way of the Minneapolis & St. Paul Suburban Railroad Company and which is accordingly bounded by the Northerly and Southerly lines of said right of way, except the West 175 feet thereof; Hennepin County, Minnesota.

Parcel 4: Tract A, Registered Land Survey No. 747, Hennepin County, Minnesota.

Parcel 5:
- That part of Tract C, Registered Land Survey No. 747, lying north of a line drawn parallel with and distant 5 feet South measured at right angles from the North line thereof, Hennepin County, Minnesota.

Parcel 6: Lot 1, Block 2, Temka Court, Hennepin County, Minnesota.

Parcel 7: Lot 2, Block 2, Temka Court, Hennepin County, Minnesota.

Parcel 8: That part of Tracy Lynn Terrace, FKA Temka Court Lane, as dedicated in the plat of Temka Court, lying north and east of the following described line: Beginning at the southwest corner of Lot 2, Block 1, said Temka Court; thence westerly along the westward extension of the south line of said Lot 2, having an assumed bearing of South 90 degrees 30 minutes 26 seconds West 43.96 feet; thence northerly 33.72 feet along a non-tangential curve, concave to the west, having a central angle of 98 degrees 35 minutes 56 seconds, a radius of 235.60 feet, and a chord bearing of North 01 degrees 29 minutes 42 seconds 47 seconds East; thence northerly 6.37 feet along a reverse curve concave to the east, having a central angle of 02 degrees 25 minutes 52 seconds 43 seconds; and a radius of 150.02 feet to the northern right of way line of said Tracy Lynn Terrace and there terminating.
Brief Description  
On-sale wine and on-sale 3.2 percent malt beverage liquor licenses for Cheers Pablo Twenty Three Holdings LLC (Cheers Pablo), 13027 Ridgedale Drive

Recommendation  
Continue the public hearing and grant the licenses

Background

The city has received applications from Cheers Pablo Twenty Three Holdings LLC (Cheers Pablo), for on-sale wine and on-sale 3.2 percent malt beverage liquor licenses. (See page A1). The anticipated opening date is early October.

Business Ownership

Cheers Pablo Twenty Three Holdings LLC is owned by John Bedard (60%), Richard Bedard (15%), David Greavu (15%), and various other owners make up the remaining 10%. Richard Bedard will also serve as the general manager. He resides in Woodbury and meets the metro-area residency requirements of the city’s liquor ordinance.

Business Operations

Cheers Pablo is an arts and entertainment business that creates a social environment where individuals of all artistic levels can participate in group painting classes. At the end of each class (2 to 3 hours, depending on selection) each participant has a professional-quality piece of art to take home. (See page A2-A6).

Cheers Pablo offers a food and beverage menu as part of the experience. The menu includes several wine and beer options, as well as non-alcoholic selections. Items are available for purchase during the class. In late 2014, Minnesota State Statute 340A.404 Subd. 5 was amended, which removed the requirement for establishments holding a wine license to have 60% of gross sales attributable to the sale of food. The city recently amended the city code to also remove the requirement, but stated that any establishment holding a wine license would have the same requirement of 50% food to alcohol ratios for all establishments holding an on-sale intoxicating liquor license. The facility will provide approximately 40 seats.

Hours of operation will be noon to 9 p.m. Tuesday through Saturday and noon to 4:00 p.m. Sunday. The business is closed on Mondays. Projected sales from beer and wine is expected to be approximately 70% food and 30% liquor based on other locations.
Application Information

Application information and license fees have been submitted. The police department’s investigative report is complete and will be forwarded to the council.

Recommendation

Staff recommends that the city council continue the public hearing from August 17 and grant the licenses.

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

Originated by:
   Kathy Leervig, Community Development Director
LOCATION MAP

Cheers Pablo
13027 Ridgedale Drive
Cheers Pablo Woodbury
8362 Tamarack Village

Cheers Pablo Burnsville
13915 Aldrich Avenue South

Cheers Pablo Coon Rapids
12759 Riverdale Boulevard

Cheers Pablo Hudson
2421 Hanley Road

Remote Venues:
Chicago, IL (7 locations)

Opening Next:
Eau Claire, WI
Minnetonka, MN
This Week at Cheers Pablo

Cheers!

Thanks to everyone who participated in our June 19 Twin Cities Live taping in Coon Rapids. If you missed Friday's broadcast you can watch the segment here. So much fun.

We'll see the rest of you at one of our Cheers Pablo studios Tuesday, June 23, from 1 p.m. to 4 p.m. for a huge customer appreciation event. Stop in any studio and paint one of our popular mini canvases, for free, meet our amazing artist instructors, and allow us to say 'thank you'. All ages and skill levels are welcome. We look forward to seeing you here!
We regularly take our popular Paint & Sip concept on the road to host events at venues throughout the Twin Cities metro area and Wisconsin. Here's what's next:

**Bubbles and Brushes**

**Number 4 American Bar and Kitchen**  
Mankato, MN  
Painting: 'Just Beachey'  
Thursday, July 16  
6:30 p.m.  
$35 / person  
Event Detail

**Shiners Bar and Grill**

Lakeland, MN  
Painting: 'Field of Poppies'  
Monday, July 20  
7 p.m.

**Coon Rapids Studio**

From fields of poppies to starry nights, stunning canvases are on the calendar all week.

View Coon Rapids Calendar

**Hudson, Wis. Studio**

Kids Paint is back. June 26 from 12:30-2:30. Let your kids uncork their creativity on our huge 16x29 canvases.

View Hudson Calendar
Indian Island Winery
Janesville, MN
Painting: 'Color Street'
Sunday, July 26
1 pm - 3:30
$35 / person
Event Detail
City Council Agenda Item #13C  
Meeting of September 14, 2015

**Brief Description**  
On-sale liquor licenses for Three Amigos Minnetonka, L.L.C. (Salsa A La Salsa)

**Recommendation**  
Continue the public hearing and grant the licenses

**Background**

The city has received an application from Three Amigos Minnetonka, L.L.C. at 11390 Wayzata Boulevard. Three Amigos Minnetonka, L.L.C. is requesting on-sale and Sunday on-sale intoxicating liquor licenses for a new Mexican restaurant, Salsa A La Salsa. The site was previously occupied by Romano’s Macaroni Grill, but has been vacant since March 2015. Salsa A La Salsa has three other locations in Minnesota including Minneapolis, Global Market, and Uptown. (See pages A1-A4).

**Business Ownership**

Three Amigos Minnetonka, L.L.C. is owned by the following three entities:

- CSM Lodging Services Incorporated 48.45% Owner
- CSM Hospitality, Inc. 2.55% Owner
- Boneyard Restaurant, LLC 49.00% Owner

CSM Lodging Services, Inc. and CSM Hospitality, Inc, are each owned 100% by Gary S. Holmes, as Trustee of the Gary S. Homes Revocable Trust. Boneyard Restaurant, LLC is owned by Kamran Talebi (80% owner) & Keyvan Talebi (20% owner).

**Business Operations**

Salsa A La Salsa is proposing to open a full-service restaurant and bar that provides authentic Mexican cuisine. The restaurant will occupy 7,500 square feet and will also expand to include an outdoor patio. Indoor seating will be for approximately 200 guests and the patio will hold 90 seats. The restaurant will be open for lunch and dinner with the following hours:

<table>
<thead>
<tr>
<th>Dining Room &amp; Patio Hours</th>
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<tbody>
<tr>
<td>Sunday - Thursday</td>
<td>11 am – Midnight</td>
</tr>
<tr>
<td>Friday and Saturday</td>
<td>11 am – 2:00 am*</td>
</tr>
</tbody>
</table>

*The applicant has applied for a 2 AM license. The state is the licensing authority for 2 am licenses.

Salsa A La Salsa anticipates that they will hire and train approximately 100 employees. Staff will go through extensive training which will be inclusive of alcohol awareness and serving policies and procedures.
Projected food to liquor ratio will be 70% food and 30% alcohol.

The general manager has not been hired, but will be required to complete the police background check as required by city ordinance.

**Applicant Information**

Application information and license fees have been submitted. The police department’s investigative report on this application is complete and will be forwarded to the council.

**Recommendation**

Staff recommends that the city council continue the public hearing from July 27 and grant the licenses.

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

Originated by:
  Kathy Leervig, Community Development Coordinator
LOCATION MAP

Three Amigos Minnetonka, L.L.C.  
(Salsa A La Salsa)
Southwest Light Rail Transit (Green Line Extension) Revised Preliminary Design Plans

Hold the public hearing and adopt the resolution

In the summer of 2014, each of the cities along the proposed Metro Transit Green Line Extension (Southwest Light Rail Transit), as well as Hennepin County, provided municipal consent for a 16-mile LRT project with 17 stations at a $1.653 billion cost estimate. After municipal consent, project plans were advanced to a 30 percent design level and environmental tests were conducted.

In April 2015, after analysis of environmental test results and more detailed work on project plans were completed, it was determined that the estimated project cost was $1.994 billion, an increase of $341 million. From April to July, the cities, county and Metropolitan Council went through a cost reduction process. This process resulted in a number of changes along the alignment.

As required by Minnesota Statute 473.3994, local review and approval of preliminary design plans are required (also known as municipal consent). The preliminary design plans show general dimensions and location of the alignment, including station locations. More detailed plans will be developed following the municipal consent process. State law also requires that during plan development if substantial changes to the plans occur, the plans must be re-approved.

Revised Preliminary Design Plans

With the changes in the plans due to the cost reduction process, each city along the corridor and Hennepin County are being asked to re-approve the preliminary design plans. The changes in the plans (impacting areas near or a part of the Minnetonka portion of the alignment) from what the council approved in 2014 are as follows:

- Location of the platform and track at the Shady Oak Station. At the recommendation of the Shady Oak Station Area Development Strategy consultant, the track was shifted back to the Hennepin County Regional Rail Authority (HCRRA) right of way and the platform was shifted to the west.

- The configuration and number of stalls at the Shady Oak Park and Ride. In 2014 the plans showed 492 parking stalls at this location. The new plans show a
reconfigured parking lot of 700 parking stalls (of which a portion are considered temporary).

- A smaller park and ride at the Opus Station. The 2014 plans called for a 100 stall park and ride. The current plans now show it at 80 stalls.

- Elimination of two pedestrian underpasses in Opus.

City staff continues to be involved with the Southwest Project Office (Metro Transit/Metropolitan Council) to review the design plans as they have been developed, including specific information on wetlands, trees, public safety, LRT/roadway intersections, traffic and utilities. Comments and recommendations on the revised municipal consent plans provided to the Southwest Project Office by city staff can be found on pages A1-A3.

Additionally, the Southwest Project Office, as well as the individual cities and Hennepin County are receiving public comments on these revised plans. As of September 8, 2015, there have been four public comments (pages A4-A8) received pertaining to the Minnetonka portion of the alignment or made by Minnetonka property owners.

**Staff Recommendation**

Staff recommends the city council hold the public hearing and adopt the resolution (pages A9 to A11) approving the revised preliminary design plans.

Submitted through:
- Geralyn Barone, City Manager
- Julie Wischnack, AICP, Community Development Director
- Will Manchester, PE, Director of Engineering

Originated by:
- Elise Durbin, AICP, Community Development Supervisor
<table>
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<tr>
<th>Number</th>
<th>Segment</th>
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<th>Discipline</th>
<th>Reviewer Comment Code</th>
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<tbody>
<tr>
<td>1</td>
<td>W2</td>
<td>38-39</td>
<td>Civil</td>
<td>D - Design Criteria</td>
<td>OPUS area trail bridge heights must provide for minimum 12-ft clearance for emergency and maintenance vehicles. Trail system in the OPUS area is non-typical trail system dedicated as a Secondary Road System. This Secondary Road System provides primary access for emergency response including water system access, as well as public utility access corridors. Also, this Secondary Road System is the primary access for all utility maintenance vehicles needed to complete regular and emergency maintenance repairs.</td>
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<td>2</td>
<td>W3</td>
<td>40</td>
<td>Civil</td>
<td>D - Design Criteria</td>
<td>OPUS area trail bridge heights must provide for minimum 12-ft clearance for emergency and maintenance vehicles. Trail system in the OPUS area is non-typical trail system dedicated as a Secondary Road System. This Secondary Road System provides primary access for emergency response including water system access, as well as public utility access corridors. Also, this Secondary Road System is the primary access for all utility maintenance vehicles needed to complete regular and emergency maintenance repairs.</td>
</tr>
<tr>
<td>3</td>
<td>W2</td>
<td>38-39</td>
<td>Civil</td>
<td>D - Design Criteria</td>
<td>Pedestrian underpasses in Opus show the grade being lower significantly. It's not clear how the grade of the existing will be matched and what changes there may be to the storm sewer.</td>
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<tr>
<td>4</td>
<td>W3</td>
<td>35</td>
<td>Civil</td>
<td>D - Design Criteria</td>
<td>The retaining wall for the new trail is shown at the back of curb on Green Circle Drive. Trail should be moved away from the street to provide an 8' recovery area between the back of curb and retaining wall, in addition to guard rail.</td>
</tr>
<tr>
<td>5</td>
<td>W3</td>
<td>41-42</td>
<td>Civil</td>
<td>P - Preference of Reviewer</td>
<td>The existing trail that connects to 10700 Bren Road W will be disconnected from the trail system. The trail should be connected to the new alignment or removed entirely. If retained, a turnaround for snow plowing should also be constructed in order to efficiently remove snow from the trails.</td>
</tr>
<tr>
<td>6</td>
<td>W3</td>
<td>27-28</td>
<td>Civil</td>
<td>P - Preference of Reviewer</td>
<td>Since the building at 11011 Smetana Road will be removed for the track alignment, the trail connection on the northeast corner of the parcel should be realigned to improve access and change of grades from The Claremont to the trail/walk along Smetana Road.</td>
</tr>
<tr>
<td>7</td>
<td>W3</td>
<td>47</td>
<td>Civil</td>
<td>D - Design Criteria</td>
<td>Continue working with the cities of Minnetonka and Hopkins on location of park and ride stalls at Shady Oak, as well as pedestrian connections, stormwater and locations of TPSS/signal bungalow in order to maximize redevelopment at the station area.</td>
</tr>
<tr>
<td>8</td>
<td>W3</td>
<td>43</td>
<td>Civil</td>
<td>D - Design Criteria</td>
<td>If the 17th Avenue extension is built, the location of the crossing of the Cedar Lake Trail and the roadway should be at the intersection of 17th Avenue/K-Tel/5th Street rather than mid-block.</td>
</tr>
<tr>
<td>9</td>
<td>Architectural</td>
<td></td>
<td>D - Design Criteria</td>
<td>SWLRT must provide retaining wall and bridge aesthetics meeting city of Minnetonka standards. This includes retaining wall and bridge facing, form liners, painting, and staining per city standards, which include multiple color appearance.</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>W3</td>
<td>46</td>
<td>Civil</td>
<td>S - Safety</td>
<td>Work with the city on the location of the at-grade pedestrian crossing of Bren Road E in order to ensure pedestrian safety for those accessing the Opus station to the east. The roadway curve, speed of traffic, and numbers of pedestrians crossing due to the bus stop, this creates a safety issue. The city will be designing an underpass and will be coordinating with SPO on this effort.</td>
</tr>
<tr>
<td>11</td>
<td>W3</td>
<td>46</td>
<td>Civil</td>
<td>D - Design Criteria</td>
<td>Trail alignment and grades west of Opus Station must provide for potential of a installed bridge.</td>
</tr>
<tr>
<td>Number</td>
<td>Segment</td>
<td>Sheet / Page Number</td>
<td>Discipline</td>
<td>Reviewer</td>
<td>Comment Code</td>
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<tr>
<td>12</td>
<td>Environmental</td>
<td>P - Preference of Reviewer</td>
<td>Revised from previous MC/PE comments: Need to be aware of damage to any oak trees (Opus Hill) generally during early to mid-April until the 4th of July of any given year in order to prevent the introduction of oak wilt into an area. If damage occurs a latex paint should be applied immediately to the wound to help prevent the spread of the disease.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Environmental</td>
<td>R - Regulatory Requirement</td>
<td>Revised from previous MC/PE comments: At this time approximately 3.74 acres of permanent wetland impact and 2.66 acres of temporary wetland impact are to occur within the city of Minnetonka. The city’s wetland regulation (city code Section 300.23) and floodplain regulation (city code Section 300.24) must be followed in addition to those requirements of the Wetland Conservation Act. The city requires that wetland mitigation occur within the same sub-watershed unless otherwise approved by the city council. City staff is involved in the SPO’s Wetland Regulatory Coordination Group which assists the SPO through the wetland regulation process for all of the governing agencies involved in this project. Additionally, floodplain areas that may exist outside of regulated wetland areas will need to be identified. If fill or alteration occurs in these areas city regulation will apply and in the case of fill, floodplain compensation will be required.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>OMF</td>
<td>P - Preference of Reviewer</td>
<td>SDEIS comment: potential for long-term pumping of groundwater and potential risk for contamination near the OMF. Although the analysis for the potential of long-term pumping of groundwater and potential risk for contamination will be available in the Final EIS and will comply with MPCA regulation, the city requests details associated with items such as: 1) the containment of the contaminated areas before and during construction and mitigation strategies to reduce long-term risk; and 2) mitigation strategies that address the details associated with the potential for long-term pumping of groundwater such as how often is it pumped, and where is it discharged, etc.?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>OMF</td>
<td>R - Regulatory Requirement</td>
<td>SDEIS comment: appropriate wetland permitting for areas impacted by the LRT and the OMF will need to occur including local permitting and regulation. All attempts should be made to reduce any impacts to the wetland and buffer areas.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>OMF</td>
<td>R - Regulatory Requirement</td>
<td>SDEIS comment: Confirm with the city’s water resources engineer the elevation of the city’s designated 100-year floodplain areas in addition to DNR Q3 and FEMA for LRT and OMF. Any floodplain alteration or fill located within the city of Minnetonka must comply with the city’s regulations and result in no net fill, floodplain mitigation will be required.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>OMF</td>
<td>R - Regulatory Requirement</td>
<td>SDEIS comment: Although the OMF is within Hopkins the final plans should be reviewed and approved by Minnetonka’s engineer if resulting discharge will flow to Minnetonka wetlands. The storm water management plan should include BMPs to address those wastes associated with the long-term management of a rail line such as grease and hydraulic fluid, spill prevention and mitigation and management techniques and strategies that address more common pollutants such as de-icing salt, phosphorous and suspended solids.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>OMF</td>
<td>R - Regulatory Requirement</td>
<td>SDEIS comment: Although the OMF is located within the city of Hopkins, the city of Minnetonka would like to review the final plans and associated BMPs to ensure adequate protection to our adjacent water resources.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>Security</td>
<td>P - Preference of Reviewer</td>
<td>All street lighting at Shady Oak Station, Opus Station and along the project corridor must provide for LED intelligent lighting system technology.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>W3 30</td>
<td>Civil</td>
<td>P - Preference of Reviewer</td>
<td>SWLRT project must include right of way acquisition to allow construction of the 17th Ave. Extension from 17th Ave. to K-tel Dr. south of Shady Oak Station</td>
<td></td>
</tr>
<tr>
<td>Number</td>
<td>Segment</td>
<td>Sheet / Page Number</td>
<td>Discipline</td>
<td>Reviewer Comment Code</td>
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<tr>
<td>21</td>
<td>W3</td>
<td>30</td>
<td>Traffic</td>
<td>P - Preference of Reviewer</td>
<td>SWLRT must provide full traffic review of traffic signal proposed at the intersection of Kel Dr./5th Ave. and 17th Ave Extension. The need for the traffic signal must warrant installation for safety of the project and provide cost splits between SWLRT and the city must be based on necessity of each entity. Volumes at this intersection would not typically warrant a traffic signal installation, however SWLRT indicated signal is desired for safe crossing of SWLRT tracks at OMF.</td>
</tr>
<tr>
<td>22</td>
<td></td>
<td></td>
<td>Civil</td>
<td>P - Preference of Reviewer</td>
<td>Provide all utility impacts associated with the project</td>
</tr>
<tr>
<td>23</td>
<td>W2</td>
<td>20</td>
<td>Civil</td>
<td>D - Design Criteria</td>
<td>Provide additional detail regarding tunnel house located near TH 62. Location appears to restrict potential for future street improvements and may need to be relocated</td>
</tr>
<tr>
<td>24</td>
<td>Civil</td>
<td></td>
<td></td>
<td>P - Preference of Reviewer</td>
<td>Station areas and station platforms should have periodic conduits for future opportunities (such as public art, lighting upgrades, etc.)</td>
</tr>
<tr>
<td>25</td>
<td></td>
<td></td>
<td></td>
<td>P - Preference of Reviewer</td>
<td>All previous municipal consent and preliminary engineering comments made in 2014 that have not been resolved are still valid</td>
</tr>
</tbody>
</table>
Lisa Moe

MS. MOE: I have a pretty easy name to spell, as well. For my presentation, my two minutes, you'll want to look at a map that you have that was given to you. Good evening. As I stated, my name is Lisa Moe, I'm CEO of Stuart Companies, and we own about 700 apartments that will be directly impacted by this line. As Chair Duininck stated earlier, all ideas and cost savings should be considered. That's what I am here to present tonight. The first slide or first piece of paper you have there, so the current line with OMF, this is the area between OPUS and Downtown Hopkins, to give you some idea. It shows the current line with the operation maintenance facility, the OMF, versus our proposed route down 11th Avenue. The alternative OMF was considered by the project office under the SDEIS review and had higher ranking based on the 13 criteria used to evaluate the site. The cost between the two locations is the same. The alternative location moves the OMF away from a landfill in Hopkins and reduces the potential for adverse environmental impact and also reduces noise impact in existing housing, homeownership and rental housing.

The second page, if you don't mind turning to that, this line depicts the current line for OPUS, Shady Oak, Downtown Hopkins, and the Blake Station. The cost of this line from Opus to Shady Oak Station is $74 million. This is based on 2013 numbers provided by the project office. I would imagine that this cost is conservative today. This line, as demonstrated earlier, is the largest section of bridge, the 32 bridge, and goes over wetlands. It will span -- it will be 23 and a half feet in height and span over 32 feet in length. For the two stations that will connect Opus and Shady Oak, there's only 2,000 people living within half a mile walking distance on opening day.

If you would look to the third slide, please. Our suggestion is 11th Avenue. The cost of this route is 24 million. This is based on two independent engineering firms that we hired, Westwood and CEH. The amount of track is 20 percent less with 11th Avenue alignment, resulting in four main things. One is decrease of cost of $50 million, decreased time for riders, increased access for 6,000 existing residents who live in this area, and improved connections to existing bus routes.

I'd ask that you look to the final slide. This is a view of how the track would fit on 11th Avenue. 11th Avenue is an area in need of new development and has potential COD opportunities that are unlimited. 11th Avenue is a direct connection between Opus Station to Downtown Hopkins. It avoids a half a mile bridge. It maintains the track at grade, which avoids the roller-coaster effect of the current alignment and will result in substantial savings to the line. We simply ask the commission to direct the project office to look at this route as a more direct route. The $50 million savings should cause the project officers to look at this route. I thank you for your consideration.
Butch Johnson

MR. JOHNSON: Butch Johnson, 5750 Shady Oak Road. I'd like to say Hopkins, but it actually is in Minnetonka. I want to thank you, first of all, for all your hard work. Second of all, I want to thank you for keeping the 17th Avenue extension. I think the potential development of Hopkins to Hopkins and, also, the alignment of K-Tel to 17th, which I think will eventually happen -- I understand it isn't there yet, but it is possible that it will come. I think those are -- you know, I was really worried we were going to lose that. And, yes, there are other routes. There were other ideas along this whole process that I would have rather seen. But I just want to thank you. I think this is -- for you guys, it is a tough road. And by the way, I'm a very big fan of circulators. I think those are very useful in Hopkins in getting that 615 around and about. Those ideas are terrific. Thank you.
Dan Duffy

MR. DUFFY: Good evening, Chair Duininck and commissioners. My name is Dan Duffy. I am coming to you tonight to speak on behalf of two organizations, the Twin West Chamber of Commerce and the Southwest LRT Business Advisory Committee, also known as the BAC. Combined, these two organizations represent over 700 businesses and tens of thousands of employees in the West Metro Region. The BAC and Twin West view this project as vital to the economic development and job opportunities throughout the entire metropolitan region, not just the southwest corridor. Our business organizations understand that improving transit options in the southwest metro region helps support 60- to 80,000 jobs that is the projected growth in this corridor over the next two decades. LRT will help reduce commute times for employees traveling from the northeast and south regions of the metro, as well as give jobs and employers in the southwest the opportunity to reach out to potential employees from the greater metropolitan area.

As most of you know, Twin West has been an unwavering partner at the table throughout this process over a decade. Beginning with the lengthy and detailed studies of various modes of transit options for this corridor, followed by the comprehensive studies of alignment options, to where we are today with the current scope and budget reductions for the local funding requirements. We understand the importance of finding cost effective solutions that will not sacrifice projected ridership, yet still maintain our high approval rating at the federal level and ranked as one of the next projects up. We believe the current project's budget and scope, with major transfer stations at both ends meet these goals. At times, while this process was slowed by the political realities of the presence with projects of this magnitude, we chose to keep our focus on the data and facts presented by various consultants. Throughout this process, we have heard from many people that oppose this project, saying it has no economic benefit to our region. But in reality, we know that there are many completed future developments that are in planning stages for this corridor. A few examples that are completed or currently under construction include development of senior and market-rate housing at Wooddale Station, a new large corporate campus at City Center, and a major hospital expansion near the Louisiana Station. Combined, these three newer developments along the corridor provide housing and employ thousands of people, even without Southwest LRT in service yet.

Therefore, in conclusion, on behalf of the organizations I represent, I ask that you continue to support this project by granting municipal consent and moving it forward to the next station in the design and approval process. The Southwest LRT project will help us grow jobs and improve transit for our entire metro region so that we can stay competitive nationally with other peer cities well into the future. Thank you.
Elise Durbin

From: Geralyn Barone
Sent: Wednesday, September 02, 2015 4:21 PM
To: Julie Wischnack; Elise Durbin
Subject: FW: Light rail meeting

For inclusion in the LRT comments.

From: CenturyLink Customer [REDACTED]
Sent: Wednesday, September 02, 2015 2:40 PM
To: Geralyn Barone <gbarone@eminnetonka.com>
Subject: Re: Light rail meeting

I have no objection to light rail. I was in Chicago for a wedding August 20-23. I took the orange line elevated tracks downtown which was only half a block from the hotel where we stayed. Chicago has lots of El-Subways some of which are in the median strip of Interstates!!

From: "Geralyn Barone" <gbarone@eminnetonka.com>
To: [REDACTED]
Cc: "Terry Schneider" <tschneider@eminnetonka.com>
Sent: Tuesday, September 1, 2015 10:01:39 AM
Subject: FW: Light rail meeting

Mr. Sachs,

Mayor Schneider shared your email and asked that I respond to you.

When we prepare the annual city council meeting schedule each fall for the upcoming year, we always review the dates of religious holidays and make it a goal to avoid scheduling public meetings on those dates. When the September 14 council meeting was set last fall, we were aware that this was an important religious holiday and the start of Rosh Hashanah. However, with the late Labor Day holiday in 2015, only three other Mondays in September which are all scheduled for council meetings, and the need to adopt our preliminary tax levies by September 15, we decided to schedule the meeting on September 14.

As to the selection of this date for the LRT hearing, the city is required to complete the municipal consent process by October 11. Holding the hearing on September 14 allows any questions or concerns raised by the public or city council at that meeting to be responded to at the September 28 meeting if necessary. Our next council meeting after that is October 12, after the deadline.

I am so sorry that we were unable to avoid scheduling a meeting on the holy day. We truly do want to hear if you have comments regarding LRT and welcome either written remarks or phone calls. Emails may be submitted directly to swlrt@eminnetonka.com – these will be included in the city council’s meeting packet and become part of the public record.

Regards,

Geralyn
From: CenturyLink Customer <deobligation@centurylink.net>
Date: August 28, 2015 at 12:39:14 PM CDT
To: <tschneider@eminnetonka.com>
Subject: Light rail meeting

Why was the public meetings on the light rail scheduled for the first day of Rosh Hashanah, one of Judaism's most holy days? There are 3 synagogues in Minnetonka plus nearly every calendar lists those days as well as Yom Kippur the most holy day.

Kenneth Sachs
14420 Woodhill Ter
Minnetonka MN 55345
Resolution No. 2015- 

Resolution approving the revised preliminary design plans for the Southwest Light Rail Project within the city of Minnetonka

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

Section 1. Background.

1.01. The Governor designated the Metropolitan Council ("Council") as the responsible authority for the Southwest Light Rail Transit Project ("Project"), which makes it responsible for planning, designing, acquiring, constructing and equipping the Project.

1.02. Minnesota Statutes section 473.3994 allows cities and counties along a proposed light rail route to provide input to the council on the physical design component of the preliminary design plans.

1.03. On June 23, 2014, the city of Minnetonka ("City") adopted a resolution approving preliminary design plans.

1.04. On July 8, 2015, the Council approved a revised scope and budget for the Project and requested approval per Minnesota Statutes section 473.3994 for this change.

1.05. On July 23, 2015, the Council submitted the physical design component of the revised preliminary design plans ("Plans") to the governing body of each statutory and home rule charter city, county, and town in which the route is proposed to be located.

1.06. Public hearings are then required, which the City held on September 14, 2015.

1.07. Within 45 days of a joint hearing held by the Council and the Hennepin County Regional Rail Authority ("HCRRA"), which was held on August 27, 2015, the City must review and approve or disapprove the Plans for the route to be located in the City.

1.08. Minnesota Statutes section 473.3994 provides that "a local unit of government that disapproves the Plans shall describe specific amendments to the Plans that, if adopted, would cause the local unit to withdraw its disapproval."

1.09. Approval or disapproval by the city is part of the statutory preliminary design process.
1.10. City staff has reviewed the Plans and developed a report pertaining to these Plans and has made its recommendations.

1.11. The City supports the implementation of the Project and is doing everything possible to support its successful implementation by 2020.

1.12. The City is committed to work with the Council throughout the design and construction process.

Section 2. Council Action.

2.01. The City of Minnetonka provides its municipal approval of the Plans pursuant to Minnesota Statutes Section 473.3994 consistent with the above.

2.02 City staff are directed to submit the city’s approval to the Metropolitan Council.

Adopted by the City Council of the city of Minnetonka, Minnesota, on September 14, 2015.

________________________________________________________________________

Terry Schneider, Mayor

Attest:

________________________________________________________________________

David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on September 14, 2015.

__________________________________________
David E. Maeda, City Clerk
Brief Description

Items concerning Marshes of Meadowwoods:

1) Preliminary and final plat for Marshes of Meadowwoods 2nd Addition

2) Vacation of easements

3) Amendment to stewardship fund contributions

Recommendation

Adopt the resolution approving the request

Proposal

The property owner is proposing to adjust the property lines of three single-family residential lots on the north side of the Meadowwoods development. The proposal would re-divide the three existing lots into two lots. The proposal requires the following:

- **Preliminary and final plat**
  There are three existing single-family lots on the north side of the Meadowwoods development that are served by a private driveway, Lindsey Lane. The three lots are currently vacant, and all are owned by the applicant. Due to the configuration of the buildable area on the three lots, the applicant is proposing to rearrange the lot lines to create only two buildable lots. The existing middle lot, Lot 2, would be divided in half, and the two halves would be combined with the adjacent lots, Lots 1 and 3. (See pages A1-A6.)

- **Vacation of easements**
  The applicant has requested that the city vacate the existing public drainage and utility easements that run along the side property lines of the existing Lot 2. New drainage and utility easements would be re-established on the plat along the new side property line. To simplify the recording of the easements, all of the drainage and utility easements on Lots 1, 2, and 3 would be vacated, and would be reestablished on the plat for the new lots, Lots 1 and 2. (See page A7.)

- **Amendment to stewardship fund contributions**
  The Meadowwoods development was approved as conservation development and has a stewardship program that addresses wetland restoration, upland prairie management, and natural stormwater treatment. The stewardship program is covered by a stewardship program and funding agreement, which was a document approved by city staff as a condition of the original plat. (See pages A8-A20.) The agreement establishes two phases for the stewardship program: (1) the development phase; and (2) the long-term stewardship phase.
The development phase includes restoration of the natural ecological systems within the conservation easement areas. The development phase covers initial site restoration, and is the responsibility of the developer. Once the development phase is completed by the developer and accepted by the city, the stewardship program moves to phase two, which is the long-term stewardship of the conservation easement areas. The responsibility for phase two shifts to the homeowners association of the development, with management and oversight by the city's natural resources staff.

The original developer defaulted on the stewardship program agreement, and the city took over responsibility for administering and managing the development phase. The city used the developer’s financial guarantee to fund the work required for phase one. That work has now been completed, and the city has shifted the long-term stewardship phase to the current homeowners association.

The stewardship agreement includes funding requirements for the ongoing funding of the long-term stewardship phase. The stewardship program includes two types of contributions. The first funding contribution is a one-time contribution of $4,000 for each of the 15 single-family homes, which is paid when each lot is sold. The second is an annual contribution of $500 per lot that begins the year after the city issues the certificate of occupancy for each of the 15 homes. The annual contribution per lot is increased every five years for inflation. The two affordable units within the development are not required to pay the one-time or annual stewardship fund contributions.

Since the proposed subdivision would reduce the number of single-family lots from 15 to 14, the stewardship program and fund agreement needs to be amended to address the funding contributions for the revised master development plan. In the current platted condition, the three lots would have an annual contribution of $500 each for a total of $1,500 toward the stewardship fund. Under the proposed platted condition, there would be two lots. The applicant has requested that the city approve an amendment to the stewardship agreement so that each of newly created lots would continue to pay $500 per year, rather than splitting the $1,500 total annual contribution for three lots between the two lots. The applicant has stated that the homeowners association is agreeable to the proposed amendment of $500 for each of the two new lots. The three lots that are currently subject to the subdivision request have already paid the $4,000 per lot contribution since the lots have been sold to the current owner. There would be no changes to this contribution.

**Staff Analysis**

Staff finds that the proposed easement vacation is reasonable:

- There are no public utilities located within the easement areas that would be vacated.
• The easement areas are no longer needed due to the reconfiguration of the three lots.

• New easements would be dedicated within the Marshes of Meadowwoods 2nd Addition plat.

Additionally, staff finds that the proposed amendment to the funding contribution is reasonable:

• There would be no changes to the stewardship program, and the amendment would not change the stewardship requirements of the Meadowwoods development. The homeowners association would continue to be responsible for the long-term stewardship of the conservation areas. In addition, city staff would continue to oversee the long-term stewardship plan to ensure compliance with the development plans and stewardship program that were approved by the city.

• The amendment to the funding contributions would not reduce the overall homeowners association’s funding obligations. Although the reduction in number of lots contributing to the stewardship fund would reduce the total annual contributions by $500, the association would continue to be responsible for the full costs of completing the work required by the stewardship program. The existing agreement already addresses any future shortfalls in funding. The homeowners association can increase the annual contributions to meet the funding requirements, or the city can specially assess the cost obligations to the individual lots. The proposed amendment would not change the existing guarantees that the stewardship program be fully funded by the homeowners association.

Planning Commission Review

The planning commission considered the subdivision request on August 27, 2015. The planning commission did not consider the vacation of easements or amendment to the stewardship fund, as those only require review by the city council. The staff report from the planning commission meeting is attached and various plans and documents describing the proposed project may be found on pages A1-A6. At that meeting, a public hearing was opened to take comment; no public comments were received. The commission asked questions and discussed the proposal, and supported the subdivision request. On a 6-0 vote, the commission recommended that the city council approve the proposal, as recommended by city staff. Meeting minutes may be found on page A21.

Staff Recommendation

Staff recommends the council hold the public hearing and:

1) Adopt the resolution approving the preliminary and final plat of Marshes of Meadowwoods 2nd Addition, as recommended by the planning commission. (See pages A22-A24.)
2) Adopt the resolution vacating existing drainage and utility easements for Marshes of Meadowwoods. (See pages A25-A27.)

3) Approve the funding change to the stewardship fund for the Meadowwoods development in a form acceptable to the city attorney. This would reduce the annual contributions to the stewardship fund from 15 lots to 14 lots.

Through: Geralyn Barone, City Manager
         Julie Wischnack, AICP, Community Development Director
         Susan Thomas, AICP, Principal Planner

Originator: Jeff Thomson, Planner
MINNETONKA PLANNING COMMISSION
August 27, 2015

Brief Description  Preliminary and final plat for Marshes of Meadowwoods 2nd Addition

Recommendation  Recommend the city council approve the plats

Proposal

The property owner is proposing to adjust the property lines of three single-family residential lots on the north side of the Meadowwoods development. The proposal would re-divide the three existing lots into two lots. The proposal requires preliminary and final plat review. (See narrative and plans on pages A1-A5.)

Background Information

Marshes of Meadowwoods is a 21-acre residential development that was approved by the city council in 2003. The overall development consists of 15 single-family residential lots, and two attached single-family units. Of the 15 existing single-family lots, 10 are currently developed with homes. There are 5 remaining vacant lots.

Meadowwoods is a planned unit development. It was approved as conservation development and has a stewardship plan that addresses wetland restoration, upland prairie management, and stormwater treatment. The stewardship plan is managed by the homeowners association with oversight by the city’s natural resources staff.

Proposed Subdivision

There are three existing single-family lots on the north side of the Meadowwoods development that are served by a private driveway, Lindsey Lane. The three lots are currently vacant, and are all owned by the applicant. Due to the configuration of the buildable area on the three lots, the applicant is proposing to rearrange the lot lines to create only two buildable lots. The existing middle lot, Lot 2, would be divided in half, and the two halves would be combined with the adjacent lots, Lots 1 and 3. (See pages A4-A5.)

Typically, a subdivision which re-adjusts lot lines and does not create any additional lots can be reviewed administratively by city staff. However, the applicant is proposing the subdivision as a plat because a plat is a simpler and cleaner means of dividing the lot. Any subdivision by plat requires review of the planning commission and city council.
Staff Analysis

Staff finds that the applicant's proposal is reasonable. The proposed lots are consistent with the master development plans of the Meadowwoods development, and meet the city's zoning and subdivision regulations.

Staff Recommendation

Recommend the city council adopt the resolution approving the preliminary and final plat approval to Marshes of Meadowwoods 2nd Addition, a two-lot subdivision at 4247, 4259 and 4271 Lindsey Lane. (See pages A7–A9.)

Originator: Jeff Thomson, Planner
Through: Susan Thomas, AICP, Principal Planner
### Supporting Information

<table>
<thead>
<tr>
<th><strong>Project No.</strong></th>
<th>99019.15a</th>
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<tr>
<td><strong>Properties</strong></td>
<td>4247, 4259 and 4271 Lindsey Lane</td>
</tr>
<tr>
<td><strong>Applicant</strong></td>
<td>Sushil Rana</td>
</tr>
<tr>
<td><strong>Property Owner</strong></td>
<td>Anjali Dahiya</td>
</tr>
<tr>
<td><strong>Approving Body</strong></td>
<td>The planning commission makes a recommendation to the city council, which has final authority to approve or deny the request.</td>
</tr>
<tr>
<td><strong>Additional Applications</strong></td>
<td>The applicant has made three additional requests that do not require planning commission approval.</td>
</tr>
</tbody>
</table>

- The applicant originally requested an amendment to the house design requirements that are part of the city’s original master development plan approval. The request would allow for the lots on the subject properties to have a front-facing third garage stall. After doing additional research, city staff determined that the PUD requirement that the homes have a side-loading garage only pertains to the lots located on the development’s “pinwheels.” The requirement does not apply to subject properties. Therefore, the front-facing third stall garage would meet the city’s master development plan requirements.

- The applicant has requested that the city vacate the existing public drainage and utility easements that run along the side property lines of the existing Lot 2. New drainage and utility easements would be re-established on the plat along the new side property line.

- The applicant has requested that the city council approve an amendment to the development’s master declaration as it pertains to stewardship fund contributions for each of the lots. These requests will be reviewed by the city council, as they do not require review by the planning commission.

| **Surrounding Land Uses** | All surrounding land uses are single-family homes zoned R-1 and guided for low density residential uses. |
| **Planning** | Guide Plan designation: Low density residential  
Zoning: PUD/Planned Unit Development |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Neighborhood Comments</strong></td>
<td>The city sent notices to 40 area property owners and received no comments.</td>
</tr>
<tr>
<td><strong>Deadline for Decision</strong></td>
<td>November 11, 2015</td>
</tr>
</tbody>
</table>
Location Map

Project: Marshes of Meadowwoods 2nd Addition
Applicant: Sushil Rana
Address: 4247, 4259, & 4271 Lindsey Lane (90019.15a)

This map is for illustrative purposes only.
The Designated Officer(s), Planning  
City of Minnetonka, 14600 Minnetonka Blvd, Minnetonka, MN 55345

**Subject:**

1. Application for Preliminary Plat, Final Plat and Vacation to convert 3 lots (4247, 4259 and 4271 Lindsey Lane Minnetonka) into 2 lots.
2. Request for relaxation in the side-load garage requirement
3. Request for same stewardship dues for the home owners of the 2 new lots as the rest of home owners of Marshes of Meadowwoods

Dear Sir / Madam,

1. **Application for Preliminary Plat, Final Plat and Vacation**

Please find attached applications and the required documents for preliminary plat, final plat and utility easement vacation to convert 3 lots (4271, 4259 and 4247 Lindsey Lane) into 2 lots by splitting the center lot (4259 Lindsey Lane) into 2 halves and merging each half with the adjacent lots (4271 and 4247) respectively.

2. **Request for Relaxation in Side-Load Garage Requirement**

Attached is the proposed home design. The proposed garage is not a straight side load garage. It is a side load garage but the garage door of third stall is different from a straight side load garage. It is more convenient to park. The home owners of one of the new lots want to have this house as their retirement home and feel that with increasing age it will become more and more difficult for them to park in the garage that needs a right angle turn.

3. **Request for Same Stewardship Dues:**

The upland square footage of each of the 3 North lots is close to half of that of the cul-de-sac lots and it not possible to build houses that are comparable in size to the rest of the houses of Marshes of Meadowwoods on these lots. Both of these 2 new lots will have less upland square footage than even the smaller of the cul-de-sac lots. We, therefore plead to you to charge same stewardship dues to the home owners of the 2 new lots as the rest of home owners. Following is an analysis of the upland square footage of 6 lots in the Marshes of Meadowwoods development for which we have information available (a picture is also attached).

**Upland Square Feet of 3 North Lots which will be converted into 2 lots**

- 4247 Lindsey Lane has 7,423 Upland Sq Ft
- 4259 Lindsey Lane has 8,697 Upland Sq Ft
- 4271 Lindsey Lane has 6,908 Upland Sq Ft

**Upland Square Feet of 3 other lots (in the 2 pin-wheel cul-de-sacs)**
- 4230 Lindsey Lane has 13,007 Upland Sq Ft
- 18310 Kylie Court has 12,299 Upland Sq Ft
- 4233 Lindsey Lane has 12,171 Upland Sq Ft

Upland Square Feet of Proposed 2 New Lots

- 4247 Lindsey Lane (7,423 Upland Sq Ft) + Half of Center Lot (4348.5 Upland Sq Ft) = 11771.5 Upland Sq Ft
- 4271 Lindsey Lane (6,908 Sq Ft Upland) + Half of Center Lot (4348.5 Sq Ft Upland) = 11256.5 Upland Sq Ft

Both of these proposed new lots will have less upland square footage than the smallest of the 3 cul-de-sac lots (4233 Lindsey Lane - 12,171 Sq Ft).

Therefore, the 3 North lots should have been just 2 lots when they were originally designed and the 2 new lots should not be treated any differently than the other lots in the development. Marshes of Meadowwoods Home Owners Association voted unanimously in favor of keeping the same stewardship dues for the owners of the 2 new homes as the dues paid by other home owners of Marshes of Meadowwoods.

Please call (952) 250 7500 or email at srana@davincicustomhomes.com if you have any questions.

Thanks and Regards,

Your Truly

(Sushil Rana)

Date: 7/11/2015

(Anjali Dahiya)

Date: 7/11/2015
Existing Plat

Subject

Marshes of Meadowwoods
4247, 4259, and 4271 Lindsey La
PRELIMINARY PLAT FOR:
MARSHES OF MEADOWWOODS 2ND ADDITION

PROPERTY ADDRESS
4271 Lindsey Lane
Minnetonka, MN 55345

EXISTING DESCRIPTION:
Lots 1, 2, and 3, Block 2, MARSHES OF MEADOWWOODS,
Hennepin County, Minnesota.
Subject to easements of record, if any.

AREAS:
PROPOSED LOT 1 AREA: 23,691 SQ FT
BUILDABLE AREA: 5,800 SQ FT

PROPOSED LOT 2 AREA: 23,117 SQ FT
BUILDABLE AREA: 5,969 SQ FT

LEGEND:
• Denotes iron monument found
○ Denotes iron monument set and
marked with RLS 47222

NOTES:
Bearings are on assumed datum.
Buildings, driveways, and grades to be
determined at a later date.
Elevations are on NGVD 1929 Datum.
Bench Mark = THH NE corner
Lindsey Lane and Ridgewood Road.

I hereby certify that this survey, plan or
report was prepared by me or under my
direct supervision and that I am a duly
Licensed Land Surveyor under the laws
of the State of Minnesota.

Theresa K. Foster
LICENSE #: 47222
DATE:

DRAWN BY: PROJECT NUMBER: 209 092

Marshes of Meadowwoods
4247, 4259, and 4271 Lindsey La
MARSHES OF MEADOWWOODS 2ND ADDITION

LEGAL DESCRIPTION

The property described herein and shown on the plat of Marshes of Meadowwoods 2nd Addition is located in the City of Waconia, in the County of Hennepin, in the State of Minnesota. The property is bounded on the north by Marshes of Meadowwoods 2nd Addition, on the east by Marshes of Meadowwoods 2nd Addition, on the south by Marshes of Meadowwoods 2nd Addition, and on the west by Marshes of Meadowwoods 2nd Addition.

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PRELIMINARY PLAT FOR:
MARBES OF MEADOWWOODS 2ND ADDITION

PROPERTY ADDRESS
4271 Lindsey Lane
Minnetonka, MN 55345

EXISTING DESCRIPTION:
Lots 1, 2, and 3, Block 2,
MARSHES OF MEADOWWOODS,
Hennepin County, Minnesota.
Subject to easements of record, if any.

AREAS:
PROPOSED LOT 1 AREA: 23,691 SQ FT
BUILDABLE AREA: 5,800 SQ FT

PROPOSED LOT 2 AREA: 23,117 SQ FT
BUILDABLE AREA: 5,969 SQ FT

LEGEND:
• Denotes iron monument found
O Denotes iron monument set and
marked with RLS 47223

NOTES:
Bearings are on assumed datum.
Buildings, driveways, and grades to be
determined at a later date.
Elevations are on NGVD 1929 Datum.
Bench Mark = TNH NE corner
Lindsey Lane and Ridgewood Road.

Easements to be vacated
Easements to be re-dedicated
New easement to be dedicated

I hereby certify that this survey, plan or
report was prepared by me or under my
direct supervision and that I am a duly
Licensed Land Surveyor under the laws
of the State of Minnesota.

Theresa K. Foster
LICENSE #47223
DATE: 07/24/2015

1440 Arcade St. Suite 250
Saint Paul, MN 55105
Phone: 651-768-2112
Fax: 651-770-0206
Email: info@mrpac.com
Marshes of Meadowwoods
4271, 4247, and 4259, Lindsey Lane
Overview: This Agreement is made between Meadow Woods LLC ("Meadow Woods"), a Minnesota limited liability company, 4200 Central Ave. N.E., Minneapolis, MN 55421 and the City of Minnetonka ("City"), a Minnesota municipal corporation, 14600 Minnetonka Blvd., Minnetonka MN 55345.

This Agreement is a stipulated part of the development package and various land use applications submitted by Meadow Woods for the Meadowwoods Residential Development and the property legally described in attached Exhibit A ("Meadowwoods"). Meadow Woods and the City engaged in a cooperative approach toward the development of this property, using conservation development principles. As part of the development proposal, Meadow Woods and the City agreed to establish a stewardship program and fund agreement for supporting on-going stewardship of ecologically sensitive areas in Meadowwoods.

Definition of a Stewardship Program and Fund Agreement: The "stewardship program" relates to the construction, restoration, maintenance, and monitoring of natural ecological systems as part of the Meadowwoods development proposal. The stewardship program also includes ecologically-based stormwater management systems.

The "fund agreement" relates to the establishment of a perpetual funding source for long-term stewardship of the natural ecological systems within the Meadowwoods development.

Dispute Resolution Protocol: Unless otherwise specified in this agreement, disputes related to any aspect of this agreement are subject to the following procedure. Either party may request in writing that the City Manager (or authorized designee) and a corporate officer of Meadow Woods, or of the Homeowners Association after the Development Phase, promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the parties have not negotiated a resolution of the dispute within 30 days after this initial meeting, the parties may jointly select a mediator to facilitate further discussion. If the parties are unable to resolve the dispute within 60 days after the written request to meet, the dispute will be submitted to binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association, except that disputes will be submitted to a single arbitrator. The parties will equally share the costs of conducting any mediation or arbitration, excluding each party's cost for preparation of its own case.

Stewardship Program

The stewardship program includes the following:

- Areas covered under the stewardship program
- Stewardship program phases
- Stewardship Program Funding
- Stewardship program technically requirements for conservation easements
- Restriction of uses within conservation easements
- Signage of the conservation easement
Meadowwoods Residential Development Stewardship Program and Fund Agreement

- Restrictions on the use of chemicals for lawns, gardens, and other types of plantings outside the conservation easement
- Protocol for administration of the stewardship program

The following considers each of these.

**Areas Covered Under the Stewardship Program:** In accordance with the City-approved restoration plan prepared by Humphrey Engineering, revised June 21, 2004 and date stamped June 22, 2004, attached as Exhibit B (the “Approved Restoration Plan”), the stewardship program will apply to the area covered by the conservation easement granted by Meadow Woods to the City. There are two component parts of the conservation easement area. The first is the restored natural area, which is an area that will be restored to natural ecological systems as part of the overall development proposal and which is shown on the Approved Restoration Plan as wetland types and upland forest/woodland.

The second part is the rain garden area, which is also an area that will be restored to natural ecological systems as part of the overall development and which is shown on the Approved Restoration Plan as rain garden biofilter. The distinction between the two areas is that there is some discretion available to Meadow Woods during the development process to adjust the rain garden area as individual lots are developed. In making adjustments, the net area shall remain equal, unless otherwise mutually agreed to by the City and Meadow Woods at the time at which individual lot building/grading permits are approved by the City.

All ecologically-based stormwater management features are also included under this agreement, with the following limitations:
- The stewardship program only relates to construction, restoration, maintenance, and monitoring of natural plant communities, basins, and rain gardens. This includes the periodic removal of sediments from rain gardens and ponding areas.
- The stewardship program does not relate to the construction and maintenance of physical stormwater structures, such as culverts, drainage pipes, weirs, catch basins, etc.

**Stewardship Program Phases:** There are two phases to the stewardship program. The first phase, entitled the “Development Phase”, begins at the start of field construction of the project. Meadow Woods shall formally notify the City of the official project start date. The Development Phase will be of a four to six-year duration from the date of Notification of Acceptance of Start Date from the City. This is in accordance with the phasing plan defined in the Wetland Permit Application (pages 13 and 14). Note that all natural area plantings must be completely installed by the end of the fourth year of development in order for the first phase to be completed in six years. This allows the last two years of phase one to meet the performance standards and acceptance/guarantee provisions of the specifications and this agreement.

If natural area planting within the conservation easement is not completed at the end of the fourth year, one additional year will be allowed for the plantings to be completed and the Development Phase time frame shall be extended accordingly to a maximum of seven years unless mutually agreed otherwise. If the natural area plantings are completed sooner than the end of the fourth year, the Development Phase time frame can be reduced accordingly.
At the end of the Development Phase, when the technical evaluation panel as assigned by the Wetland Conservation Act, Meadow Woods and the City agree that the performance standards and acceptance/guarantee provisions of the specifications and this agreement have been met, that agreement will be placed in writing, and the stewardship program moves into the second phase. The acceptance of this agreement may occur prior to the end of the sixth year or maximum extension allowed.

The second phase, entitled the "Long-term Stewardship Phase", begins after completion of the Development Phase. This phase is perpetual.

**Stewardship Program Funding:** The Development Phase of the project will be funded entirely by Meadow Woods. Funding levels will be as required to meet the requirements of the development proposal and the provisions of this agreement. The Long-Term Stewardship Phase will be funded through a Stewardship Fund as defined under this agreement. Funding levels will be limited to the funds available through the program, as defined under the Stewardship Fund Agreement part of this document.

**Stewardship Program Technical Requirements for Conservation Easements:** The technical requirements for constructing, restoring, maintaining, and monitoring are defined under this agreement and the following documents submitted as part of the development package:

- **Technical specifications for constructing, managing, maintaining, and monitoring natural resources:** A number of documents provided under the development package are referenced:
  - Wetland Permit Application
  - Specifications for Ecological Restoration and Management
  - Stormwater Management Report
  - Related platting, grading, and development plans

These documents, along with other provisions of the development package, shall be used as the basis for the stewardship program unless otherwise stipulated in this agreement or revised as mutually agreed to between the City and Meadow Woods.

- **Mapping:** One map is referenced under the technical requirements for the stewardship program. The map the Approved Restoration Plan prepared by Humphrey Engineering, revised June 21, 2004 and date stamped June 22, 2004, and attached as Exhibit B. This map shows the wetland types, upland forest/woodland areas, and rain garden areas protected by a conservation easement from Meadow Woods to the City. This map also defines the designated areas for various native plant communities to be reestablished on the site. Other maps included in the development package shall also be included in the technical requirements.

- **Performance Standards:** Performance standards define the requirements associated with the construction, restoration, maintenance, and monitoring of natural ecological systems as part of the Meadowwoods development package. The following table

3

A10

Marshes of Meadowwoods
4247, 4259, and 4271 Lindsey La
establishes the technically-based and visually-based performance standards for the plant communities defined in the development package.

**Technically-Based Performance Standards for Native Plant Communities**

The technical specifications for *Ecological Restoration and Management as defined in Attachment C of the Wetland Permit Application and date stamped December 10, 2003*, of the development package provides the requirements for constructing, restoring, and maintaining the native plant communities as defined on the Approved Restoration Plan. This includes, but is not limited to, provisions related to the species list for native plants, provisional acceptance, final acceptance, guarantee after one full growing season after provisional acceptance, guarantee after two full growing seasons after provisional acceptance, and management/maintenance.

The requirements of the technical specifications shall be in full force until completion of the Development Phase of the project, as previously defined in this agreement. The technical specifications shall also be used as the baseline specification for the Long-Term Stewardship Phase of the development.

Any modifications to the specifications during either phase of the project shall require approval by the City. This includes, but is not limited to, changes to species list due to availability and modifications to the boundaries of each plant communities based on actual site conditions.

The City shall be notified in writing a minimum of two weeks prior to the construction, restoration, maintenance and monitoring of ecological systems and plant communities to ensure that the requirements of the specifications are adhered to in accordance with this agreement and the provisions of the development package. The City shall also receive an official notification pertaining to the start and end of guarantee periods established as part of the referenced specifications. Guarantee period will commence after the City formally accepts the notification in writing.

**Visually-Based Performance Standards for Native Plant Communities**

As part of the development package, a *Development Image Package for Meadowwoods* was provided to visually articulate the character of the development, which was an important aspect of the development plan. The image package will be used, in part, as part of the on-going evaluation of the development by the City during the Development Phase of the project to ensure that the desired visual aesthetic is being achieved. Whereas the imagery is illustrative, it will be used as the basis for the City Manager (or authorized agent) to determine if the intent of the project is being achieved. Visual review of the project shall occur no later than at the end of the fourth year of development and every consecutive year until the technical evaluation panel, Meadow Woods and the city agree to accept the restoration. Visual review will occur in the spring of the year when plant communities are in full bloom. If a dispute arises between the parties regarding the visually-based performance standards, the Dispute Resolution Protocol defined in this agreement will be initiated.
Transition Zone between Conservation Easement and Private Garden: In areas where a private garden (as defined on the Approved Restoration Plan) abuts a conservation easement, there shall be a transition zone approximately ten feet wide on the outside of the easement line. The purpose of this zone is to reduce the amount of lawn chemicals and fertilizers from migrating into the conservation easement. Plantings within the transition zone are limited to woody plantings, shrubs, and flowering plants. Turf grasses/lawns are not allowed within the transition zone.

Restriction of Uses within Conservation Easements: All post-development uses within the defined conservation easement shall be limited to ecological stewardship. No grading, built/man-made structures, storage areas/sheds, lawn clippings, composting, etc. shall be allowed within the easement without previous approval by the Homeowner's Association and the City of Minnetonka. Use of the area for recreational vehicles (motorized and non-motorized) is strictly prohibited, with the exception of authorized maintenance and emergency vehicles.

Signage of the Conservation Easement: The conservation easement shall be legally defined and clearly marked in the field to ensure that all homeowners know exactly where the easement line is relative to their ornamental lawns and gardens. These markings shall provide the necessary visual cues for enforcement of restrictions. Note that standardized signs as per City of Minnetonka standards shall be permanently placed and recorded for each property within the development. A total of up to four signs shall be provided for each property at locations selected by the City. The costs for acquiring and installing the signs shall be the responsibility of Meadow Woods.

Restrictions on the Use of Chemicals for Lawns, Gardens, and Other Types of Plantings Outside the Conservation Easement: Lawn care products and chemical compounds used outside of the conservation easement shall be restricted to those that are environmentally-friendly. At the end of the Development Phase, Meadow Woods and the City shall agree to a list of products that will be allowed for use as fertilizers and other lawn/garden care. The list shall be maintained and updated by the City on a periodic basis. Only those products on the approved list may be used during the Long-Term Stewardship Program outside of the conservation easement.

Protocol for Administration of the Stewardship Program: The following defines the specific protocol for administering the Stewardship Program for each phase of the development.

- Phase I – Development Phase: Meadow Woods shall meet with the City Manager (or authorized agent) on a regular basis during this entire phase to review the construction and restoration process and observe conformance with the plans, specifications, and performance standards. Meadow Woods shall be responsible to update the project schedule on a monthly basis and forward to the City during the construction season. Meadow Woods shall have an experienced, trained, and licensed ecologist/botanist/natural plan specialist involved throughout the project to manage all aspects of the stewardship program.
Phase II – Long-Term Stewardship Phase: Once the development phase is completed, administration of the program shifts to the Homeowner's Association that is legally established. The Association shall meet with the City Manager (or authorized agent) each year to review the stewardship work to be completed during the following year. The meeting shall be initiated by the Homeowner's Association during the month of October to allow adequate time to prioritize stewardship needs and arrange for the work to be completed by a contractor that is pre-qualified by the City of Minnetonka following the City's standard procedures. The work to be performed under the stewardship program shall be limited to that which can be funded through the Stewardship Fund.

The Homeowner's Association shall hire a licensed ecologist that is pre-qualified by the City of Minnetonka following the City's standard procedures to oversee the work being done. Note that the City's staff time commitment each year shall be limited to the meeting in October and periodic site visits at their discretion to make sure that the ecological work is being done in accordance with the stewardship program requirements. Day-to-day oversight of the stewardship program shall be the responsibility of the Homeowner's Association and their qualified representatives. Yearly schedules and work tasks shall be established by the Homeowner's Association, with the final approval of the program by the City of Minnetonka.

In the event disputes related to the yearly work program, the City will have authority to make the final determination of fund expenditures.

The Homeowner's Association shall be responsible for enforcement of the provisions of the stewardship program and restrictions imposed by this agreement. At the discretion of the Homeowner's Association, a Natural Resource Committee can be formed to provide oversight of the stewardship program. A three person group shall be the minimum size for the Committee.

Stewardship Fund Agreement

The Stewardship Fund Agreement relates to establishing a perpetual funding source for the Long-Term Stewardship Phase of the development as previously defined under this agreement. The agreement includes the following:

- Fund creation
- Initial developer contributions
- Annual contributions
- Secondary developer contributions
- Fund expenditures starting date
- Custodian of the fund
- Purpose of the fund
- Expenditure Procedures
- Exceptions
- Periodic Review
- Termination, Amendment
- Elimination of Association
Meadowwoods Residential Development Stewardship Program and Fund Agreement

- Covenant
- Withdrawal from Participation

The following considers each of these.

**Fund Creation:** This agreement establishes the Meadowwoods Stewardship Fund (the "Fund"), to be financed and administered in accordance with this agreement. The principal of the Fund will consist of all contributions received pursuant to paragraphs entitled Initial Developer Contributions, Annual Contributions, and Secondary Developer Contributions as defined below, and from any other donor.

**Initial Developer Contributions:** The Fund will be initially financed by Meadow Woods as individual lots are sold for development. The one-time contribution (payment) to the Fund occurring at the point of sale shall be $4,000 for fifteen (15) market rate lots. There will be no contribution to the fund for the affordable rate lots. The total initial contribution to the Fund upon sale of all lots totals $60,000. Payment of these amounts into the Fund will be completed no later than 10 days after the closing date for the sale of each lot.

**Annual Contributions:** The Fund will also receive funds on an annual basis from the Meadowwoods Homeowner's Association (the "Association"). The Association will annually pay $500 for each of fifteen market rate residential units in Meadowwoods that have received a certificate of occupancy from the City. Annual fund contributions will begin on January 31st of the year following the issuance of the certificate of occupancy. There will be no annual contribution to the fund for the affordable rate residential units. The amount of the unit fee will be increased every five years commencing on the date of the last certificate of occupancy from the City, by the greater of either (a) 10% or (b) a percentage amount equal to the percentage increase, if any, in the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index (All Items, All Consumers, 1982-1984=100) which occurred during the previous five-year period for the Midwest Urban Region Consolidated Metropolitan Statistical Area. The Association will pay the fees by January 31 of each year, accompanied by a report reciting the number of residential units that have been constructed and the units which have paid the fee. The Association will be responsible for collecting the amounts from each of the respective residential units, but the City will have the right to specifically assess the outstanding amount and any costs of collection against each unit that has not paid the fee to the Association or to the City. Meadow Woods agrees on behalf of itself and all future owners of property in Meadowwoods that the City can make these special assessments without notice or a hearing. On behalf of itself and all future owners of property in Meadowwoods, Meadow Woods waives all rights to contest the validity of these special assessments.

**Secondary Developer Contributions:** At the end of the Development Phase, Meadow Woods shall be responsible to contribute the Initial Contribution to the Fund as defined above for all unsold lots within the Meadowwoods development. These contributions are to ensure that the Fund is adequately funded once the project moves into the Long-Term Stewardship Phase as previously defined in this agreement. Meadow Woods shall also be responsible for the Annual Contributions to the Fund as defined above for unsold lots. As the remaining lots are sold,
Meadow Woods has the authority to recoup the Initial Contributions payment from the lot purchaser at its discretion. The Annual Contributions Meadow Woods has made for unsold lots cannot be recouped.

**Fund Expenditures Starting Date:** The Fund shall be made available to fund the "Long-Term Stewardship Phase" of the project, which begins upon completion of the "Development Phase" as previously defined in this agreement. The Long-Term Stewardship Phase is perpetual.

**Custodian of the Fund:** The City will be the custodian of the Fund and will create a separate account for the Fund. The City will invest the Fund's money in the same manner as other City funds, in accordance with the City's written investment policy. On behalf of itself and all future owners of property in Meadowwoods, Meadow Woods waives all claims against the City resulting from the City's custody and administration of the Fund, except for claims caused by the City's gross negligence or intentional misconduct. The City may choose at a later date to delegate custody and administration of the Fund to a separate trust agency, subject to approval of the Association's Board of Directors, which approval may not be unreasonably withheld.

**Purpose of the Fund:** The Fund shall be used to pay for the costs of:
- Implementing the Meadowwoods Stewardship Program (the "Program")
- Fund administration by any third party
- Collections
- Enforcing the terms of this Agreement or the Conservation Easements covering Meadowwoods property
- Restoring property damaged in violation of the Conservation Easements

The party bringing the collection or enforcement action or restoring property will first attempt to recover the costs from the responsible party. If those costs are not recovered, then the Fund may be used to reimburse those costs.

The Fund will not be used for any costs associated with:
- Trail/boardwalk related construction or maintenance
- Private landscaping and/or improvements to private property outside of the Conservation Easement

**Expenditure Procedures:** The City Manager (or authorized agent) and the Association will cooperate in determining what work should be done to implement the Program. Before a contract is signed for work to implement the Program, the specifications for the work must be reviewed and approved by the Association's Board of Directors and the City. Attached as Exhibit C is a cash flow analysis which may be used as a guide to ensure that sufficient funds are available for the work.

**Exceptions:** Exceptions to the terms provided above may be made only upon approval by two-thirds of the members of the Association's Board of Directors and two-thirds of the members of the City Council.
Periodic Review: The Association and the City will review this agreement every five years to determine if any changes should be made. This shall include, but is not limited to, review of the Fund principal, capacity of the Fund to fund the stewardship program with funds available, and need to adjust annual contributions to the Fund to sustain the program.

Termination, Amendment: This agreement may be amended or terminated only upon approval by two-thirds of the members of the Association's Board of Directors and two-thirds of the members of the City Council.

Elimination of Association: If the Association is disbanded, actions that require approval of the Association's Board of Directors will be approved by a vote of the owners of property in Meadowwoods, with the same percentage of votes required for any action as required under this Declaration. Each residential unit will have only one vote.

Covenant: The provisions of this Agreement apply to and bind the parties and each owner of any part of Meadowwoods, and their respective successors and assigns, and must be included in the Declaration establishing the Master Homeowners Association.

Withdrawal from Participation: The City Council may decide to withdraw from participation in the implementation of this Agreement, but not before five years have past since execution of this Agreement. If the City Council decides to withdraw, the Fund will continue to exist subject to the restrictions provided above, except that the Association will undertake all obligations provided in this agreement without any involvement from the City.

Date: 12/16/04

MEADOW WOODS LLC

By: [Signature]
Bruce A. Nedegaard
Its President and Chief Manager

Date: 12/10/04

CITY OF MINNETONKA

By: [Signature]
Karen J. Anderson
Its Mayor

By: [Signature]
John Gunyou
Its City Manager

9
A16

Marshes of Meadowwoods
4247, 4259, and 4271 Lindsey La
STATE OF MINNESOTA) ) SS
COUNTY OF HENNEPIN) ) SS

The foregoing instrument was acknowledged before me this 6th day of December, 2004, by Bruce A. Nedegaard, the President and Chief Manager of Meadow Woods LLC, a Minnesota limited liability company, on behalf of the limited liability company.

[Signature]
Notary Public

STATE OF MINNESOTA) ) SS
COUNTY OF HENNEPIN) ) SS

The foregoing instrument was acknowledged before me this 10th day of December, 2004, by Karen J. Anderson and John Gunyou, the Mayor and City Manager respectively of the City of Minnetonka, on behalf of the corporation.

[Signature]
Notary Public

DRAFTED BY:
Brauer & Associates, Ltd.
10417 Excelsior Blvd., Suite One
Hopkins, MN 55343

City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345
952-939-8200
EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Lots 1 and 2, Block 1, Marshes of Meadowwoods

Lots 1 through 3, inclusive, Block 2, Marshes of Meadowwoods

Lots 1 through 6, inclusive, Block 3, Marshes of Meadowwoods

Lots 1 through 6, inclusive, Block 4, Marshes of Meadowwoods

Outlots A, B, C, D, E and F, Marshes of Meadowwoods, Hennepin County, Minnesota according to the recorded plat thereof.
EXHIBIT B

Approved Restoration Plan (city-approved restoration plan prepared by Humphrey Engineering, revised June 21, 2004 and date stamped June 22, 2004)
8. Public Hearings

A. Preliminary and final plat for Marshes of Meadowwoods 2nd Addition.

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

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

Chair Kirk asked how outlots work. Thomson said that all outlots would be owned by the homeowner’s association. There is a stewardship plan for outlots that is overseen by the city’s natural resources personnel.

Anjali Dahiya, 4271 Lindsey Lane owner and applicant, stated that:

- The subdivision is necessary to build a decent house on the lot.
- The association is fine with the proposal.
- All of the properties in the association should pay the same amount for the stewardship fund.
- She hoped commissioners will accept the proposal.

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

Thomson clarified that the city council will consider the stewardship fund contribution issues.

Odland moved, second by O’Connell, to recommend that the city council adopt the resolution approving the preliminary and final plats of the Marshes of Meadowwoods 2nd Addition, a two-lot subdivision at 4247, 4259, and 4271 Lindsey Lane on pages A7-A9 of the staff report.

Knight, Magney, O’Connell, Odland, Calvert, and Kirk voted yes. Motion carried.

The city council is tentatively scheduled to review this item at its meeting on September 14, 2015.
Resolution No. 2015-

Resolution approving the preliminary and final plat of Marshes of Meadowwoods 2nd Addition at 4247, 4259 and 4271 Lindsey Lane

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

Section 1. Background.

1.01 Sushil Rana has requested preliminary and final plat approval for Marshes of Meadowwoods 2nd Addition, a two-lot subdivision at 4247, 4259 and 4271 Lindsey Lane.

1.02 The property is legally described as follows:

Lots 1, 2, and 3, Block 2, MARSHES OF MEADOWWOODS, Hennepin County, Minnesota

1.03 On August 27, 2015, the planning commission held a hearing on the proposed plat. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council grant preliminary and final plat approval.

Section 2. General Standards.

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

Section 3. Findings.

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

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

1. Subject to staff approval, Marshes of Meadowwoods 2nd Addition must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:
   - Preliminary plat dated July 14, 2015
   - Final plat dated July 14, 2015

2. Prior to release of the final plat for recording:
   a) This resolution must be recorded with Hennepin County.
   b) The following must be submitted to the city:
      1) A final plat drawing that clearly illustrates the following:
         a. A minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way and minimum 7-foot wide drainage and utility easements along all other lot lines.
         b. Utility easements over existing or proposed public utilities, as determined by the city engineer.
         c. Drainage and utility easements over wetlands, floodplains, and stormwater management facilities, as determined by the city engineer.
      2) Documents for the city attorney’s review and approval. These documents must be prepared by an attorney knowledgeable in the area of real estate.
         a. Title evidence that current within thirty days before release of the final plat.
      3) Two sets of mylars for city signatures.
      4) An electronic CAD file of the plat in microstation or DXF.
3. The final plat must be filed by September 14, 2016.

4. The lots are subject to all master development plan requirements of Marshes of Meadowwoods, approved by the city council on September 15, 2003 and amended by the planning commission on July 15, 2004.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 14, 2015

______________________________
Terry Schneider, Mayor

Attest:

______________________________
David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on September 14, 2015.

______________________________
David E. Maeda, City Clerk
Resolution No. 2015-

Resolution vacating drainage and utility easements on the properties at 4247, 4259, and 4271 Lindsey Lane

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

Section 1. Background.

1.01 Sushil Rana and Anjali Dahiya have petitioned the Minnetonka City Council to vacate existing drainage and utility easements on the properties at 4247, 4259, and 4271 Lindsey Lane. The properties are legally described as:

Lots 1, 2, and 3, Block 2, MARSHES OF MEADOWWOODS, Hennepin County, Minneosta

1.02 The drainage and utility easements are legally described as follows:

Vacate all those drainage and utility easements over Lots 1, 2, and 3, Block 2 dedicated on the plat of MARSHES OF MEADOWWOODS, Hennepin County, Minnesota

1.03 As required by law, a hearing notice on said petition was published in the City of Minnetonka’s official newspaper.

1.04 On September 14, 2015, the City Council held a hearing on such petition, at which time all persons for and against the granting of said petition were heard.

Section 2. Standards.

2.01 Section 12.06 of the City Charter states that “No vacation shall be made unless it appears in the interest of the public to do so...”

Section 3. Findings.
3.01 The Minnetonka City Council makes the following findings:

1. There are no public utilities located within the easement areas that would be vacated.

2. The easement areas are no longer needed due to the reconfiguration of the three lots.

3. New easements would be dedicated within the Marshes of Meadowwoods 2nd Addition plat.

4. The vacation is not counter to the public interest.


4.01 The city council vacates the above-described easements upon filing of the plat of MARSHES OF MEADOWWOODS 2ND ADDITION at Hennepin County.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 14, 2015.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on September 14, 2015.

________________________________
David E. Maeda, City Clerk
**City Council Agenda Item #14A**  
**Meeting of September 14, 2015**

**Brief Description**  
Items concerning a licensed daycare facility at 14730 Excelsior Boulevard:

1) A conditional use permit; and

2) Final site and building plans

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

**Proposal**

Prestige Preschool Academy is an educationally-based childcare center with two locations in Minnesota; one operating in Brooklyn Park and one approved for construction in Apple Valley. Prestige is proposing to open a third center in the former Kraemer’s building at 14730 Excelsior Boulevard. Both the interior and exterior of the building would be extensively remodeled to accommodate the center. Additionally, the site’s existing parking lot would be reconfigured and a new outdoor play area would be constructed in the northwest corner of the site. The proposal requires a conditional use permit and approval of final site and building plans.

**Planning Commission Hearing**

The planning commission considered the request on August 27, 2015. The staff report from that meeting is attached and various plans and documents describing the proposed project may be found on pages A1–A16. Staff recommended approval of the conditional use permit and site and building plans noting:

1. The proposal would meet the conditional use permit and site and building plan standards as outlined in city code.

2. The proposal would:
   - afford continued use of a site long used for commercial purposes;
   - result in a much needed remodel of the existing, vacant building; and
   - increase the variety of services available in the Glen Lake area.

At the commission meeting, a public hearing was opened to take comment. No comments were received. The commission discussed the proposal and generally commented:

1. It was unfortunate that a larger redevelopment of the area was no longer under consideration. However, without such, the proposal would provide a much needed update to the building and site.
2. While not grounds for denial, the proposed architecture – materials and color – were not particularly consistent with other architectural elements already in Glen Lake.

Planning Commission Recommendation

On a 6-0 vote, the commission recommended that the city council approve the proposal. Meeting minutes may be found on pages A25–A26.

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

Adopt the resolution approving a conditional use permit and final site and building plans for a licensed daycare facility at 14730 Excelsior Boulevard. (See pages A17–A24.)

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

Originator: Susan Thomas, AICP, Principal Planner
MINNETONKA PLANNING COMMISSION  
August 27, 2015

**Brief Description**  
Items concerning a licensed daycare facility at 14730 Excelsior Boulevard:  

1) A conditional use permit; and  

2) Final site and building plans

**Recommendation**  
Recommend the city council adopt the resolution approving the conditional use permit and plans

---

**Introduction**

Kraemer’s Hardware has operated at various locations within the Glen Lake area for over 100 years. In 1972, the store moved into the then newly constructed building at the northeast corner of Excelsior Boulevard/Williston Road intersection. In 2012, the store relocated to the south side of Excelsior Boulevard; its former north side location has remained vacant since.

**Proposal**

Prestige Preschool Academy is an educationally-based childcare center with two locations in Minnesota; one operating in Brooklyn Park and one approved for construction in Apple Valley. Prestige is proposing to open a third center in the former Kraemer’s building at 14730 Excelsior Boulevard. Both the interior and exterior of the building would be extensively remodeled to accommodate the center. Additionally, the site’s existing parking lot would be reconfigured and a new outdoor play area would be constructed in the northwest corner of the site. (See pages A1–A15.) The proposal requires a conditional use permit and approval of final site and building plans.

**Primary Questions and Analysis**

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

- **Is the proposed use generally reasonable?**

  Yes. Preschools/daycare facilities are conditionally permitted uses in commercial zoning districts. The proposed facility would meet all conditional use permit standards, which are outlined in the “Supporting Information” section of this report.
• **Are the proposed building and site changes appropriate?**

Generally, yes. The existing site and building have not undergone any significant alteration in the last 40 years. As such, even minor changes would “refresh” the property.

**Site.** Under the proposed plans, the Williston Road entrance to the site would be moved south, a portion of the existing parking lot would be removed, and a fenced play area would be installed. Additional site improvements would occur as conditions of approval, including a sidewalk connection from the Excelsior Boulevard/Williston Road intersection to the north property line. (See page A9.)

**Building.** Under the proposed plan, the existing façade would be removed and a new one installed. Façade materials would include brick veneer, EIFS, and horizontal and board-and-batten siding. Areas of existing stucco would be painted. In addition, new windows with shutter and pane treatments would be installed to soften the appearance of the structure. (See page A10.) As a condition of approval, a final materials board with color palate must be submitted for staff review and approval.

**Staff Comment**

In recent years the vacant Kramer’s building has been included in various redevelopment concept plans; most recently a concept for a multi-story apartment building. However, full redevelopment is no longer being contemplated by the property owner. Understanding this, staff supports the Prestige Preschool Academy proposal. Staff finds that it would: (1) afford continued use of a site long used for commercial purposes; (2) result in a much needed remodel of the existing, vacant building; and (3) increase the variety of services available in the Glen Lake area.

**Staff Recommendation**

Recommend that the city council adopt the resolution approving a conditional use permit and final site and building plans for a licensed daycare facility at 14730 Excelsior Boulevard. (See page A18–A24.)

Originator: Susan Thomas, AICP, Principal Planner
Supporting Information

**Surrounding Land Uses**
- **Northerly:** Single-family home
- **Easterly:** Commercial property
- **Southerly:** Excelsior Boulevard; commercial property beyond
- **Westerly:** Williston Road; two-family homes beyond

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

**Nuisance Conditions**
Several real and perceived nuisance conditions currently exist on the site, including: a bus regularly parked on the property, various materials piled around the perimeter of the building, general disrepair of the building façade, and a significant amount of “cut thru traffic” utilizing the parking lot to avoid the Excelsior Boulevard/Williston Road intersection. (See pages A16–A17.) The bus, material storage, and façade conditions would all be removed/improved through the proposed use. In staff’s opinion the “cut thru” traffic may also be reduced as the building and site become permanently occupied. Nevertheless, the property owner may wish to consider installation of “No Thru Traffic” signs at the entrances to the site. As these signs would be on private property and addressing a private traffic issue, they would not be enforced by the city. However, such signs may help to reduce the number of vehicles traveling through the site.

**Commercial Use**
General commercial and service uses could occupy the vacant Kraemer’s Hardware building without any special city approval. For instance, a new retailer could update the façade and remodel the interior of the building by applying for and receiving a basic building permit. The applicant’s proposal requires special city approval because a daycare center is a conditionally-permitted use.

**Facility Information**
Based on the information provided by the applicant, Prestige Preschools operate from 6:30 a.m. to 6:30 p.m. Monday through Friday. The facility would be staffed by 16 to 18 employees and would generally serve infants through kindergarteners.

**Proposed Building**
The existing building is roughly 12,790 square feet in size. To meet current building code requirements several changes would need to be made including structural and mechanical improvements. To accommodate the preschool, the interior of the building would be extensively remodeled and the space divided into various classroom, bathrooms, and office spaces. (See pages A10–A15.)
In addition to the interior changes, the exterior of the building would be remodeled. The existing façade would be removed and a new one installed. Façade materials would include brick veneer, EIFS, painted stucco, and horizontal and board-and-batten siding. (See page A10.)

**Proposed Site**

As proposed, the existing paved area in the northwest corner of the site would be removed. This area would be converted to a roughly 8,500 square foot outdoor play area. The area would be enclosed by fencing and new landscaping would be placed between the fence and adjacent property lines. (See page A9.)

**Parking**

Generally, city code parking requirements are based on land use and the size of the building in which that land use is occurring. However, this is not the case for daycare facilities. Rather, city code requires parking based on the *licensed capacity* of the facility not on the size of the building. By both the parking ordinance, and conditional use permit standard, daycare facilities must provide 1 parking stall for every 6 children.

As proposed, the Prestige Preschool Academy site would have 40 parking stalls. Therefore, the city would limit capacity to 240 children.

Interestingly, the city’s parking ordinance, parking studies for other preschool/daycare facilities, and the Institute of Transportation Engineers suggest that these 40 stalls would accommodate significantly different number of students/children:

<table>
<thead>
<tr>
<th>RATIO</th>
<th>ALLOWED students with 40 STALLS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ordinance</td>
<td>1 stall per 6 children</td>
</tr>
<tr>
<td>Parking Study*</td>
<td>1 stall per 6.2 children</td>
</tr>
<tr>
<td>ITE</td>
<td>1 stall per 4.2 children</td>
</tr>
</tbody>
</table>

*Primrose School study, based on observations at existing Twin Cities Primrose Schools

Given these varied numbers, staff has included a condition of approval noting that maximum enrollment may be revisited by the city council in the event that parking issues arise.

**Traffic**

Based on the traffic studies for other preschool/daycare facilities, and the Institute of Transportation Engineers analysis, the proposed daycare facility would generate more traffic than the
hardware store previously occupying the site, but less than other potential uses of the building.

<table>
<thead>
<tr>
<th>RATE</th>
<th>Hardware Store</th>
<th>240 Child Daycare**</th>
<th>Post Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.M. Peak</td>
<td>1.1/1000 sq.ft.</td>
<td>0.75/child</td>
<td>8.2/1000 sq.ft.</td>
</tr>
<tr>
<td>P.M. Peak</td>
<td>4.84/1000 sq.ft.</td>
<td>0.51/child</td>
<td>11.1/1000 sq.ft.</td>
</tr>
<tr>
<td>Daily</td>
<td>51.29/1000 sq.ft.</td>
<td>2.9/child</td>
<td>108.2/1000 sq.ft.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DAILY*</th>
<th>A.M. Peak</th>
<th>14 trips</th>
<th>180 trips</th>
<th>105 trips</th>
</tr>
</thead>
<tbody>
<tr>
<td>P.M. Peak</td>
<td>62 trips</td>
<td>122 trips</td>
<td>142 trips</td>
<td></td>
</tr>
<tr>
<td>Daily</td>
<td>656 trips</td>
<td>696 trips</td>
<td>1384 trips</td>
<td></td>
</tr>
</tbody>
</table>

* rounded to nearest trip
** Based on Primrose School study

CUP Standards

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

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

The proposal would meet the specific conditional use permit standards as outlined in City Code §300.21 Subd.3(j):

1. Shall have loading and drop-off points designed to avoid interfering with traffic and pedestrian movements;

**FINDING:** The proposed facility would primarily serve young “preschool” age children. Parents/guardians would drop-off
and pick-up children by parking their vehicle and walking into the facility. No outdoor drop-off or pick-up area is proposed and, as such, would not interfere with the vehicular or pedestrian circulation.

2. Outdoor play areas shall be located and designed in a manner which mitigates visual and noise impacts on adjoining residential areas;

**FINDING:** The proposed play area would be appropriately located on the site. A new fence and landscaping would buffer the area from existing residential areas across Williston Road and the potential, new residential area adjacent to the north.

3. One parking space for each six children based on the licensed capacity of the center; and

**FINDING:** The proposed parking lot would include 40 parking stalls, theoretically accommodating 240 students under this 1 stall per 6 student ratio. The Institute of Transportation Engineers research suggest a ratio of 1 stall per 4.2 students. Using this ratio the site could accommodate 168 students.

4. Shall obtain all applicable state, county and city licenses.

**FINDING:** This has been included as a condition of approval.

**SBP Standards**

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

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

**Finding:** Members of the city’s community development, engineering, fire, and public works staff have reviewed the proposal and find that it is generally consistent with the city’s development guides.

2. Consistency with this ordinance;

**Finding:** The proposal would meet ordinance standards.

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

**Finding:** The subject property is fully developed, with no area in a “natural state.” The proposal would actually increase the amount of green space on the site.

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

**Finding:** The subject property is fully developed, with no area in a “natural state” and little open space. The proposal would actually increase the amount of green space on the site.

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

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

   **Finding:** The proposal would significantly improve the overall site and building appearance, and therefore that of the intersection.

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

   **Finding:** The proposal would visually increase open/green space through the elimination of parking areas.

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

   **Finding:** The proposal would significantly improve the overall site and building appearance, and therefore that of the intersection.

   d) vehicular and pedestrian circulation, including walkways, interior drives and parking in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking.
Finding: The proposal would not hinder vehicular and pedestrian circulation. Rather, occupancy of a long vacant site may reduce “cut thru” traffic and provision of a sidewalk connection would improve pedestrian access from the north to the surrounding commercial area south and east.

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

Finding: The proposal would require improvements to the building’s HVAC equipment, thereby improving energy efficiency.

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

Finding: The proposal would allow for: (1) continued use of a site that has long been used for commercial purposes; and (2) reuse of vacant building. It would not negatively impact adjacent properties or the neighboring area.

Approving Body

The planning commission makes a recommendation to the city council, which has final authority to approve or deny the request. (City Code §300.06 Subd. 4)

Neighborhood
Comments

The city sent notices to 533 area property owners and received no comments.

Deadline for
Decision

November 9, 2015
Location Map

Project: Prestige Preschool
Applicant: Lake West Development
Address: 14730 Excelsior Blvd
(14003.15a)
Friday, July 24, 2015

**Julie Wischnack**  
Community Development Director  
City of Minnetonka  
14600 Minnetonka Boulevard  
Minnetonka, MN 55345  
O: 952-939-8282  
E: jwischnack@eminnetonka.com

**Loren Gordon**  
City Planner  
City of Minnetonka  
14600 Minnetonka Boulevard  
Minnetonka, MN 55345  
O: 952-939-8296  
E: lgordon@eminnetonka.com

**RE:** CONDITIONAL USE PERMIT APPLICATION, WRITTEN STATEMENT; LAKE WEST DEVELOPMENT  
14730 EXCELSIOR BLVD, MINNETONKA, MN 55345  
PID: 3311722110045

Dear Ms. Wischnack and Mr. Gordon,

Lake West Development is pleased to bring to your attention a conditional use permit application for the redevelopment of the former Kraemer’s True Value hardware store located at 14730 Excelsior Boulevard, Minnetonka, MN 55345. We believe that the proposed redevelopment of the underutilized site into a first-class licensed child care facility is consistent with the general and specific standards and intent of the B-2 zoning district ordinances. We respectfully seek staff support and City Council approval of this conditional use permit application for a licensed day care facility in the B-2 Limited Business District zoning area.

Lake West Development and child care provider Prestige Preschool’s Inc. are in final discussions to bring a fully redeveloped property and first-class operation to the Northeast corner of Excelsior Boulevard and Williston Road. The proposed project would re-use the existing foundation and block wall structure of the building, but would require a substantial amount of redevelopment. Improvements include, but are not limited to, structural improvements, waterproofing, a new exterior façade, roof, interior classrooms, bathrooms, kitchen, and play areas, an exterior play area, and parking lot and landscaping improvements. The new exterior would be made up of a combination of materials including brick and/or EIFS brick, painted EIFS, stucco, and lap siding. Both Lake West Development and Prestige Preschool’s are pleased to be making such a substantial investment in this property through re-development dollars and long-term tenancy commitments.

Prestige Preschool’s operates in several states and is currently engaged in several new developments throughout the Minneapolis/St. Paul metropolitan area. Typical operations are from
Monday thru Friday, from 6:30am-6:30pm, subject to seasonality or other program requirements. At maximum capacity, the child care center will have approximately 16-18 employees on site at a given time.

The following is an assessment of the application to permit evaluation criteria:

### Conditional Use Permit Evaluation Criteria

<table>
<thead>
<tr>
<th>Section 300.21.2. General Standards</th>
<th>Conditional Use Permit Evaluation Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) <strong>Is the use consistent with the intent of this ordinance?</strong></td>
<td>Yes. The purpose of the B-2 Limited Business District is to provide for low intensity service oriented commercial uses in areas designated as neighborhood or community centers in the comprehensive plan. A child care facility, which is conditionally permitted in the B-2 district, meets the intent by providing a low intensity service necessary for a “village” (Glen Lake Station) that is seeking to add stability and increase vitality.</td>
</tr>
<tr>
<td>b) <strong>Is the use consistent with the goals, policies and objectives of the comprehensive plan?</strong></td>
<td>Yes. The Minnetonka 2030 Comprehensive Plan designates the site as “Commercial” within its 2030 Land Use Plan, which is further defined as retail, entertainment, service, and office uses that typically occur in the village and regional areas. Glen Lake Station, one of three identified Community Village Centers within the Comprehensive Plan, will particularly benefit from the infusion of daytime activity from both employee’s as well as parents and caretakers of children utilizing the proposed development. In addition, the use directly reinforces several of the Plan’s Overall Growth Strategy Themes, such as adding stability in established areas through redevelopment and long-term tenancy in a village environment, as well as increasing vitality in a village area.</td>
</tr>
<tr>
<td>c) <strong>Is the use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements?</strong></td>
<td>No. The proposed use does not incorporate a special use or other circumstance that would otherwise add unnecessary requirements or have an adverse impact on governmental facilities, utilities, services, or existing or proposed improvements.</td>
</tr>
<tr>
<td>d) <strong>Is the use is consistent with the city's water resources management plan?</strong></td>
<td>Yes. As described in Section C &amp; D within Chapter VI (Resources Management Plan) of the 2030 Comprehensive Plan, the project contributes to meeting the resource management goals and plans of the City.</td>
</tr>
</tbody>
</table>
e) Is the use in compliance with the performance standards specified in section 300.28 of this ordinance?

Yes. The proposed use is in compliance with the applicable general performance standards and will work with city staff to ensure specific performance standards are adhered to.

f) Does the use have an undue adverse impact on the public health, safety or welfare?

No. The use is intended to provide a safe and enriching environment for children of working families. Access to the facility is strictly monitored and controlled by staff through a site security program and CCTV systems.

Section 300.21.4.a.j. Licensed Day Care Facilities Specific Standards

1) The use shall have loading and drop-off points designed to avoid interfering with traffic and pedestrian movements.

As currently designed, all loading and drop off points are contained within the site itself adjacent to the subject building, or across a single drive aisle.

2) Outdoor play areas shall be located and designed in a manner which mitigates visual and noise impacts on adjoining residential areas.

As currently designed, outdoor play areas are located to the south and west of the subject building. The play area will be enclosed by decorative fencing and appropriately screened to mitigate visual and noise impacts. In addition, the facility will be operational during weekday/daytime hours only, which will minimize operational noise impact during leisure or sleeping hours for area residents.

3) One parking space for each six children based on the licensed capacity of the center.

As currently designed, the site has 40 parking stalls, which would allow up to 240 children.

4) The use shall obtain all applicable state, county and city licenses.

Yes, the project will comply with this requirement.

(CONTINUED ON NEXT PAGE)
We sincerely appreciate your efforts and feedback on the redevelopment of this property over the past couple years and are looking forward to providing a necessary and welcome addition to the neighborhood as well as a significant improvement to the appearance and functionality of the property.

Please feel free to contact me directly if you have any questions or require additional information.

Sincerely,

Jon Fletcher  
President, Lake West Development  
14525 Highway 7, Suite 265  
Minnetonka, MN 55345  
O: 952-653-1355  
E: jon@lwestdev.com

Cc: Jeff Thomson, City of Minnetonka  
Curt Fretham, Lake West Development  
Kayla Mack, Lake West Development

Encl: Conditional Use Permit Application  
Owners Statement  
$800 Application Fee  
Legal Description  
Certificate of Survey  
Grading and Drainage Plan  
Landscape Plan  
Building Rendering  
Floor Plan
Per Title Commitment No. 99-248-A, issued by Custom Home Builders Title, Inc., as agent for Old Republic National Title Insurance Company:

Beginning at a point in the West line of the Northeast Quarter of Northeast Quarter, Section 33, Township 117, Range 22, said point being 533.5 feet South of the Northwest corner of said Northeast Quarter, thence East at right angles 133 feet, thence South at right angles 120 feet, thence West at right angles 133 feet to a point in the West line of said Northeast Quarter of Northeast Quarter, 130 feet South of the point of beginning, thence North to the point of beginning, Hennepin County, Minnesota.

The vertical datum is based on NAVD88. The originating benchmarks are SCHADAUER and FAHIL, located near the intersection of Trunk Highway 7 and Fair Hills Road. Elev. = 1015.34

**BENCHMARKS**

1. The vertical datum is based on NAVD88. The originating benchmarks are SCHADAUER and FAHIL, both referenced from the MnDOT Geodetic Database.

**SURVEY NOTES**

1. The survey notes are based on the west line of Tract G having an assumed bearing of North 01 degrees 05 minutes 26 seconds East.

2. The surveyor makes no guarantees that the underground utilities shown comprise all such utilities in the area, either in service or abandoned. Utility information shown herein, if any, is a compilation of this map information and those visible utilities that were located during the survey field work. The surveyor further does not warrant that the underground utilities shown herein, if any, are in the exact location as indicated, although he does certify that they are located as accurately as possible from information available. The surveyor has not physically located the underground utilities. Pursuant to MS 216.11, contact Gopher State One Call at (651-454-0002) prior to any excavation.

3. Field work was completed on 7/26/2013.

4. The building(s) and exterior dimensions of the outside wall at ground level are shown on the survey. It may not be the foundation wall.

**PROPERTY SUMMARY**

1. Subject property's address is 14730 Excelsior Blvd., its property identification number is 22-117-23-0045.

2. The gross area of the subject property is 1.473 Acres or 64,162 Square Feet.
Southeast
- PREFINISHED METAL FASCIA & SOFFITS
- BOARD & BATTEN
- LP SMARTSIDE LAP Siding
- E.I.F.S TRIM BAND
- E.I.F.S W/ REVEALS
- BUILT UP E.I.F.S PILASTER
- PAINT EXISTING STUCCO

West
- BUILT UP E.I.F.S PILASTER
- E.I.F.S W/ REVEALS
- E.I.F.S TRIM BAND
- PREFINISHED METAL FASCIA & SOFFITS
- LP SMARTSIDE LAP Siding

Northeast
- BUILT UP E.I.F.S PILASTER
- E.I.F.S TRIM BAND
- PAINT EXISTING STUCCO

North
- BUILT UP E.I.F.S PILASTER
- E.I.F.S TRIM BAND
- PAINT EXISTING STUCCO
Resolution No. 2015-

Resolution approving a conditional use permit and final site and building plans for a licensed daycare facility at 14730 Excelsior Boulevard

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

Section 1. Background.

1.01 Lake West Development Co. LLC, on behalf of Prestige Preschool Academy, has requested a conditional use permit to operate a licensed daycare facility within the existing building at 14730 Excelsior Boulevard.

1.02 The property is legally described on EXHIBIT A of this resolution.

1.03 On August 27, 2015, 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 conditional use permit.

Section 2. Conditional Use Permit Standards.

2.01 City Code §300.21 Subd. 2 lists the following general conditional use permit standards:

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

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

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

4. The use is consistent with the city's water resources management
5. The use is in compliance with the performance standards specified in §300.28 of the ordinance; and

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

2.02 City Code §300.21 Subd. 3(j) lists the following specific conditional use permit standards for licensed daycare facilities:

1. Shall have loading and drop-off points designed to avoid interfering with traffic and pedestrian movements;

2. Outdoor play areas shall be located and designed in a manner which mitigates visual and noise impacts on adjoining residential areas;

3. One parking space for each six children based on the licensed capacity of the center; and

4. Shall obtain all applicable state, county and city licenses.

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

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

2. Consistency with the ordinance;

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

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

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

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

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

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

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

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

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

Section 4. Findings.

4.01 The proposed daycare facility would meet the general conditional use permit standards as outlined in City Code §300.21 Subd. 2.

4.02 The proposed daycare facility would meet the specific conditional use permit standards as outlined in City Code §300.21 Subd. 3(j).

1. The proposed facility would primarily serve young “preschool” age children. Parents/guardians would drop-off and pick-up children by parking their vehicle and walking into the facility. No outdoor drop-off or pick-up area is proposed and, as such, would not interfere with the vehicular or pedestrian circulation.

2. The proposed play area would be appropriately located on the site. A new fence and landscaping would buffer the area from existing
residential area across Williston Road and the potential, new
residential area adjacent to the north.

3. The proposed parking lot would include 40 parking stalls,
accommodating 240 students under the ordinance’s 1 stall per 6
child ratio.

4. As a condition of this resolution, all applicable state, county and city
licenses must be obtained and submitted to the city prior to issuance
of a certificate of occupancy.

4.03 The proposed daycare facility would be consistent with the site and building
plan standards as outlined in City Code §300.27

1. Members of the city’s community development, engineering, fire, and
public works staff have reviewed the proposal and find that it is
generally consistent with the city’s development guides.

2. The proposal would meet ordinance standards.

3. The subject property is fully developed, with no area in a “natural
state.” The proposal would actually increase the amount of green
space on the site.

4. The proposal would significantly improve the overall site and building
appearance and, therefore, that of the intersection.

5. The proposal would visually increase open/green space through
removal of parking areas.

6. The proposal would not hinder vehicular and pedestrian circulation.
Rather, occupancy of a long vacant site may reduce “cut thru” traffic
and provision of a sidewalk connection would improve pedestrian
access from the north to the surrounding commercial area to the
south and east.

7. The proposal would require improvements to the building’s HVAC
equipment, thereby improving energy efficiency.

8. The proposal would allow for: (1) continued use of a site that has
long been used for commercial purposes; and (2) reuse of vacant
building. It would not negatively impact adjacent properties or the
neighboring area.
Section 5. Council Action.

5.01 The above-described conditional use permit and final site and building plans are approved, subject to the following conditions:

1. Subject to staff approval, the property must be developed and maintained in substantial conformance with the following plans:
   - Preliminary grading and drainage plan, dated 07/24/15
   - Preliminary landscape plan, dated 07/24/15
   - Revised elevation plan, received 08/14/15

2. Prior to issuance of a building permit:
   a) Submit the following items for staff review and approval:
      1) A final materials and color palate board.
      2) A revised site plan that illustrates:
         a. The new Williston Road entrance in relation to the intersection of Peteler Lane and Williston Road.
         b. A sidewalk connection from the Excelsior Boulevard/Williston Road intersection to the north property line
      3) A revised grading and drainage plan that includes a catch basin rather than curb cut at the southwest corner of the parking lot.
      4) A revised landscaping plan. The plan must include no new tree plantings within the right-of-way or within the existing watermain easement. Natural grasses or other smaller plantings should be considered. The plan must also outline the cost of proposed plant materials.
      5) A site diagram that includes turning templates. This diagram must specifically illustrate that the turning movements can be made from northbound Williston Road into the site while cars are queued to leave the site.
b) Confirm whether existing utility connections are being altered or new utility connections are proposed. If either, a plan reflecting the alterations or new connections must be submitted for staff review and approval.

c) This resolution must be recorded with Hennepin County.

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

4. Maximum capacity is limited to 240 students/children.

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

6. Any change to the approved use that results in a significant increase in traffic or a significant change in character may require city council review and a revised conditional use permit.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 14, 2015.

_________________________________________
Terry Schneider, Mayor

Attest:

______________________________________
David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on September 14, 2015.

David E. Maeda, City Clerk
LEGAL DESCRIPTION

Beginning at a point in the West line of the Northeast Quarter of Northeast Quarter, Section 33, Township 117, Range 22 distant 531.5 feet South of the Northwest corner of said Northeast Quarter of Northeast Quarter; thence Easterly at right angles 133 feet; thence South at right angles 120 feet; thence West at right angles 133 feet to a point in the West line of said Northeast Quarter of Northeast Quarter, 120 feet South of the point of beginning; thence North to the point of beginning, Hennepin County, Minnesota.

Abstract Property.

Tract G, Registered Land Survey No. 1187, Hennepin County, Minnesota.

Torrens Property

Torrens Certificate No. 455028.
C. Items concerning a licensed daycare facility at 14730 Excelsior Boulevard.

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.

John Fletcher, of Lakewest Development, applicant, thanked staff for their help and assistance with the ongoing project. He stated that the proposal is for a first-class childcare center. It would take over the entire facility. There would be an exterior playground added. A new roof, mechanicals, and parking would be completed. The site has 40 parking stalls which would allow up to 240 students. Realigning the driveway with the road across the street is being considered. A sidewalk would be constructed on Williston Road. He is available for questions. He agrees with the conditions.

Calvert asked how the parking requirement is calculated. Thomas explained that one stall per six students is required by code. The number of staff for the school is built into that calculation.

Odland confirmed with Mr. Fletcher that some children may only attend two or three days a week. It is intended to be a full-time daycare.

Chair Kirk confirmed with Mr. Fletcher that the proposed building would be similar to the company's other buildings in Brooklyn Park and Apple Valley. The footprint of this building is a little larger than their usual buildings. There is a loading dock.

Chair Kirk asked if there would be events that would house all of the students and their parents at the same time. Mr. Fletcher was not aware of any. There is no space in the building to accommodate a large event. The average room size would be 700 square feet. The state license that determines the number of students allowed is tied to the number of parking stalls.

Knight asked if young children would be able to exit the building without using stairs during an emergency. Mr. Fletcher said that would be looked at during the building-permit process. The basement is looked at as an amenity.

Calvert asked what would happen with the two lots to the north. Mr. Fletcher explained that a separate application has been submitted for the two lots on the
north to be redeveloped into two single-family houses. There will be a concept plan review.

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

Calvert favored the improvements to the building and area. Children are a great addition to any neighborhood. It is a great idea. She supports the proposal.

Odland asked if the bus would remain. Wischnack replied that the bus would be moved.

Calvert was excited that there would be green space on the side of the building instead of all pavement.

Chair Kirk stated that the proposal would be a good use and a good fit. He struggled with the architecture. He did not know if it fits with Glen Lake. The EFIS, siding, and false gable roof may not fit very well. He just wanted to mention it. Calvert had the same reaction about the materials and appearance, but it would still be an improvement over what is there now.

Chair Kirk is ready for the rundown building to go and he would not deny the application on its architecture, but it would be nice to see if there are elements in Glen Lake that could be incorporated.

Calvert would prefer a classic color. It is nice to see a building recycled instead of torn down. She noted that the concept of mixed use for the site has been pursued by the city for some time and it is unfortunate that may not work out.

Magney noted that the final material and color board would be submitted to staff. He asked what would happen at that time. Thomas said that staff would provide suggestions to the applicant.

Magney moved, second by Odland, to recommend that the city council adopt the resolution on pages A18-A24 of the staff report approving a conditional use permit and final site and building plans for a licensed daycare facility at 14730 Excelsior Boulevard.

Knight, Magney, O’Connell, Odland, Calvert, and Kirk voted yes. Motion carried.
City Council Agenda Item #14B
Meeting of September 14, 2015

Brief Description  Preliminary plat of RIDGEMOUNT COVE, with lot width at setback variances, at 12601 Ridgemount Avenue

Recommendation  Adopt the resolution denying the proposed plat

Background

On July 13, 2015 the city council considered a proposal by Ashish Aggarwal to divide the property at 12601 Ridgemount Avenue into two single-family lots. Both of the lots would require a lot width at setback variance from 110 feet to 87.5 feet. Staff recommended denial of the request, noting:

1. The proposed lot widths would be dissimilar from lots within the surrounding area. The majority of the lots within the surrounding neighborhood meet the lot width at setback requirement.

2. There are no unique circumstances justifying the lot width at setback variance. Rather the request is the result of the applicant’s desire to subdivide the property into two lots.

The council tabled the proposal and directed the applicant to present alternative lot configurations, modestly sized homes – a floor area of 3,200 square feet was specifically mentioned – and building plans. Previous staff reports, plans and meeting minutes can be found on the city’s project page: http://www.eminnetonka.com/current-projects/planning-projects/1361-ashish-aggarwal

Current Proposal

On August 27, 2015, Samantha Grose, on behalf of Ashish Aggarwal, submitted revised plans. The proposed lot configurations have not changed since the original proposal. However, the sizes of the proposed homes have been reduced. The applicant did not submit specific building plans as requested. As such, staff has had to make several assumptions based on the submitted grading plan and building elevations. These plans indicate two-story homes, with full or look out basements, and two stall garages. (See pages A1–A7.) The following is what staff has deduced from the plans:

<table>
<thead>
<tr>
<th></th>
<th>West Lot</th>
<th>East Lot</th>
</tr>
</thead>
<tbody>
<tr>
<td>Above Ground SF</td>
<td>2,565 SF</td>
<td>2,465 SF</td>
</tr>
<tr>
<td>Below/Part Below Ground SF</td>
<td>1,040 SF</td>
<td>990 SF</td>
</tr>
<tr>
<td>TOTAL SF</td>
<td>3,600 SF</td>
<td>3,455 SF</td>
</tr>
<tr>
<td>TOTAL SF for FAR Calculation*</td>
<td>3,085 SF</td>
<td>Full Basement: 2,465 SF</td>
</tr>
<tr>
<td>FAR</td>
<td>0.14</td>
<td>Full Basement: 0.11</td>
</tr>
</tbody>
</table>

* includes all above ground space and ½ of partial exposed space
A FAR of 0.14 would limit the total above ground floor area on each lot to 3,200 square feet.

Summary Comment

Staff continues to recommend denial of subdivision based on the findings outlined in the July 13, 2015 report and outlined in the attached resolution. (See pages A11–A13.) However, staff has also prepared a resolution approving the proposed subdivision for the council’s consideration. (See pages A14–A20.)

Through: Geralyn Barone, City Manager
Julie Wischnack, AICP, Community Development Director
Susan Thomas, AICP, Principal Planner

Originator: Ashley Cauley, Planning Technician
Location Map

Project: Aggarwal, Ashish
Address: 12601 Ridgemount Ave W
(15013.15a)

This map is for illustrative purposes only.
**Existing Conditions**

**Survey Report**

This map and report was prepared with the benefit of an Owner's Policy of Title Insurance issued by Stewart Title Guaranty Company, File No. MT14-70726-R, dated October 15, 2014, and a Policy No. O-9301-003183264 obtained from SMB Enterprises, LLC DBA Midland Title.

1. We note the following with regards to Schedule B of the herein referenced Title Commitment:
   - Item no.'s 1-4 and 7 are not survey related.
   - Item no. 5 - Easement as shown in Document No. 1325739, this easement is a sanitary sewer and drainage easement over the southerly 20' shown hereon.
   - Item no. 6 - Easement as shown in Document No. 2817213. We were notified by the title company that this easement was a temporary easement that has expired. We have not reviewed this document as part of this survey.

**Survey Legend**

- Fence
- Line
- Boundary

Fence ties are shown on the side of the boundary line that the fence is located on.

**General Notes**

1. **Site Address:**
   - 12601 Ridgemount Ave. W., Minnetonka, MN 55305

2. **Flood Zone Information:**
   - Community Panel No. 27053C0327E, panel not printed.

3. **Parcel Area Information:**
   - The Gross land area is 45,500 +/- square feet or 1.04 +/- acres.

4. **Site Elevation:**
   - Elevations are based on Minnetonka City Benchmark 2-10 (Top nut hyd SE quad Sunnyvale Ln & Glendale La) = 933.36.

5. **Zoning Information:**
   - The current Zoning for the subject property is R-1 (Low Density Residential) per the City of Minnetonka's zoning map dated March 26, 2008. The setback, height, and floor space area restrictions for said zoning designation were obtained from the City of Minnetonka found on their web site on the date of November 12, 2014 and are as follows:
     - **Principal Structure Setbacks**
       - Front: 35 feet
       - Side: the sum of the side yard setbacks shall not be less than 30 feet, with a minimum setback of 10 feet
       - Rear: 40 feet or 20 percent of the depth of the lot, whichever is less
     - **Height:** 35 feet

6. **Utilities:**
   - We have shown the location of utilities on the surveyed property by observed evidence only. There may be underground utilities encumbering the subject property we are unaware. Please note that we have not placed a Gopher State One Call for this survey. There may or may not be underground utilities in the mapped area, therefore extreme caution must be exercised before any excavation takes place on or near this site. Before digging, you are required by law to notify Gopher State One Call at least 48 hours in advance at 651/454-0002.

7. **Buildable Area**
   - **Area:** 3,500 square feet
   - Sides: Minimum of 40 feet for each of at least 4 sides

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   - Item no. 6 - Easement as shown in Document No. 2817213. We were notified by the title company that this easement was a temporary easement that has expired. We have not reviewed this document as part of this survey.

**Survey Report**

This map and report was prepared with the benefit of an Owner's Policy of Title Insurance issued by Stewart Title Guaranty Company, File No. MT14-70726-R, dated October 15, 2014, and a Policy No. O-9301-003183264 obtained from SMB Enterprises, LLC DBA Midland Title.

1. We note the following with regards to Schedule B of the herein referenced Title Commitment:
   - Item no.'s 1-4 and 7 are not survey related.
   - Item no. 5 - Easement as shown in Document No. 1325739, this easement is a sanitary sewer and drainage easement over the southerly 20' shown hereon.
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   - Item no. 6 - Easement as shown in Document No. 2817213. We were notified by the title company that this easement was a temporary easement that has expired. We have not reviewed this document as part of this survey.
Proposed east lot elevation
Comments received since the last council meeting
Hi Ashley -

I am writing to voice our opposition as well to the proposed redevelopment on Ridgemount Avenue. We also believe the large, spacious lots in our neighborhood make the area attractive, represent its current character, and add value to the properties. We personally just built a new construction in the area, and did it on the trust that the city would uphold the variance standards of reasonable use, unique circumstance, and character of the neighborhood. We hope to continue to add to the new investment in the area, and believe the proposed subdivision would adversely affect new investment from many prospective buyers for the neighborhood.

Thank you,

Philip, Joseph, and Marina Vorobeychik
304 Zachary Lane
Resolution No. 2015-

Resolution denying the preliminary plat of RIDGEMOUNT GROVE, with lot width at setback variances, at 12601 Ridgemount Avenue West

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

Section 1. Background.

1.01 Ashish Aggarwal has requested preliminary plat approval for a two-lot subdivision with lot width at setback variances from 110 feet to 87.5 feet. (Project 15013.15a).

1.02 The property is located at 12601 Ridgemount Avenue West. It is legally described as follows:

(Per Torrens Certificate No. 1394444)
The East 175 feet of the West 340 feet of Lots 1 and 2, Block 4, Sunset Hill, Hennepin County, Minnesota.

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

1.04 On July 13, 2015, the city council considered the preliminary plat. The council tabled the proposal and directed the applicant to present alternative lot configurations and modestly sized homes.

1.05 In August 2015, the applicant submitted a plan with modestly sized homes.
Section 2. General Standards.

2.01 City Code §400.030, outlines general design requirements for residential subdivisions. These standards are incorporated by reference into this resolution. One design standard requires that a lot have a lot width at setback of at least 110 feet. The applicant is proposing 87.5 feet.

2.02 By City Code §400.055, a variance from the subdivision requirements may be granted but not mandated, when the applicant meets a burden of proving that: (1) the proposed variance is a reasonable use of the property, considering things such as functional and aesthetic justifications for the variance and improvement to the appearance and stability of the property and neighborhood; (2) the circumstances justifying the variance are unique to the property, are not caused by the landowner, are not solely for the landowner’s convenience, and are not solely because of economic considerations; and (3) the variance would not adversely affect or alter the essential character of the neighborhood.

Section 3. Findings.

3.01 The proposed preliminary plat does not meet the standards for residential subdivisions as outlined in City Code §400.030. Both lots within the plat require a lot width at building setback variances.

3.02 The applicant has not met the burden of proof for approval of a variance as outlined in City Code §400.055.

1. Reasonableness: The proposed lot width at setbacks are not reasonable, as they would be dissimilar from lots within the surrounding area. The majority of lots in the surrounding neighborhood meet the lot width at setback requirement.

2. Unique Circumstance. There are no unique circumstances justifying the lot width at setback variances. Rather the request is the result of the applicant’s desire to subdivide the property into two lots.

3. Character of the neighborhood. The requested variances would alter the character of the surrounding area. The proposed lots would be dissimilar from the other properties along Ridgemount Avenue, City View Drive, and Sunset Drive South.


4.01 The above-described preliminary plat, with lot width at setback variances,
is hereby denied based on the findings outlined in Section 3 of this resolution.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 14, 2015.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on September 14, 2015.

David E. Maeda, City Clerk
Resolution No. 2015-

Resolution approving the preliminary plat of RIDGEMOUNT GROVE, with lot width at setback variances, at 12601 Ridgemount Avenue West

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

Section 1. Background.

1.01 Ashish Aggarwal has requested preliminary plat approval of RIDGEMOUNT GROVE, a two-lot subdivision with lot width at setback variances.

1.02 The property is located at 12601 Ridgemount Avenue. It is legally described as follows:

(Per Torrens Certificate No. 1394444)
The East 175 feet of the West 340 feet of Lots 1 and 2, Block 4, Sunset Hill, Hennepin County, Minnesota

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

1.04 On July 13, 2015, the city council considered the preliminary plat. The council tabled the proposal and directed the applicant to present alternative lot configurations and modestly sized homes.

1.05 In August 2015, the applicant submitted a plan with modestly sized homes.
Section 2. General Standards.

2.01 City Code §400.025 outlines general design requirements for residential subdivisions. These standards are incorporated by reference into this resolution. One design standard requires that lots be at least 110 feet wide at the required front yard setback. The applicant is proposing lot widths at setback of 87.5 feet.

2.02 By City Code §400.055, a variance from the subdivision requirements may be granted but not mandated, when the applicant meets a burden of proving that: (1) the proposed variance is a reasonable use of the property, considering things such as functional and aesthetic justifications for the variance and improvement to the appearance and stability of the property and neighborhood; (2) the circumstances justifying the variance are unique to the property, are not caused by the landowner, are not solely for the landowner’s convenience, and are not solely because of economic considerations; and (3) the variance would not adversely affect or alter the essential character of the neighborhood.

Section 3. Findings.

3.01 But for lot widths at setback, the preliminary plat would meet the design standards as outlined in City Code §400.025.

3.02 The proposed preliminary plat would meet the variance standards as outlined in City Code §400.055:

1. Reasonableness and Unique Circumstance: The existing lot is larger than the other lots in the immediate area. Of the lots surveyed within 400 feet, four lots have lot width at setback of less than 110 feet. This, coupled with the lot’s depth, presents a circumstance not common to all similarly zoned properties in the area.

2. Neighborhood character: Based on the plan submitted, and as conditioned by this resolution, the homes built on the two newly created lots would be more similar in size to existing homes in the area than would one large home built on the one existing lot.


4.01 The preliminary plat of RIDGEMOUNT GROVE is hereby approved, subject to the following conditions:

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

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

1) A final plat drawing that clearly illustrates the following:
   1. Minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way and minimum 7-foot wide drainage and utility easements along all other lot lines.
   2. Utility easements over existing or proposed public utilities, as determined by the city engineer.
   3. Drainage and utility easements over wetlands, floodplains, and stormwater management facilities, as determined by the city engineer.

2) Title evidence that is current within thirty days before the release of the final plat for the city attorney’s review and approval.

2. Prior to final plat approval:
   a) This resolution must be recorded with Hennepin County.
   b) The documents outlined in section 4.01(1)(a)(2) above must be approved by the city attorney.

3. Prior to release of the final plat for recording:
   a) Submit the following:
      1) Two sets of mylars for city signatures.
      2) An electronic CAD file of the plat in microstation or DXF.
      3) Park dedication fee of $5000.

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

- Preliminary plat dated August 25, 2015
- Grading plan and tree preservation plan dated August 27, 2015
- Utility plan dated August 27, 2015

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

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

      1) Final grading and tree preservation plan for the lot. The plan must:
         b. Comply with the city’s tree preservation ordinance. Final house, driveway, utilities and stormwater management must be located to maximum tree preservation on both lots. No more than two of the six existing high priority trees can be removed.
         c. Show sewer and water services to minimize impact to any significant or high priority trees. No additional trees may be removed for installation of utility services.

      2) Final utility plan must meet the following:
         a. Remove the existing one-inch service back to the main and turn off the existing one-inch corporation stop. New 1 ½-inch corporation must be tapped.
         b. Confirm the location of the water main. Tie-cards suggest that the main may be closer to the lot than indicated on the proposed plan.
         c. Confirm service construction requirements with plumbing inspector.
d. Confirm the proposed water service line to Lot 2.

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

4) A stormwater management plan that meets the requirements of the city’s water resources management plan.

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

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

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

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

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

8. All lots and structures within the development are subject to the all R-1 zoning standards. In addition:
   
a) Each of the homes are limited to a maximum floor area ratio of 0.14. Floor area includes the sum of the fully exposed horizontal area of a building, as measured from exterior walls and including attached garage space and enclosed porch areas, and one-half the horizontal area of any partially exposed level such as a walkout or lookout level.

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

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

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

11. Unless the city council approves a time extension, the final plat must be approved by September 16, 2016.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 14, 2015.

_________________________________________________________
Terry Schneider, Mayor

Attest:

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

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on September 14, 2015.

___________________________________________
David E. Maeda, City Clerk
City Council Agenda Item #14C
Meeting of September 14, 2015

Brief Description
Concept plan review for Villa West

Action Requested
Discuss concept plan with the applicant. No formal action required.

Background

RTS Development is proposing to redevelop the existing single-family residential properties at 16901, 16913 and 17101 State Highway 7. The concept plan includes 30 detached villa homes accessed via a new street directly from Highway 7. (See plans on pages A1–A2.)

The properties are located on the south side of Highway 7, west of the Clear Springs Road intersection. The properties are part of a larger area that is guided for medium density residential uses. The area includes the existing Carlyle Place development, and six existing single-family residential properties that are currently zoned R-1/low density. On these six residential properties, there are five single-family homes that are separately owned; the sixth property is vacant and owned in common with the adjacent property. The properties have been guided for medium density residential since the 1981 comprehensive plan. Medium density land use includes densities ranging from 4 to 12 units per acre. (See page A3.)

The applicant has purchase agreements for four of the six single-family residential lots, including the vacant lot. The applicant does not currently have purchase agreements for the two easterly properties, 16809 and 16821 State Hwy 7. (See page A3.)

Key Issues

City staff has identified the following considerations for any development of the subject properties:

- **Access**: The site has limited opportunities for access given that the only current right-of-way access is directly from State Highway 7, which is a principal arterial highway. MnDOT has jurisdictional control of access from Highway 7. Therefore, the applicant would need to work with MnDOT and the city in order to provide safe access to the development site.

- **Planned Development**: The four parcels are part of a larger area that is currently guided for medium density residential. The comprehensive plan anticipates that the properties would be developed as a single, medium density development. This is especially important due to the access constraints. It is not desirable to have separate developments with separate accesses from Highway 7. However, it may
be difficult for one developer to assemble all of the properties at one time given that there are multiple property owners involved. In this case, any development of a portion of the properties would need to account and plan for the potential of future development on the other properties that are guided medium density. A larger plan would need to be developed that ensures a planned and orderly overall development.

- **Highway 7 Natural Corridor:** Highway 7 is identified as a natural green corridor in the overall growth strategies of the comprehensive plan. The subject properties currently contain a treed and wooded area on the front of the lots along Highway 7. Preservation of this existing buffer is an important consideration of any development of the properties.

- **Transition to single-family residential properties:** The site is adjacent to single-family residential properties to the south. Creating an appropriate transition between the medium density development and single-family homes is an important consideration for the development. The transition could be accomplished with preservation of existing natural resources, and creation of additional buffering or screening. The transition would also be important to the single-family residential properties to the east if the development does not include these properties.

- Other considerations of the development include utility and street access, tree preservation, grading and drainage, and wetland protection. More information and analysis would be needed for a formal development application regarding the engineering and natural resource details of the project.

**Review Process**

Staff has outlined the following review process for the proposal. At this time, a formal application has not been submitted.

- **Neighborhood Meeting.** The developer held a neighborhood meeting on August 5, 2015. Approximately 22 people were in attendance. The meeting included significant discussion about access. Several residents from Carlyle Place townhomes, to the west, expressed concerns about the location of the exit onto Highway 7 in relation to their access point. There were serious concerns about a new access to Clear Spring Road through a city-owned parcel. The applicant stated that they are not pursuing that option. Other comments and concerns focused on trees, buffering/screening, drainage, and water resources.

- **Planning Commission Concept Plan Review.** The planning commission conducted a review of the concept plan on August 27, 2015. Five members of the public provided comments similar to those raised at the neighborhood meeting. Area property owners expressed concern about the concept’s impact to natural
resources, exacerbation of existing drainage problems, and vehicle access. The speakers generally thought the project was too dense. While some commissioners concurred, stating the concept was too dense, others noted that the density was within the range allowed for in the comprehensive plan. Similarly, some commissioners expressed concern about vehicular and pedestrian safety, while other commissioners indicated those issues should be deferred to the review of the Department of Transportation, which would control the access. (See pages A7–A12.)

- **City Council Concept Plan Review.** The city council Concept Plan Review is intended as a follow-up to the planning commission meeting and would follow the same format as the planning commission Concept Plan Review. No staff recommendations are provided, the public is invited to offer comments, and council members are afforded the opportunity to ask questions and provide feedback without any formal motions or votes.

**Staff Recommendation**

Staff recommends the council provide comments, feedback, and direction that may lead to the preparation of more detailed development plans.

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

Originated by:
Jeff Thomson, Planner
Susan Thomas, AICP, Principal Planner
ADDITIONAL INFORMATION

Next Steps

• **Formal Application.** If the developer chooses to file a formal application, notification of the application would be mailed to area property owners. Property owners are encouraged to view plans and provide feedback via the city’s website. Through recent website updates: (1) staff can provide residents with ongoing project updates, (2) residents can “follow” projects they are particularly interested in by signing up for automatic notification of project updates; (3) residents may provide project feedback on project; and (4) staff can review resident comments.

• **Neighborhood Meeting.** Prior to the planning commission meeting and official public hearing, an additional public meeting would be held with neighbors to discuss specific engineering, architectural and other details of the project, and to solicit feedback. This extends the timing that has historically been provided in advance of the planning commission review to allow more public consideration of the project specifics.

• **Council Introduction.** The proposal would be introduced at a city council meeting. At that time, the council would be provided another opportunity to review the issues identified during the initial concept plan review meeting, and to provide direction about any refinements or additional issues they wish to be researched, and for which staff recommendations should be prepared.

• **Planning Commission Review.** The planning commission would hold an official public hearing for the development review and would subsequently recommend action to the city council.

• **City Council Action.** Based on input from the planning commission, professional staff and general public, the city council would take final action.

Roles and Responsibilities

• **Applicants.** Applicants are responsible for providing clear, complete and timely information throughout the review process. They are expected to be accessible to both the city and to the public, and to respect the integrity of the public process.

• **Public.** Neighbors and the general public will be encouraged and enabled to participate in the review process to the extent they are interested. However, effective public participation involves shared responsibilities. While the city has an obligation to provide information and feedback opportunities, interested residents are expected to accept the responsibility to educate themselves about the project
and review process, to provide constructive, timely and germane feedback, and to stay informed and involved throughout the entire process.

- **Planning Commission.** The planning commission hosts the primary forum for public input and provides clear and definitive recommendations to the city council. To serve in that role, the commission identifies and attempts to resolve development issues and concerns prior to the council’s consideration by carefully balancing the interests of applicants, neighbors, and the general public.

- **City Council.** As the ultimate decision maker, the city council must be in a position to equitably and consistently weigh all input from their staff, the general public, planning commissioners, applicants and other advisors. Accordingly, council members traditionally keep an open mind until all the facts are received. The council ensures that residents have an opportunity to effectively participate in the process.

- **City Staff.** City staff is neither an advocate for the public nor the applicant. Rather, staff provides professional advice and recommendations to all interested parties, including the city council, planning commission, applicant and residents. Staff advocates for its professional position, not a project. Staff recommendations consider neighborhood concerns, but necessarily reflect professional standards, legal requirements and broader community interests.
Location Map

Project: Villa West
Address: 16901, 16913 & 17101 Hwy 7
Concept Plan
Section F  Land Use Plan Implementation

The following land use implementation section describes the methods that the City of Minnetonka will utilize to initiate the implementation of the Minnetonka 2030 Vision according to the planning strategies for the growth strategy themes listed in Section B of this chapter. The implementation methods also consider the conditions and policies established in the other chapters of the 2030 Comprehensive Guide Plan.

This section establishes the land use categories and review criteria to guide private and public decisions regarding development and redevelopment in accordance with the targeted planning areas (residential neighborhoods, villages, regional areas/corridors, and transportation/natural area corridors) within the city. The implementation methods include:

* the 2030 land use definitions;
* the 2030 land use plan map;
* the 2030 population, household and employment forecasts;
* the overall development review criteria, including those established in Sections C and D of this chapter, to determine consistency of development and redevelopment projects with the land use plan; and
* implementation procedures that include city regulations (the zoning and subdivision ordinances) and specific 2030 Comprehensive Guide Plan amendment criteria that pertain primarily to the land use chapter text and 2030 land use map.

2030 Land Use Definitions

The land use districts should not be confused with the zoning designations of property. The land use districts describe general land uses and may include other criteria to be considered when development and redevelopment projects are reviewed by the city to ensure that the project meets the 2030 Comprehensive Guide Plan policies and the appropriate policies and strategies of other chapters of the plan. The corresponding zoning designation and associated performance standards describe specific criteria that must be met before development can occur on property.

The city’s land use definitions follow, according to the general land use category. Appendix IV-A of this chapter provides illustrative examples of the specific types of uses found within each land use category.

1. Residential Land Use Districts

Prior to 1979, the medium- and high-density residential definitions restricted densities to five to eight, and nine to 12 units per acre, respectively. The definitions were changed, as part of a comprehensive planning effort, to allow a greater density to provide more opportunities for housing choice (variety and cost), recognition of the rising cost of land in Minnetonka, and to bring the density standards more in conformance with other metropolitan area communities and Metropolitan Council policies.
The density definitions are expressed in terms of ranges to allow for development flexibility and compatibility with natural resource and other site specific characteristics of property. Therefore, an appropriate density for a particular use may be at the lower end of the density range rather than the higher end.

Further, the density definitions do not specify the type of housing; rather, the zoning ordinance specifies the type of housing and specific standards that must be met by a particular development. The decision regarding the specific density for a particular property is made during the development review process, where the following conditions are considered by the city:

- The existing environmental conditions of the property including wetlands, floodplains, steep slopes and the quality of existing vegetation;
- the specific site plan including the type of housing units proposed and requirements for development facilities such as stormwater ponding, municipal sewer and water, etc.;
- the existing and requested zoning classification for the property; and
- the surrounding neighborhood characteristics.

A. Low-density residential: development that ranges in density from two to four dwelling units per acre.

Most residential neighborhoods that contain existing single-family homes in the city are designated for low-density residential uses. Although low-density uses include detached single family housing types other residential housing types such as duplexes and attached townhomes are included provided that the overall density does not exceed four units per acre. This land use district is established to recognize the primary residential development pattern in the city and accommodate housing goals, including affordable and mid-priced housing.

B. Medium-density residential: residential density ranges from more than four to 12 units per acre.

Typically, this land use district includes attached housing types such as small-lot single family developments ("zero lot line"), duplexes, townhouses, "quads," and low-rise multiple family buildings. This land use designation is used to:

- Encourage and allow the opportunity for residential project design techniques that incorporate natural resource protection and open space preservation techniques such as "clustering".
- Create appropriate transitions between different and more intense land uses and low-density areas.
- Encourage opportunities for residential development near and within village and regional centers, employment centers or major transportation corridors.
- Broaden housing choice, especially with an increasingly aging population and accommodate housing goals, including affordable and mid-priced housing.

Development within medium-density residential areas should incorporate:

1. Design techniques that facilitate natural resource protection and open space preservation; and
2. Buffers and/or transitions between more intense land uses and low-density areas.
Environmental features such as wetlands, floodplains, steep slopes, and heavily vegetated areas should be used, as available, as buffers. Developments should incorporate appropriate transitions, such as landscaping and other land use or design features between non-residential and residential uses of a lower density.

C. High-density residential: residential developments with densities above 12 units per acre.

Typical high density residential development consists of apartment or condominium units in multistory buildings. The intent of this district is to provide the opportunities for residential developments that:

- serve a wide range of income group and changing lifestyles;
- are in close proximity to services, employment centers and transportation corridors, especially transit routes; and
- broaden housing choice, especially with an increasingly aging population and accommodate housing goals, including affordable and mid-priced housing.

As is the case with medium-density residential development, development within high-density residential areas should incorporate:

1. Design techniques that facilitate natural resource protection and open space preservation, and buffers and/or transitions between more intense land uses and low-density areas.

2. Buffers and/or transitions between more intense land uses and lower density areas. Environmental features such as wetlands, floodplains, steep slopes, and heavily vegetated areas should be incorporated, as available, within buffers. Developments should incorporate appropriate transitions, such as landscaping and other land use or design features between non-residential and lower density residential uses.

High-density residential development projects should occur in a planned manner, with specific consideration given to all uses within an area and also to impacts on adjacent developments, services and transportation. Development will not be encouraged to occur until appropriate services and infrastructure are available or programmed.

2. Business Land Use Districts

Business land uses typically include categories of uses that are measured by the intensity of development and off-site impacts. These uses are found in the village areas, regional areas and corridors of the city. Additionally, business land use districts apply to several planned corporate campuses such as the Cargill and Welsch developments in the city.

The following describe the categories of business uses in the city.

A. Office

The office land use district provides locations for administrative, executive, professional or other offices and related service uses, such as financial institutions, lodging, day care and similar uses. It is not intended for retail uses that serve the general public. The office designation can be used, if designed appropriately, as a transitional use between residential and more intense commercial districts.

B. Service commercial

The service commercial land use district is a land use district used in the I-394 Corridor and other specific areas. It is considered a tool that increases flexibility in siting uses that
B. Concept plan review for Villa West on State Highway 7.

Staff recommends that commissioners provide feedback to assist the applicant with direction that may lead to the preparation of more detailed development plans.

Bob Schmidt, president of RTS Development, applicant, stated that:

- Thomson did a good job explaining the proposal.
- The property owner of the site used to fix his boat props. It was a unique piece of property located off a gravel road on Highway 7.
- The plan is wonderful. It would create housing for the aging population.
- An association would maintain the grounds.
- He developed townhouses on Covington Road in Minnetonka years ago. He built villa-style townhomes in Golden Valley which is a primary example of the proposed development.
- This property lends itself to a community development master plan.
- He found a way to access the property that MNDot agrees with.
- He was available for questions.

Scott Dahlke, civil engineer of site design, stated that:

- The site is a long, rectangle shape. The plan proposed an access road to run down the center of the property and be constructed on both sides of the road.
- There are currently no sewer or water utilities. The utilities would be extended from the northwest corner down the center of the road.
- He has met with MNDot and reviewed many concept plans. MNDot prefers a single access point on the east end. There would be a private drive 20 feet in width with a turn lane on Highway 7 for the entrance. Traffic would enter on the east side, travel west through the site, and then exit on the west end. The reason MNDot prefers this configuration is because of the existing exit from the adjacent townhomes on the west. The nearest city street is Clear Spring Road. A connection to Clear Spring Road would not be beneficial.
- Topography and drainage details will be provided as the plan moves forward. He described the drainage pattern, location of wetlands, stormwater management plans, and importance of tree preservation and screening.
Rob Eldrich, of Ridge Creek Custom Homes, stated that he is one of the preferred builders for the project. He is looking to do the detached villa concept, rambler houses, and two-story houses. The targeted market would be looking to downsize or get rid of large yards. There would be main-floor master suites and elevators for some. Minnetonka’s median age is 60 years. These would be nice, new homes for local residents. He is available for questions.

Chair Kirk invited residents to provide input.

David Devins, 17100 Sandy Lane, stated that:

- The project is too dense. The homes would be substantial in size and be priced around $500,000.
- The property is zoned R-1 and guided R-3. He asked for the comprehensive guide plan to be changed to R-1, single-family residential.
- He has concerns about tree preservation and keeping the existing berm. It works as natural drainage control.
- The area has terrible drainage and is full of springs. The whole area is wet.
- There is mixed topography.
- The density seems too big. Houses with 2,800 square feet would be too large to still have room for trees, streets, and driveways.

Lisa Brown, 4926 Clear Spring Road, stated that:

- The small area cannot handle going from 5 houses to 30 houses.
- The issues include loss of trees, wetlands, and springs.
- She has seen a lot of change in 26 years. She remembers Snuffy’s and Lilliput.
- The proposal would be too big and cause the removal of mature trees that are significant.
- Removing buckthorn would eliminate a lot of screening.
- She understood something would be constructed, but this would be too big.
- She encouraged commissioners to visit the site. There is a bike trail along Highway 7.

Beth Frost, 4914 Clear Spring Road, stated that:

- The proposal seems massive.
Her lot and those in the area are huge, but they would abut 40-foot lots if the proposal would be done. The proposal would be out of character with the neighborhood. She feels strongly about that.

- The elevation would be higher, so the proposed houses would be looking down on the existing surrounding houses and create a privacy issue.
- Access to Highway 7 would be crucial for the neighborhood, because it would create too much traffic for Clear Spring Road.
- She wants more history on Mr. Schmidt and his developments. The judgements against him are extensive, so she hopes those are looked at.

John Eiden, 16821 Highway 7, stated that:

- He declined selling. He does not think the proposal is a good idea. It would create a dead end. It would not be the best use of the property.
- The 2030 comprehensive guide plan is dedicated to preserving Minnetonka’s natural beauty. This proposal would impact the drainage. He explained the drainage pattern.
- This corridor is a gateway to a section of Minnetonka. The property owners have taken care of the land for decades. Trees help preserve the ozone, reduce emissions, and prevent global warming.
- He supports extending the Purgatory Creek area to the site. All 7 properties drain into Purgatory Creek.
- He does not want to live next to all of the construction.
- His living room faces Highway 7. It does not look pretty and is not quiet. He cannot see people paying $700,000 for property that is not quiet. The builder did not say anything about sound barriers. The project would be a “slow seller.” Neighbors would have to watch the construction unless barriers are provided.
- He understood that the property owners want to sell, but that does not mean that the neighborhood should be turned into a senior living center.
- He reviewed the traffic pattern. He did not think it made sense.
- The best use of the property would be to turn it into open space. It would look good as a corridor and bring up the value of surrounding properties.
- The proposal would be a mistake.
Pam Scherling, 4925 West End Lane, stated that:

- She had the same concerns as the previous speakers.
- There is a heavily used trail located in the front of the property. There are many near misses. Construction equipment would create a lot of traffic.
- Resident surveys show that parks and trails are a main priority. Residents do not want neighborhoods leveled or trees removed.
- The development should be much lower density. There is no walkability to shopping.
- The price point would be too high for a high-traffic area.

Ms. Frost added that the wetlands on the northwest side are connected by a tunnel that travels under Highway 7 and the bike path connects to Purgatory Creek.

Knight asked how the proposal compares to the development on the west in terms of density. Thomson said that the proposal would be 6.5 to 7 units per acre. Medium density zoning allows 4 to 12 units per acre. Thomas calculated that the Carlysle Townhomes next door are 9 units per acre.

Calvert asked what the price point would be. Mr. Eldrich did not know the lot cost yet, so the price has not been determined. The estimate would be $500,000 for one story with 1,400 to 1,700 square feet on the main level and $600,000 for two stories with 1,000 square feet on the main level and 1,500 square feet above. A market study was completed. There is a project in Minnetonka off of County Road 101 and Highway 5 that starts in the upper $700,000 and goes into the $1 million range.

Odland remembered conversations that Groveland Pond would be too big. The proposal looks like 15 lbs. of potatoes would be put into a 5 lb. bag. It would be too large. She thought the price point would be too high for a resident downsizing and considering that the units would be on a highway.

Chair Kirk was concerned that the access on Highway 7 would not be safe. The development would be too dense. The Carlysle development looks fairly dense. Once the driveways and garages were added to the Groveland Pond proposal, commissioners determined it would be too dense. The houses would have been within 15 feet of each other. There must be a market, because developers are proposing the density. Determining whether the residences would sell is up to the developer. The size, density, and safety of the accesses is within the purview of commissioners.
Knight has been on the trail biking. He did not like the steep hills to the Carlyle Townhomes. He stops for the stop sign and nearly hits a cyclist that does not stop at that intersection often. He crosses the path on his way to work. Motorists stop in the middle of the road because bicyclists do not stop.

Calvert noted that it seems that the Carlyle is protected by old trees that provide a buffer. The proposal would have to reduce the number of trees by an enormous amount. That would not be right.

Chair Kirk asked if commissioners would prefer an extension of Carlyle Place. Calvert said that the proposal is hard to visualize. A neighborhood would be significantly changed and commissioners have it in their purview to encourage responsible development that includes meeting demographic need by attracting young people and helping seniors have housing options. She was not convinced if the proposal would achieve either goal. It is hard to see the impact without a tree survey and the actual plans. Minnetonka does not have a lot of the type of housing that Carlyle would provide. There is not a lot of space to build new single-family housing stock in Minnetonka. It is a conundrum.

Chair Kirk said that it is nice to have some amenities when adding single-family houses. This is not a great spot. It would not be an easy place to get in and out of. It is not walkable to the store. Carlyle is full, but has the same traffic issues.

Thomson requested direction from commissioners regarding potential future development of the area as a whole. Chair Kirk asked if waiting for other parcels to be included in the development site would be an option. Thomson stated that the comprehensive guide plan guides the area to be considered as a whole for redevelopment. Planning for future connections would be a reasonable approach.

Chair Kirk thought that two additional lots on the east would be an easy extension of the proposal.

Thomson clarified that the comprehensive guide plan calls for an understanding that redeveloping the area in part would have some impact on future redevelopment of two properties on the east and what would ultimately happen to them.

Chair Kirk stated that the commission could request that the developer to create an extension of the proposal that would incorporate those two additional lots.
Chair Kirk wants tree preservation and a buffer to the Clear Spring Road neighborhood taken into account. To go from low density to high density suggests that there needs to be an area of buffer. Commissioners agree that the proposal is too dense and a buffer is needed between the proposal and Highway 7.

Calvert took to heart the comments regarding the wetlands.

Chair Kirk was interested to see how acceleration and deceleration would work with the access points.

Odland requested statistics on the number of accidents at Carlyle for motor vehicles, bicyclists, and pedestrians. Thomson will request that information from the police department.

O’Connell deferred the access issues to MNDOT. He was not so certain that it would not be too dense based on the comprehensive guide plan. The same arguments could be made for Carlyle, but residents like living there.

Magney agreed that the proposal would not be too dense. The site is awkward. Safety is a big concern, but he would defer to MNDOT on that.

10. Adjournment

Odland moved, second by O’Connell, to adjourn the meeting at 9:20 p.m. Motion carried unanimously.

By: __________________________

Lois T. Mason
Planning Secretary
Council Members:

My wife and I have lived at 4900 Clear Spring Road for more than 40 years and are very concerned about the development abutting our property named Villa West. We attended the Planning Commission Meeting August 27 and would like to get a clarification on the term mid-density. The staff said that the property was zoned R1 but was slated to be changed to medium density, according to the comprehensive guide plan. The commission was told that the development was in the middle of the 4 - 12 units per acre but according to the concept plans offered at the meeting the lots were 40 feet wide by 100 feet deep. A 4000 square foot lot is less than 1 tenth of an acre, nearly 11 homes per acre. The very high end of the mid-density guidelines. Most of the homes abutting this property are on very large lots nearly 1 home per acre.

Additionally the developer said the homes would be around 1400 square feet single level and larger two level homes. When you add garage and drive way, sidewalks, patios and decks there leaves very little area left for green space and buffers from the Clear Springs neighborhood and Highway 7. The street through the development, 30 feet wide, raises concerns about parking for residents and their guests, snow removal and access for fire and emergency vehicles. We are also concerned with this development removing the many mature trees and vegetation that shield our neighborhood from Highway 7. For these and more reasons we do not feel that this development would complement or enhance our neighborhood. We would encourage you to strongly re-examine the use of this property.

Thank you: Steven Isham
City Council Agenda Item #14D
Meeting of September 14, 2015

Brief Description
Concept plan for redevelopment of the property located 10101 Bren Road E.

Action Requested
Discuss the concept plan with the applicant. No formal action is required.

Background
Roers Investments has submitted a concept plan for redevelopment of the property located at 10101 Bren Road E, the location of the former Scicom Data Services. The property has an area of 7.91 acres. The property is zoned I-1 and is guided for mixed use. The concept plan contemplates construction of a 274-unit apartment building on the easterly portion of the property leaving the westerly portion open for future redevelopment (See pages A1–A14).

If a formal application were submitted, the proposed apartment development would likely require: (1) rezoning; (2) site and building plan review; and (3) preliminary and final plats if the property is subdivided for the future redevelopment.

Key Issues
City staff has identified the following considerations for any development of the subject property:

- **Land Use:** Like all properties in the OPUS area, the subject property is guided “mixed use.” Evaluation of any proposed land use relative to surrounding existing uses, anticipated uses, and expected traffic generation would be important.

- **Access:** The site is currently accessed from two points: private and direct access to Blue Circle Drive and shared access to Bren Road East. A clear understanding of this shared access, any easements and the rights conveyed by such, would be necessary.

- **Site Design.** Considerations of the development include utility access, tree preservation, grading and drainage. More information and analysis would be needed for a formal development application regarding the engineering and natural resource details of the project.

Review Process
Staff has outlined the following review process for the proposal. At this time, a formal application has not been submitted.
• **Neighborhood Meeting.** A neighborhood meeting was held on July 16, 2015. Five area businesses were in attendance and raised a variety of questions and concerns regarding:
  - Shared driveway off of Bren Road E accessing this property and properties to the east;
  - Location and amount of guest parking; and
  - Trespassing on properties to the east.

• **Planning Commission Concept Plan Review.** On August 27, 2015, the planning commission conducted a review of the concept plan (A15-A20). The commission generally commented:
  - Multi-family housing in this location is appropriate. However, any height over five stories may be of concern.
  - In the event that a formal application is submitted, staff should provide additional information regarding the comprehensive plan/other long-range Opus studies goals and traffic.

Two area businesses addressed the commission. They generally raised concerns about:
  - Traffic, trip generation, and shared driveway access.
  - The amount and location of guest parking.

• **City Council Concept Plan Review.** The city council concept plan review is intended as a follow-up to the planning commission meeting and would follow the same format as the planning commission concept plan review. No staff recommendations are provided, the public is invited to offer comments, and council members are afforded the opportunity to provide feedback without any formal motions or votes.

**Staff Recommendation**

Staff recommends the city council provide comment and feedback to assist the applicant with future direction that may lead to the preparation of more detailed development plans.

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

Originator: Elise Durbin, AICP, Community Development Supervisor
SUPPORTING INFORMATION

Next Steps

• **Formal Application.** If the developer chooses to file a formal application, notification of the application would be mailed to area property owners. Property owners are encouraged to view plans and provide feedback via the city’s website. Through recent website updates: (1) staff can provide residents with ongoing project updates, (2) residents can “follow” projects they are particularly interested in by signing up for automatic notification of project updates; (3) residents may provide project feedback on project; and (4) and staff can review resident comments.

• **Neighborhood Meeting.** Prior to the planning commission meeting and official public hearing, an additional public meeting would be held with neighbors to discuss specific engineering, architectural and other details of the project, and to solicit feedback. This extends the timing that has historically been provided in advance of the planning commission review to allow more public consideration of the project specifics.

• **Council Introduction.** The proposal would be introduced at a city council meeting. At that time, the council would be provided another opportunity to review the issues identified during the initial concept plan review meeting, and to provide direction about any refinements or additional issues they wish to be researched, and for which staff recommendations should be prepared.

• **Planning Commission Review.** The planning commission would hold an official public hearing for the development review and would subsequently recommend action to the city council.

• **City Council Action.** Based on input from the planning commission, professional staff and general public, the city council would take final action.

Roles and Responsibilities

• **Applicants.** Applicants are responsible for providing clear, complete and timely information throughout the review process. They are expected to be accessible to both the city and to the public, and to respect the integrity of the public process.

• **Public.** Neighbors and the general public will be encouraged and enabled to participate in the review process to the extent they are interested. However, effective public participation involves shared responsibilities. While the city has an obligation to provide information and feedback opportunities, interested residents are expected to accept the responsibility to educate themselves about the project
Meeting of September 14, 2015
Subject: Roers Investments Concept Plan, 10101 Bren Road E.

and review process, to provide constructive, timely and germane feedback, and to stay informed and involved throughout the entire process.

- **Planning Commission.** The planning commission hosts the primary forum for public input and provides clear and definitive recommendations to the city council. To serve in that role, the commission identifies and attempts to resolve development issues and concerns prior to the council’s consideration by carefully balancing the interests of applicants, neighbors, and the general public.

- **City Council.** As the ultimate decision maker, the city council must be in a position to equitably and consistently weigh all input from their staff, the general public, planning commissioners, applicants and other advisors. Accordingly, council members traditionally keep an open mind until all the facts are received. The council ensures that residents have an opportunity to effectively participate in the process.

- **City Staff.** City staff is neither an advocate for the public nor the applicant. Rather, staff provides professional advice and recommendations to all interested parties, including the city council, planning commission, applicant and residents. Staff advocates for its professional position, not a project. Staff recommendations consider neighborhood concerns, but necessarily reflect professional standards, legal requirements and broader community interests.
Location Map

Project: Roer Investments
Address: 10101 Bren Road E
(Concept Plan)
INTRODUCTION

A joint venture of Roers Investments LLC of Long Lake and CPM Companies of Minneapolis ("Development Team") is pleased to submit this application for concept plan review to create a 274-unit rental apartment complex at 10101 Bren Road East (PID #36-117-22-43-0030) comprising 7.92 acres of land within the Opus II development area west of Hwy. 169 and north of Hwy. 62.

The Development Team (through Roers Investments) has the subject property under agreement with the current property owner and, as a part of its due diligence, is pursuing development entitlements necessary for the proposed project. We anticipate these high-quality apartments will be a great addition to the area.

CONCEPT PLAN REVIEW

This submission is to initiate the public review process and to request feedback from the City to create a vibrant residential served by the public way Bren Road East. The subject property is currently zoned I-1 industrial, and is guided by Mixed Use designation in the Comprehensive Plan. The Development Team has been working with City staff to introduce, shape, and introduce a residential development to replace the dormant, former light industrial use on the site.

Planning Goals
The proposed development is intended to align with and support the City's goal of enhancing a mix of uses in the area as indicated in the Comprehensive Plan; to increase the City's housing options and to do so close to centers of employment thereby reducing the toll on existing transit infrastructure; and leveraging current and future public infrastructure investments and enhancements. This proposed project has the opportunity to take advantage of and be one step in further validating current and future roadway and bridge work, as well as future light rail improvements immediate to the subject property.

Zoning Designation
Given the current industrial zoning, the proposed project will require a change in zoning. At the present time, the Development Team is considering and will continue to work with City staff to determine the most appropriate zoning necessary to move the proposed project, including potentially R-5 (to address the proposed density) or a P.U.D. (to consider compatible uses and a full development of the site). At present, the proposed development is focused on the eastern most two-thirds of the site.
The westerly one third of the site has potential for redevelopment for a compatible use, and while consideration has been given to the demand and potential for a hotel there, a decision on use has not been made.

A change to R-5 would be a relatively straight-forward match with the proposed size and density subject to City review and approval. With regard to P.U.D., Section 300.22 of Minnetonka’s City code provides that P.U.D. flexibility may be granted if it would result in one of the following public benefits:

a) Greater preservation of existing natural resources, in number or quality, than would otherwise be provided under non-PUD development;
b) Provision of affordable housing;
c) Provision of a housing type or target housing price that is desirable to the city;
d) A mix of land use types;
e) Development that is compatible with existing, surrounding development type and intensity that is no longer allowed in other existing zoning districts;
f) Greater energy conservation through building and site design than would otherwise be achieved under non-PUD development; or
g) Other public benefits as recognized by the city.

Public Benefits of Proposed Project
The proposed development would provide several public benefits identified in the Code. The design of the site minimizes tree loss by placing the primary structure in a previously cleared and developed area; access to the site makes use of the existing driveway from the Bren Road East public way; the project design includes nearly all of its parking within an internal structure garage, with two levels and 333 parking stalls, thereby reducing the need and impacts of surface parking; and the building footprint and location preserves access and use of the Opus II area trail system, while generally preserving and leveraging the mature tree growth onsite.

The proposed development provides high-quality housing desirable to many types of residents and households, as well as appealing to all generations. The proximity of this residential project to major local employers provides a housing alternative that both serves future tenants, as well as reducing travel times and the corresponding strain on the surrounding highway system.

As indicated above, the proposed project supports the City’s goal of an increasing diverse mix of uses in the Opus II development area. At present, other than the northern end of the development, most of the uses are office and light industrial.

Page 2 of 3
The proposed project not only diversifies the uses in the immediate area, but also balances the mix of housing options across the overall development area.

**Neighborhood Meeting**
The Development Team presented the proposed project at a neighborhood meeting on Thursday July 16, 2015 for which it provided advanced written notice to a City-generated list of abutters. Discussion was had on the goals of the project, as well as abutter feedback on past and current experiences in the area, questions and concerns. Comments were recorded and some attendees provided their contact information (a copy of the sign in sheet is available upon request). In response to discussion on the topic of surface parking and questions regarding guest parking capacity, the materials submitted with this application include both the initial preliminary plan presented to the neighborhood, as well as a subsequent alternative showing an increase in the number of surface spaces. As this is an early stage in planning, the final number of surface spaces is not final, but we are confident and committed to working with City staff and the abutters to ensure we have a workable outcome that also supports a feasible project.

**CONCLUSION**
The Roers Investments/CPM joint venture is excited to provide a high-quality project to the City of Minnetonka. We welcome feedback on this concept plan from Planning Commission on August 27, 2015 and City Council on September 14, 2015.

Attached for your further review and consideration are an updated site survey, a site layout, surface parking alternatives (study is ongoing) on the number and configuration of surface parking, unit layouts, structured parking layout, an overlay of the building footprint in relation to the existing improvements, and a summary of our preliminary unit mix.

**CONTACT INFORMATION**
This document was prepared by:
David Higgins, Vice President of Development
Roers Investments LLC
1964 W. Wayzata Blvd., Suite 200
Long Lake, MN 55356

Any additional questions regarding this application can be directed by email to david@roersinvestments.com or by telephone at 617.510.0429.

*Page 3 of 3*

(Note: Enclosures follow)
Roers / CPM - Minnetonka Apartments
MINNETONKA, MN | 08/07/2015 | 15:00:00

A7

ROERS INVESTMENT
10101 Bren Road E
Concept Plan Review
## Development Summary

### Roers - Minnetonka Apartment Building

**Updated 06/10/2015**

### Description

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### Metrics - Apartment Only

- Total Dwelling Units: 274
- Enclosed Stalls / Dwelling Unit: 1.24
- Total Stalls / Bedroom: 0.92
- Average Unit Size: 601
- Total Stalls: 341
- Site SF: 236,873
- Site Acreage: 5.44
- Dwelling Unit / Acre: 50.39
- FAR: 1.22
## TOPIC

### QUESTIONS/COMMENTS

**LAND USE**
- Housing is good (Magney)
- Fits with the vision of Opus (O'Connell)
- Housing is appropriate given the amount of employment nearby (Knight)

**SITE DESIGN**
- Is it possible to save the trees on the north side? (Calvert)
- The area has a high water table, so it seems that parking may not work underground. (neighbor)
  - Negative impacts may occur if water table is high and they end up digging it out for parking. (Odland)
- Where will guest parking be located and will there be enough? (2 neighbors)
  - Concerned about guest parking. (Magney)
- Height of the building
  - Concerned about the height. (neighbor)
  - 3 or 4 stories may be more appropriate. (Magney)
  - Size is not an issue. (Knight)
  - Building up is not a bad thing, but it’s a high building. It will leave less impervious surface. (Calvert)

**ACCESS**
- Will the shared driveway off of Bren Road E. be the only entrance used during construction? (neighbor)
- The business to the east are concerned about traffic cutting through their parking lot in order to get to Blue Circle Drive. (neighbor)
- The Bren Road bridges will be redone in 2016 and 2017. (neighbor)
- A lot of people go the wrong way on the streets in this area. (neighbor)

**MISC.**
- There is the trip generation ordinance for this property. Is the developer aware of this? (neighbor)
- It is stated that this will be a phased development with the remaining parcel to the west, but will it really be phased unlike UHG. (neighbor)
- Are the traffic concerns valid? (Kirk)
- Is there a more detailed, long range vision for Opus? Concerned that we are not looking at Opus more comprehensively. (Kirk)
Magney noted that the final material and color board would be submitted to staff. He asked what would happen at that time. Thomas said that staff would provide suggestions to the applicant.

*Magney moved, second by Odland, to recommend that the city council adopt the resolution on pages A18-A24 of the staff report approving a conditional use permit and final site and building plans for a licensed daycare facility at 14730 Excelsior Boulevard.*

*Knight, Magney, O’Connell, Odland, Calvert, and Kirk voted yes. Motion carried.*

The city council is tentatively scheduled to review this item at its meeting on September 14, 2015.

9. **Other Business**

A. **Concept plan review for redevelopment of the property located at 10101 Bren Road East.**

Staff recommends that commissioners provide feedback to assist the applicant with direction that may lead to the preparation of more detailed development plans.

Durbin reported.

David Higgins, vice president of development with Roers Investments, co-applicant with CPM Companies of Minneapolis, stated that:

- He appreciated the opportunity to address the commission and receive feedback.
- The project would consist of rental, market-rate apartments.
- This location has a high number of jobs in the area. The infrastructure improvements in the area would be validated by this type of use. There is a demand for new housing opportunities in the suburban market place in the west metro.
- The goal for the area is to diversify the uses and become a mixed-use park.
- The applicant would like to start construction in the spring. It would last approximately 14 to 18 months and open at the end of 2017.
- He was available for questions.
Calvert asked for the size of the 274 units. Mr. Higgins said it would be a mix of 10 percent studio, 50 percent one-bedroom plus a den, and 35 percent two-bedroom apartments.

In response to O’Connell’s question, Mr. Higgins stated that the applicant also owns the adjacent site that is being considered for a hotel use.

O’Connell asked if the applicant has a similar project already completed. Mr. Higgins stated that the CPM Group is well known for its work around uptown and the university. Roers Investment Group has done work in North Dakota. It has completed $140 million worth of projects over 20 projects to date. In 2015, there will be $150 million worth of projects in 4 states. He did not have visuals of the projects. The proposal is envisioned to be an uptown, quality product. There continues to be a significant number of renters who do not want to live downtown, but would like that quality of housing opportunity. There are a lot of empty nesters or early retirees who have had enough of mowing the lawn and would rather have a full-service experience. Lots of people who would buy a house 10 years ago would never qualify today.

Chair Kirk asked how much of the project has been driven by the location of the lite rail station. Mr. Higgins stated that the project would be done without it, unquestionably, but that the opportunity for lite rail would be a significant benefit to the proposal. It would be a walkable distance from the site to lite rail.

Chair Kirk visited the site because he was concerned with traffic congestion. He asked how traffic would flow in and out of the site. Mr. Higgins anticipated the traffic would access Highway 169. More unique drivers would travel the Shady Oak Road route. A driver can get anywhere from this location.

Chair Kirk noted the amenities including the pool and outdoor patio that would be built on the site. Mr. Higgins said that the building would be configured to create a sense of place and an enveloped landscaped amenity area in the back to provide a level of privacy.

Chair Kirk asked about guest parking. Mr. Higgins stated that visitor parking on the surface level is a work in progress. The original number was 8 and has been updated to 14 stalls. There would be landscaped areas that could be made into parking areas if there would be a need. Balancing adequate parking to prevent poaching from surrounding uses with reducing surface runoff is the challenge. There is a shared maintenance and parking agreement with the surface area to the east. The area is predominantly a business-hour-type operation. Visitors to the apartments would happen on nights and weekends. In a downtown setting,
not less than 2 percent of the units must have guest parking. That would be more than doubled with 14 stalls. He is committed to working with the neighbors and city staff to get the right number.

Chair Kirk invited Stout to address surface runoff. Stout stated that the city’s and the Nine Mile Creek Watershed District’s stormwater management requirements would apply. The surrounding infrastructure would be looked at to make sure that the discharge rate would not be increased.

Chair Kirk asked if Opus was developed prior to the adoption of stormwater management practices. Stout said that there are a number of regional ponds throughout the Opus area, however, they do not meet the current water quality treatment requirements. A specific amount of phosphorous removal would now be required.

Calvert noted that a forest on the north would be removed. She wondered why development had to go so far north. Mr. Higgins stated that the path does not get interrupted by the layout. The goal is to retain as much of the existing growth as possible. Looking at the entire site, the greatest concentration would be located where the existing improvements are located. The vegetation on the north has been determined more unfavorable. The area that buffers the trail would continue to be green space. The east-west trail would be untouched.

Calvert asked how the pending year-long closure of Highway 169 would impact the proposal. Mr. Higgins said that the proposal is planned for the long term. Calvert noted that it could impact marketability. Mr. Higgins explained that the quality of the project is not available in this area. He suggested driving down Blue Circle Drive on a Friday afternoon when everyone is commuting. It is completely silent. It is an unusually enclosed place near infrastructure that would get a driver to another place quickly. Defining when the improvements to Highway 169 would be done is a little uncertain. The applicant feels that it would not cause a major problem.

Calvert asked for the average rent. Mr. Higgins estimated $2 a foot. An average 2-bedroom is 1,200 square feet. The proposal would provide a unique experience.

Chair Kirk noted that the proposal would be 5 stories. The adjacent hotel is 10 stories. The land use, access, and site design are focal points.

Chair Kirk invited residents to provide comments.
Jack Schuth, employee of Annex Medical which is part of the Opus II Condominium Association, 6018 Blue Circle Drive, stated that:

- Construction vehicles would travel on the shared driveway and create a serious concern for the business owners.
- The water table is 6 inches below the ground. Underground parking would be a concern or the building would be increased one story.
- The parking lot of the condominium business association would become the sneak through to get to Blue Circle Drive.
- Trespassing has been an issue with UHG employees coming over to smoke.
- The residents of the proposed apartment building would be living right up against the road.
- A promise was verbally made at the last meeting that there would be 8 visitor parking stalls and that there would be more in the future. It is a month later and he would like to see more serious proposals about where parking would be located.

Jim Burns, 10201 Bren Road East, asked if the change in use status or increase in the number of trips would cause an additional fee that would need to be paid by the landowner to help pay for the project. The bridge in front of his building to get to County Road 101 is going to be under construction in 2016 and 2017. It will be closed and cause massive rerouting of traffic. Interstate 169 would be shut down for one year. Traffic goes the wrong way all of the time over the bridge and around the corner. There needs to be some thought to make drivers aware that there is no left turn. He is concerned a little that the building would be five stories. He asked if it would require approval to exceed the number of people per square footage of space allowed by the city. UHG was proposed as a two-stage project, but phase two started right after phase one was completed. The guest parking is a big question mark. Downtown parking is not relevant. There is no street parking in Opus. It seems like a precarious space for an apartment building to be located in the middle of Opus. He thought something on the Shady Oak side or Smetana at the entrance would be easier to find.

Wischnack said that Mr. Burns was correct regarding trip generation. That would be studied once plans have been submitted. There is an allowance of the number of trips a site may generate without cost, but there may be a payment required to help fund the improvements to Highway 169.

Chair Kirk stated that more details would be provided at the next public hearing once plans and an application have been submitted.
Calvert did not see building up as a bad thing, necessarily. It would be a large building, but it would leave less of a footprint than the current building.

Odland was concerned with the water table level and what potential negative changes would occur to provide underground parking. A location closer to lite rail might make more sense. There are issues that need to be looked at.

Magney felt multi-family housing would be a good choice for the location. A little smaller scale of three or four stories may be preferable. He was not concerned with the groundwater issue. The engineers would work out those details. It might impact the whole project, but the engineers would determine that. There should be more guest parking. In the big picture, multi-family housing would be just fine.

O’Connell concurred that the density of housing would be a good fit for the area with an office park so close to jobs. It fits the long-term vision of using existing infrastructure. The issues raised would have to be addressed. He supports the proposal.

Knight agrees with Magney and O’Connell. The proposal would be an appropriate use of the property. The area has a lot of employment. Right now, employees are driving in from outside the area. If some of the workers lived in the apartment building, then that would be a good thing. The area is not residential where neighbors are concerned what can be seen out the window. It would not bother him if a five-story building was constructed next to the building he works in. The size of the building does not bother him at all.

Chair Kirk recapped that more than five stories would be an issue for the commission. Transportation issues need to be addressed because of current problems, but the proposal is not being rejected. He would appreciate more of a clear, long-range vision in the comprehensive guide plan for the Opus area. He did not object to the proposal, but he was worried how the greater Opus area associations and trip counts fit in with each other. Wischnack stated that the city council will look at comprehensive guide plan studies done on the Opus area.

B. Concept plan review for Villa West on State Highway 7.

Staff recommends that commissioners provide feedback to assist the applicant with direction that may lead to the preparation of more detailed development plans.

Bob Schmidt, president of RTS Development, applicant, stated that:
City Council Agenda Item #14E  
Meeting of September 14, 2015

**Brief Description:**  Items related to the 2016 Preliminary Tax Levy:

1) Resolution setting a preliminary 2015 tax levy, collectible in 2016, and preliminary 2016 budget

2) Resolution setting a preliminary 2015 tax levy, collectible in 2016, for the Bassett Creek Watershed Management Tax District

**Recommended Action:**  Adopt the resolutions

As discussed at our city council study session on August 24, the proposed 2016 levy and budget will result in property taxes on the median-value home in the city going down. New development and redevelopment in Minnetonka has broadened the tax base to more than offset the levy increases of 4.2 percent proposed. And, consistent with the community’s priorities and the city’s position of fiscal responsibility, preservation of our standards of excellence, and encouragement of innovative and creative thinking, the largest proportion of the levy increases are to be dedicated to public safety.

Because of the higher capital demands, operating recommendations are kept modest to stay mindful of reported stagnant wages in the private sector, our taxpayers. Despite continued rises in the cost of employee health care and some market force salary pressures, the city’s operating costs are also being held down with the support of a very low inflation rate including reduced energy prices, especially fuel.

The city’s proposed levy increases are likely to place Minnetonka in the middle of our group of similar cities in the metro. While several of our comparable cities began to receive Local Government Aid in 2014, Minnetonka will continue to not receive this state financial support in 2016 nor does the city special assess property owners for road reconstruction.

**OUR PUBLIC PROCESS**

State law requires cities to certify preliminary budget and tax levies to the county by September 30, 2015.¹ This is the maximum amount the city can levy for 2016. Counties then report these preliminary levies to all property owners in November. When the

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¹ The 2014 State Legislature extended the deadline for certifying city preliminary levies to the county from September 15 to September 30. However, HRA and EDA preliminary levies must continue to be certified by September 15. Although a bill was introduced to correct this inconsistency last session, it was not ratified. Therefore, both the general levy and the HRA levy for Minnetonka are scheduled for adoption this evening.
budget is adopted in December, the final levy may be less than the preliminary amount, but cannot be greater.

Minnetonka always encourages input on its budget and will hold a public hearing when it adopts the final levy and budget on Monday, December 7, 2015, during the regular city council meeting beginning at 6:30 pm in the City Council Chambers.

In addition, residents and businesses will again have an ongoing opportunity to provide feedback via the city’s website: www.eminnetonka.com. All individual comments received in all formats will be shared with council as budget options are considered, and updated information will consistently be posted in the Minnetonka Memo and on the city’s website.

ENSURING MINNETONKA’S POSITION OF FISCAL RESPONSIBILITY

As detailed in the city’s adopted Strategic Profile, the city of Minnetonka takes a responsible, long-term perspective with financial planning and management. Decisions are made with the future in mind to ensure the city’s ongoing ability to provide quality services at a reasonable price.

Current year financial projections

A continuing tighter fiscal environment is projected to continue with 2015 revenues conservatively projected to meet forecasted obligations including capital fund transfers for the year. Continued low investment interest along with recreation fee revenue below projections this year is anticipated to be offset by growth greater than budgeted in permits and licenses associated with the improving economy and a modest increase above forecast in public safety fine revenue.

Most importantly, revenues are estimated to continue to cover projected obligations from 2016 through 2020 with an ongoing modest trend of rising between 2.3 to 3.3 percent annually during the period. As we approach the council’s second detailed budget study session in November, additional information may further adjust current 2015 spending, but revisions to budgeted costs are expected to minor with a positive outlook for savings, including lower than anticipated fuel costs. Per regular procedures, the CIP budget will be amended with levy and budget adoption in December to reflect more accurate capital project costs.

2016 BUDGET

At a cost of $31.8 million and financed with multiple sources of revenue, the 2016 proposed General Fund operating budget is limited to 2.3 percent greater than the 2015 adopted budget. The new funds will be strategically used to:
- right-size our public safety staffing to meet the challenges of increasing identity theft crimes and to serve a more robust retail environment;
- ensure we appropriately provide and keep up with all training requirements needed by a fully prepared suburban paid-on-call fire force;
- provide suitable care of our improved public landscapes and streetscapes to uphold our community’s commitment to value our natural environment;
- make sure the city continues to be responsive and efficient to development needs as the economy continues to improve; and
- maintain our excellent workforce by investing in their recruitment, development and retention in an increasingly complex and heavily regulated human resource environment.

The security and protection of the community and our citizens continues to be of highest priority, and the 2016 city budget reflects those values by devoting over one-half of the new dollars in the 2016 levy to public safety.

**Police Service.** The proposed 2016 budget includes funding for one additional case investigator to proactively respond to current and rising demands related to identity and retail theft in the city. Although some criminal activity has remained stable or diminished, yearly statistics show a marked increase in identity theft over the last five years, especially in the last year. At the same time, identity theft and other crimes such as fraud have become more sophisticated and therefore are more complicated and time consuming to investigate. There have been several cases of identity theft and fraud in Minnetonka with losses totaling over $1 million. This trend is expected to continue.

An additional investigator will provide resources needed to handle these growing numbers of cases, and the position will afford the police department the opportunity to
more appropriately delve into a greater number of cases than would otherwise be possible due to limited staffing levels.

**Fire Service.** The 2016 budget for the fire department includes one additional full-time position to ensure ongoing, stable administration of the rigorous and complex training required to maintain a strong and capable suburban fire force. The new training officer will absorb the work that has been carried out by two paid-on-call (POC) firefighters since the city’s reorganization and downsizing during the Great Recession. Experience has shown that despite great diligence in providing an efficient and high quality training program, part-time firefighters and their POC positions, with requisite work time limitations under the Affordable Healthcare Act (ACA), are unable to support the time and undertaking needed for this essential responsibility. By making sure a grounded position is dedicated to this vital function, the city will secure its ongoing commitment to the paid-on-call fire force structure along with the great efficiencies it bears and the 85 firefighters who serve the city of Minnetonka.

The 2016 capital levy also includes new significant funding for repairs, maintenance and update of two of the city’s five fire stations. Originally built in 1976 and 1987, renovations are required to protect these important city assets and make the stations safe for occupation and efficient for the city’s current fire force structure and training needs.

**Streetscapes.** The 2016 proposed budget also includes additional funding to supplement the city’s contractual resources dedicated to maintaining the trees in our streetscapes and landscaping along public rights-of-way. City employees will continue to be supplemented by the cost-effective use of ICWC crews in a number of areas, but the availability of these crews has been found to be limited.

Additionally, as neighborhood roads are revitalized, resident expectations have increased to ensure boulevard trees are appropriately cut back and cared for. The natural resources division will be charged with overseeing the tree trimming along neighborhood roads to see that appropriate measures are taken to preserve our street-line arbor’s health.

**Development.** Workload in the community development department continues to expand as a result of the economy’s improvement with pressures from an increase in new development requests and construction permitting. In the two-year period since 2012, the number of permits issued by the city has increased by over 17 percent. While this is positive news, keeping appropriate staffing levels to provide timely customer service continues to be a challenge.
The city of Minnetonka operates under the general guidance that development pay its own way, which serves the city well. As economic activity and development has risen over the past few years, the city has supplemented its inspections staff with the flexible use of part-time, multidisciplinary trained inspectors and overtime. However, because the demand for services is now resulting in a noticeable increase in wait times for inspections and permits, the 2016 budget includes funding for one additional full-time inspector, which will be offset by the revenues the activity generates.

Under that same guidance, the city’s levy will include for the first year of approximately fifteen years property taxes to be paid by Ridgedale Mall properties for costs of public improvements associated with their recent renovations and expansions.

**Human Resources.** Because the city is a service business, workforce-related changes and mandates, including new administrative requirements of the Affordable Care Act (ACA), have a major impact on the city’s work and finances. Over the past number of years, changing demographics, retirements and generational workplace transformations have increased the challenges and demands upon human resource management. The additional levy in 2016 provides the budget for one additional human resources employee to ensure the administration can appropriately support the services levels required by the current turnover, continuing staff development needs as well as mounting complexities in health care and other legal provisions including the ACA.

The city employs 241 full-time and regular part-time personnel, 80 POC firefighters, and approximately 400 seasonal employees. At the end of 2014, 36 full-time positions or nearly 16 percent of the city’s employees, were anticipated to turn over before the end of 2017. On top of these challenges, mounting complexities in health care and legal
mandates are demanding more time than the current two-person HR staff can accommodate. In addition to general support for hiring and development, the new position will coordinate ACA reporting mandates for which the clock began October 2014 and for which data must be collected and analyzed monthly and reported annually beginning in 2016. In a lean organization such as the city of Minnetonka, general support in human resources is critical for ensuring ongoing direct services to our public.

**Personnel Expenses.** The city will be negotiating two new 2016 contracts later this year with police officers and police sergeants, because the current contracts for those employee groups expire at year end. The labor agreement with public safety dispatchers expires the end of 2016 and public works personnel the end of 2017. Information currently indicates that there may be some market wage pressures from settlements in our comparable cities, if not for 2016, then likely for 2017.

Health care premiums are slated to increase in 2016 by an average of 10.5 percent. This is the third year of double digit increases in premiums after substantial reductions in prior years. The city’s contribution is expected to increase to help partially offset these premium increases. As a member of the LOGIS consortium, the city is currently involved in studying the implications of moving toward self-insuring for 2017.

**Bassett Creek Watershed Management Tax District.** Minnesota state law requires special taxing districts to adopt a preliminary budget and tax levy by September 15 of each year. A preliminary tax levy of $27,536 for the Bassett Creek Watershed Management District for levy in 2015, collectible in 2016, will fund the city’s expenses for that tax district.

**2016 PRELIMINARY LEVY**

The 2016 proposed operating and adopted capital budgets will require an *increase in the city property tax of 4.0 percent*. Of this overall increase, 2.0 percent is associated with financing the first year of the city’s 2016-20 capital budget, which was adopted by the city council in May 2015, and 2.0 percent is associated with the General Fund operating budget. (Another 0.2 percent increase for the HRA levy will be discussed and adopted by the council acting as the city’s Economic Development Authority later this evening.)

<table>
<thead>
<tr>
<th>Operating budget</th>
<th>2.0%</th>
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<tbody>
<tr>
<td>Capital program</td>
<td>2.0</td>
</tr>
<tr>
<td><strong>Total levy increase</strong></td>
<td><strong>4.0%</strong></td>
</tr>
</tbody>
</table>

Overall inflation is exceptionally low this year, currently 0.4 percent nationwide, 0.5 percent in the Midwest, and this has significantly helped to keep the city’s projected operating costs low for 2016. Almost all of the proposed operating budget and levy increase is associated with the requested new positions and keeping up with
streetscaping and landscaping care as outlined above. A significant decrease in the price of fuel is forecasted to continue into 2016, and therefore meaningful savings are garnered with reductions in the city’s budget for those costs across all programs, which will serve to offset the increases.

As a result the city’s 2016 tax increase of 4.0 percent, plus an additional 0.2 percent increase for the HRA levy, is in keeping with our recent history of increases below historic averages. Included in these projections are the new tax abatement levy for Ridgedale Mall to begin in 2016 at $26,000, which is offset by an increase in tax capacity, and in 2017, the referendum debt levy for the final $2.5 million referendum bonding for the Cullen-Smith open space property purchase.

**Comparisons with Other Cities.** The proposed 2016 city levy increase is likely to place Minnetonka in the middle of comparable cities. The levy variable changes amongst these communities is related to a diversity of reasons including new or retiring debt, additional staffing, reductions in liquor store revenues, and capital needs. Some of comparable communities with lower increases likely are those that are not built-out like Minnetonka and therefore have extensive new development.
Further, four of the comparable cities listed continue to receive an allocation of LGA, which began in 2014. As has been the case for over a decade, Minnetonka does not and will not receive LGA in 2016. Equally important, unlike many of these other cities, the city does not rely upon special assessments to fund street reconstruction and maintenance.

**Homeowner Impacts.** New development and redevelopment in the city significantly increased the city’s property tax base last year as reported in March by the city assessor. Overall the city’s assessed market value increased by 5.8 percent, a significant proportion of which was the consequence of actual improved real estate as opposed to market forces alone.

In addition, commercial property values improved at a greater rate than did residential properties during the period. As a result, *city property taxes for the median-valued home in Minnetonka ($317,800 in 2015) will more than offset the proposed preliminary levy increase and will decrease by around 4 percent.* At the same time, property taxes for commercial parcels are forecasted to remain flat.
RECOMMENDATION

Responsible long-term financial planning has continued to position the city of Minnetonka to accommodate the slow economic recovery and federal and state political uncertainties, while appropriately providing services to city residents and businesses. The preliminary city tax levy will be limited to an overall increase of 4.0 percent for 2016, with another 0.2 percent for the HRA levy if adopted by the EDA later this evening. This increase is around the middle of comparable cities. It ensures our position of fiscal responsibility, preserves our standards of excellence, and encourages innovative and creative thinking.

As always, the city of Minnetonka will continue to provide the excellent services our residents and businesses have come to expect, and at a reasonable price, both in 2016 and well into the future.

Therefore, staff recommends the city council adopt the following resolutions:

1) Resolution setting a preliminary 2015 tax levy, collectible in 2016, and preliminary 2016 budget

2) Resolution setting a preliminary 2015 tax levy, collectible in 2016, for the Bassett Creek Watershed Management Tax District

Originated by:
Geralyn Barone, City Manager
Merrill King, Finance Director
Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01. As required by state legislation under M.S. 275.065, municipalities are required to adopt a preliminary budget and tax levy by September 30, 2015.

1.02. The law also requires that the City Council hold a meeting to discuss the budget and property tax levy and, before a final determination, allows public input to its final adoption in December.

1.03. The law further requires the final levy be adopted on or before December 28, 2015, and the final tax levy may not exceed the preliminary tax levy.

Section 2. Findings.

2.01. The City Manager’s preliminary 2016 budget of $62,457,622 appears reasonable and sufficient to fund the desired general fund municipal services, general fund debt service, and capital needs in 2016.

2.02. Preliminary general, capital and debt tax levies of $34,060,904 for levy in 2015, collectible in 2016, will fund the City Manager’s preliminary budget.

2.03. A preliminary tax abatement levy of $26,000 for levy in 2015, collectible in 2016, is estimated to equate to revenues associated with and will fund commitments under the Ridgedale Mall development agreement adopted by the city council on April 15, 2013.

Section 3. Authorization.

3.01. The preliminary budget and tax levy is hereby approved.

3.02. The City Clerk is hereby directed and ordered to transmit a certified copy of this resolution to the Hennepin County Director of Property Tax and Public Records.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 14, 2015.

_________________________________
Terry Schneider, Mayor
ATTEST:

_____________________
David E. Maeda, City Clerk

ACTION ON THIS RESOLUTION:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on September 14, 2015.

_____________________
David E. Maeda, City Clerk
Resolution No. 2015-

Resolution setting a preliminary 2015 tax levy, collectible for 2016, for the Bassett Creek Watershed Management Tax District

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

Section 1. Background.

1.01. Minnesota state law requires special taxing districts to adopt a preliminary budget and tax levy by September 15 of this year.

1.02. The law also requires that the City Council hold a meeting to discuss the budget and property tax levy and, before a final determination, allows public input to its final adoption in December.

1.03. The law requires a final levy be adopted after that public input and the final tax levy may not exceed the preliminary tax levy.

Section 2. Findings.

2.01. A preliminary tax levy of $27,536 for the Bassett Creek Watershed Management District for levy in 2015, collectible in 2016, will fund the City’s expenses for that tax district.

Section 3. Authorization.

3.01. The preliminary tax levy of $27,536 for the Bassett Creek Watershed Management District is hereby approved.

3.02. The City Clerk is hereby directed and ordered to transmit a certified copy of this resolution to the Hennepin County Director of Property Tax and Public Records.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 14, 2015.

____________________________________
Terry Schneider, Mayor
ATTEST:

_________________________________
David E. Maeda, City Clerk

ACTION ON THIS RESOLUTION:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on September 14, 2015.

_________________________________
David E. Maeda, City Clerk
10D. Southwest Light Rail Transit (Green Line Extension) Revised Preliminary Design Plans

The community development director has included a change memo with comments received after the council packet was distributed.

14B. Preliminary plat of RIDGEMOUNT COVE, with lot width at setback variances, at 12601 Ridgemount Avenue

Attached are more defined building plans and floor plates submitted by the applicant.

Also attached are pages from the July 13, 2015 council meeting minutes related to the item. The pages from the minutes should have been included in the council packet.

Finally, is a comment received after the council packet was distributed.
Memorandum

To: City Council
From: Julie Wischnack, AICP, Community Development Director
Date: September 14, 2015
Subject: Change Memo for September 14, 2015

13D—Southwest Light Rail Transit (Green Line Extension) Revised Preliminary Design Plans

The attached comments have been received following distribution of the packet.

14A—Preliminary plat of RIDGEMOUNT COVE, with lot width at setback variances, at 12601 Ridgemount Avenue

The applicant submitted more defined building plans and floor plates following publication of the packet. The plans suggest that both homes would be constructed with full basements and would have more square-footage than staff has assumed and presented in the council report. The plans are attached and indicate the following:

<table>
<thead>
<tr>
<th></th>
<th>West Lot</th>
<th>East Lot</th>
</tr>
</thead>
<tbody>
<tr>
<td>Above Ground SF</td>
<td>3,248 SF</td>
<td>3,285 SF</td>
</tr>
<tr>
<td>Below Ground SF</td>
<td>1,302 SF</td>
<td>1,320 SF</td>
</tr>
<tr>
<td>TOTAL SF</td>
<td>4,500 SF</td>
<td>4,605 SF</td>
</tr>
<tr>
<td>TOTAL SF for FAR Calculation*</td>
<td>3,248 SF</td>
<td>3,285 SF</td>
</tr>
<tr>
<td>FAR</td>
<td>0.14</td>
<td>0.14</td>
</tr>
</tbody>
</table>

* does not include full basement space

Please note that while the building plans suggest that both homes would have full basements, the generalized grading plans illustrate that the homes would be either full basements or look-out levels. If constructed as look-outs, the FAR of each lot would increase to 0.17.
In addition:

- The July 13, 2015 meeting minutes were excluded from the agenda packet. They are attached.

- An additional neighborhood comment was received. It is attached.
Good afternoon,

I am forwarding the attached letter at the request of Bill Griffith. Thank you and have a good afternoon.
September 11, 2015

The Honorable Mayor Terry Schneider
and City Council Members
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55435

Re: Southwest Light Rail Transit ("SWLRT") – Noise and Vibration Impact Analysis

Dear Mayor Schneider and City Council Members:

This letter supplements and confirms the comments included in our previous comment letter to the City of Minnetonka, dated June 16, 2014, on behalf of SFI Partnership 54, the owner of the Claremont Apartments (the “Claremont”), located at 10745 Smetana Road in the City of Minnetonka (the “City”). Our previous comments addressed the projected severe and negative impacts of the noise and vibration of the Southwest Light Rail Transit (SWLRT) project on the Claremont.

We have since engaged internationally recognized transportation noise and vibration engineers, HMMH, to evaluate the findings and methodology in the Draft Environmental Impact Statement (DEIS) and Supplemental Draft Environmental Impact Statement (SDEIS) prepared by the Metropolitan Council (the “Met Council”). Through their analysis, HMMH has verified our previous conclusions and identified additional deficiencies with the noise and vibration study in the DEIS and SDEIS. We have identified the areas of major concern below.

Discussion

1. The Noise and Vibration Methodology Used by the Met Council Dramatically Undercounts the Residents Affected by the Proposed Alignment.

According to the methodology described in the DEIS for determining the number of affected dwelling units, the Claremont was calculated as one single dwelling unit, as opposed to the approximately 330 apartments with 600 residents that actually live at the property. According to the DEIS, the Met Council counted only the number of property owners to estimate the unit counts for performing the noise analysis.\(^1\) The result is that the Met Council counted all multi-family apartment communities, including the Claremont, regardless of size, as individual dwelling units.

The Met Council’s methodology is inconsistent with the methodology described in the U.S. Federal Transit Administration Guidance Manual (the “FTA Manual”), which states the analysis
should count dwelling units individually. Despite the guidance in the FTA Manual to estimate dwelling units in multi-family units, the Met Council simply based the calculation off of property owners listed on Hennepin County records. This methodology results in a gross undercalculation of affected dwelling units that disproportionately affects renters in the City of Minnetonka.

2. The Met Council’s Flawed Methodology Underrepresents the Actual Noise Impacts on the Claremont.

HMMH further identified a flaw in the DEIS noise assessment methodology that underestimates the actual impacts on the Claremont. The DEIS noise assessment in the vicinity of the Claremont Apartments is based on an existing noise exposure level (Ldn) of 62 dBA measured at Site No. 27, a single-family residence at Smetana Road and Nolan Drive, where the dominant noise source is traffic on Smetana Road. However, because the Claremont is in a secluded area with lower ambient noise levels and, because the FTA noise impact criteria are sensitive to the existing ambient noise level, the DEIS methodology is undoubtedly underestimating the noise impact at the Claremont Apartments. This should be further analyzed and evaluated.

3. The DEIS Vibration Level Methodology is Based on Flawed Methodology and Underrepresent the Actual Anticipated Vibration for the Claremont’s Nearly 600 Residents.

The methodology used by the Met Council for Calculating vibration impacts treats the Claremont and two other properties to be one single property, despite the fact that they span more nearly a mile and vary greatly in distances to the anticipated SWLRT alignment.

The Vibration-Sensitive Land Use map in DEIS Figure 4.8-2 identifies three vibration-sensitive residential parcels in the affected SWLRT segment, including the Claremont; however, the data only lists one such “Cluster.” That cluster shows a vibration level of 74 VdB. This means that two of the uses were either deemed to have “no impact” or were omitted, or all three uses were calculated as one single cluster. If all were calculated as a single cluster, the methodology for calculating the vibration effects would yield an inaccurate result in light of the fact that the three parcels cover a distance of more than .80 miles and are not the same distance from the SWLRT alignment. This should be further analyzed and calculated for each parcel independently.

Moreover, the DEIS predicts a vibration level of 74 VdB for the Claremont at a distance of 133 feet. Based on FTA methodology, however, HMMH determined that the actual projected vibration level at the closest apartment buildings, approximately 90 feet from the proposed location of the SWLRT tracks, is 78 VdB, which is significantly above the FTA criterion of 72 VdB. Furthermore, as suggested in the attached figures and table from the FTA Manual, a vibration level of 78 VdB from rapid transit operations would be distinctly perceptible in residential buildings and a majority of people would find the vibration annoying at this level. Therefore, the underrepresentation of the actual severe and extreme impacts should be addressed and reconciled through further analysis and mitigation measures.
Conclusion

With the confirmation of an internationally recognized noise and vibration consultant HMMH, we have identified numerous errors in methodology and calculations that have resulted in underrepresentation of the noise and vibration impacts for the residents of the Claremont. These errors will result in substantial adverse impacts on the livability for the nearly 600 residents of the Claremont, which is only one of many properties in the City that will be affected by the SWLRT alignment. We strongly encourage the City Council to consider the impacts of the Met Council’s flawed methodology on not only the residents of the Claremont, but of all the affected properties in the City, and we further encourage the City to withhold municipal consent until the deficiencies described above are reviewed and addressed by the Met Council.

Please contact me with any questions about this letter or the information described herein.

Sincerely,

William C. Griffith, for
Larkin Hoffman

Direct Dial: 952-896-3290
Direct Fax: 952-842-1729
Email: wgriffith@larkinhoffman.com

Attachment

cc: Corrine Heine, City Attorney
    Julie Wischnack, Community Development Director
    Elise Durbin, Planner
    David Maeda, City Clerk
    Brian Lamb, Metro Transit
    Mark Fuhrmann, Metro Transit
    Don Mueting, Metropolitan Council
    Metropolitan Council Members
    Richard Slosburg, SFI Partnership
    Jerry Kavan, SFI Partnership
    Rob A. Stefonowicz

4838-6789-2776, v. 2

1 DEIS 4-85.

2 “Transit Noise and Vibration Impact Assessment” Guidance Manual (FTA, 2006). The FTA Manual describes the importance of counting dwelling units for noise impacts and states that “In some cases it may be necessary to
supplement the land-use information or determine the number of dwelling units within a multi-family building with a visual survey.” *FTA Manual, 5-17.* The steps for developing an assessment of noise impact are described as follows (*FTA Manual, 5-17,* emphasis added):

1. Construct tables for all the noise-sensitive land uses identified in the three land-use categories from Section 5.4.
2. Tabulate buildings and sites that lie between the impact contours and the project boundary. For residential buildings, an estimate of the number of dwelling units is satisfactory. This is done for each alternative being considered.
3. Prepare summary tables showing the number of buildings (and estimated dwelling units, if available) within each impact zone for each alternative. Various alternatives can be compared in this way, including those with and without noise mitigation measures.
4. Determine the need for mitigation based on the policy considerations discussed in Section 3.2.4 and the application guidelines provided in Section 6.8.

Additionally, when establishing the noise-assessment inventory tables for rail and bus facilities, the FTA Manual states that the tables should include the following types of information (*FTA Manual 6-34-6-35,* emphasis added):

- Receiver identification and location
- Land-use description
- Number of noise-sensitive sites represented (number of dwelling units in residences or acres of outdoor noise-sensitive land)
- Closest distance to the project
- Existing noise exposure
- Project noise exposure
- Level of noise impact (No Impact, Moderate Impact, or Severe Impact)

These tables should provide a sum of the total number of receivers, especially numbers of dwelling units, predicted to experience Moderate Impact or Severe Impact.

---

3 *DEIS 4-115*

4 *DEIS Vibration Assessment Results by Segment, Table 2.*
<table>
<thead>
<tr>
<th>Human/Structural Response</th>
<th>Velocity Level*</th>
<th>Typical Sources (50 ft from source)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Threshold, minor cosmetic damage fragile buildings</td>
<td>100</td>
<td>Blasting from construction projects</td>
</tr>
<tr>
<td>Difficulty with tasks such as reading a VDT screen</td>
<td>90</td>
<td>Bulldozers and other heavy tracked construction equipment</td>
</tr>
<tr>
<td>Residential annoyance, infrequent events (e.g. commuter rail)</td>
<td>80</td>
<td>Commuter rail, upper range</td>
</tr>
<tr>
<td>Residential annoyance, frequent events (e.g. rapid transit)</td>
<td>70</td>
<td>Rapid transit, upper range</td>
</tr>
<tr>
<td>Limit for vibration sensitive equipment. Approx. threshold for human perception of vibration</td>
<td>60</td>
<td>Commuter rail, typical</td>
</tr>
<tr>
<td></td>
<td>50</td>
<td>Bus or truck over bump</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rapid transit, typical</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bus or truck, typical</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Typical background vibration</td>
</tr>
</tbody>
</table>

* RMS Vibration Velocity Level in VdB relative to $10^{-6}$ inches/second

Figure 7-3. Typical Levels of Ground-Borne Vibration

Figure 7-4. Response to Transit-induced Residential Vibration

Table 7-1. Human Response to Different Levels of Ground-Borne Noise and Vibration

<table>
<thead>
<tr>
<th>Vib. Velocity Level</th>
<th>Noise Level</th>
<th>Human Response</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low Freq(^1)</td>
<td>Mid Freq(^2)</td>
</tr>
<tr>
<td>65 VdB</td>
<td>25 dBA</td>
<td>40 dBA</td>
</tr>
<tr>
<td>75 VdB</td>
<td>35 dBA</td>
<td>50 dBA</td>
</tr>
<tr>
<td>85 VdB</td>
<td>45 dBA</td>
<td>60 dBA</td>
</tr>
</tbody>
</table>

1. Approximate noise level when vibration spectrum peak is near 30 Hz.
2. Approximate noise level when vibration spectrum peak is near 60 Hz.

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EAST HOUSE 2ND FLOOR

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JPeter Paulson, CEO
Contractor Lic. #BC340362
Samantha Grose, Designer
Assoc. AIA, Allied ASID

12601 RIDGEMONT AVE.
MINNETONKA, MN
would. An alternative being looked at to surface rain gardens, which would only take filtration and not infiltration, was to go underground instead. Schneider noted the drainage would first go into a storm water pond and before it went into the wetland.

Ellingson asked what was being done to minimize the tree loss. Schulz said work was done with staff with the belief the development could get down to the 35 percent threshold. This was done by shrinking the cul-de-sac bulb. This allows lots seven and eight to be more conventionally placed around the bulb and pushes the pond behind lot seven further south preserving a lot of the significant trees.

Bergstedt said over the last year and a half the council had seen many versions of this plan. He thought the current plan showed much more creativity, a lot less density, and better traffic flow than some of the original plans. He said the developer came up with a nice plan to address the challenging site.

Bergstedt moved. Allendorf seconded a motion to adopt Res. 2015-053 approving the preliminary plat of SAVILLE WEST, generally located at the southeast corner of the County Road 101/Excelsior Boulevard intersection. All voted "yes." Motion carried.

C. Preliminary plat, with lot width variances, for BUCKMAN ADDITION at 15700 Highwood Drive

Thomas gave the staff report.

Linda Buckman, 15700 Highwood Drive, thanked the council for considering the proposal.

Acomb moved, Bergstedt seconded a motion to adopt Res. 2015-054 approving the preliminary plat, with lot width variances, of BUCKMAN ADDITION at 15700 Highwood Drive. All voted "yes." Motion carried.

D. Preliminary plat, with lot width at setback variances, at 12601 Ridgemount Avenue

Thomas gave the staff report.

Wagner asked if the information in the council packet was showing lot width setback or lot width at right of way. Thomas said they were lot widths at right of way.
Ashish Aggarwal, 16135 55th Avenue North, Plymouth, said he lived in Minnetonka for 11 years. When his family decided to move to a different house, they could not find a modest sized home in Minnetonka. He said he was present because of his past experience and also because he believed in doing the right thing. The two small homes would greatly enhance the value to the neighborhood. The full criteria of subdivision were being met. The only variance required was width at setback. The question before the council was if the deficiency in width was big enough and so crucial to pass up two affordable homes that fit the scale and character of the neighborhood. He said the project was supported by pretty much all of the neighborhood and was consistent with the city’s vision for 2030. He presented a letter of support from 15 of the 18 neighbors. He said that after the subdivision both lots would be half acre. The project would revitalize the neighborhood while fitting in with the scale and character of the neighborhood. The lot was unique within the neighborhood. There was no other lot in the neighborhood as large and as wide. Twenty percent of the adjoining properties do not meet the setback requirements. A large McMansion on the lot would decrease the value of the adjoining lots. He said the lots were in the same spirit as the R1-A zoning the council recently approved. The lot splits support the city’s land use and comprehensive guide plan for 2030. The advantages of the project far outweigh the one shortcoming.

Samantha Grose, JP & Co., 10800 Normandale Boulevard, Bloomington, said she was a degreed architect that does all the design work for her company. She said if a large home were built on the lot it would continue the trend of large home redevelopments that devalues the neighboring homes. Builders would look at them as land value only. The vision for the property was to create two homes with character that fit nicely on the lot and remain in scale with the neighborhood. Preventing McMansions and keeping affordable housing was a common theme with all the neighbors that were met with. She said she had a discussion with Schneider earlier in the day who suggested bringing forward some other options for laying out the subdivision.

Max Norton, 3649 73rd Court East, Inver Grove Heights, said he had been a professional designer for over 50 years. He had designed and built over 60 homes and countless remodels across the metro area and Greater Minnesota including six in Minnetonka. He said he felt the staff and planning commission had made some possible oversights in the analysis. The three burdens of proof for a variance that staff determined were not met, need to be reevaluated. The difference between the zoning standard width and the proposed width was less than 20 percent. Compared to the other substandard lot widths in the neighborhood there was less than 10 percent difference. He said these were metrics but in truth the average
passerby would not be able to tell the difference between an 87½ foot lot and a 110 foot lot. Looking at the map the obvious unique circumstance was the present lot was nearly twice as wide as the other lots in the immediate area. The two proposed lots and homes would be more consistent with the neighborhood than one large home that would not require any variances. This was an opportunity to expand and provide affordable housing in the area. He said he could not concur with the staff finding about character of the neighborhood that if something was slightly different from its surroundings, it was unacceptable. Controlled diversity of character helps maintain desirable property value, not erode them. He pointed to Summit Avenue in St. Paul as an example.

Schneider noted that he had discussed with the applicant that if this proposal was not acceptable to the council, there may be an alternative to do a reconfiguration with more of a lot behind a lot. That alternative might be more attractive than this proposal.

Wagner noted that if approved it would set a precedent lot at setback. He said this was an area of the city that had unique homes at different age stages.

Grose showed two different alternative options. Aggarwal said when he initially met with staff he brought up a couple of different options that put the houses one behind the other. Staff feedback indicated the council did not like lot behind lot so this was not an option. He said building the two homes in a neighborhood that was in need of revitalization was absolutely the right thing to do. Schneider said it was not always a good idea to assume what the council might accept. The council had to look at the situation, and every application and lot was different. There was a general tone and preference but it could never be said the council would never do this or always do this. He said in this case he looked at the drawing first before reading the staff recommendation. Without having all the details it did look like a natural lot behind lot because of the hill on the backside. Aggarwal said the back of the lot was heavily wooded. If the house was located there, trees would have to be removed. If the houses were put side by side, there would be no tree impact. Schneider said he had concern over the type of variance being requested. If approved it would set a precedent for other areas.

Allendorf asked how many votes were required to overturn the planning commission's denial. Heine said the planning commission was not the final decision maker. On some issues the planning commission makes a decision that unless it is appealed, is final. That was not the case in this situation. She said in this case the planning commission made a recommendation to the council. The council could make any decision it
wanted and was not bound to follow the recommendation. Because a variance was required, the ordinance required five votes for approval.

Allendorf said as he went up the neighborhood from the east it really was a changing neighborhood with Ridgemount on the south side. As he looked at the homes on the east he could easily delineate approximately where the lot line was based on where the house was. After a couple of blocks however the trees became denser and the houses were placed differently, not just front to back, and he couldn’t tell where the lot line was or even where the house was from Ridgemount. He didn’t think it was the lot size that made the difference but it was the size of house on the lot. The petition that was passed around showed two houses that were approximately 3,200 square feet each. He asked if this was controllable through side yard setbacks or through a floor area ratio. Thomas said the house size could be controlled through setbacks if the council wanted to have side yard setbacks and front yard setbacks that were greater than standard through a floor area ratio. If applied under the McMansion policy the floor area ratio would provide for 7,800 square feet. The council could choose to do a lower floor area ratio. Because a variance was involved the council had broad discretion. Allendorf said when he looked at the information in the council packet he thought the two homes would fit into the neighborhood and he couldn’t tell where the lot line was so he couldn’t tell what the setback was. He was not adverse to two homes on the lots as they were split but controlling the size of the houses to be consistent with the look of the neighborhood.

Barone said in the past the city had tried to control house size when an application was reviewed but when it came time for the person to actually build the house, they ended up coming back and asking for a larger size. Wischnack said the two most recent examples were Braeburn Woods and Locust Hills. This led to using floor area ratio more for the calculation. In this case the floor area ratio was not terribly helpful for the house size issue. She noted some of the drawings shown by the applicant had two car garages while the renderings in the council packet had three car garages. Allendorf said if there was a way to keep the houses on the lots around 3,200 square feet he thought it would be within the character of the neighborhood and he would not be averse to approving that.

Wagner said he drove the road quite a bit and when he met with the applicant he, like Allendorf, could envision reasonably sized homes fitting in well. He would never favor creating a precedent for lot behind lots. Given all the work that had been done looking at mid-priced housing and housing variety, this neighborhood screamed out for that. He would be willing to look at that for this area. He worried a little bit about precedent
for a couple of the lots but looking at the map there were very few lots it could be done. He would be open to the suggestion made by Allendorf.

Acomb said looking at the map there appeared to be several lot behind lots. She asked if this didn’t already set the stage for doing a lot behind lot that would not establish a precedent. Doing a lot behind lot was not her preference. She preferred side by side lots. She said it seemed there was room for coming up with something that would work.

Ellingson said he was not a big fan of doing lot behind lot because in the past there were examples ending up not working well including the Hennepin County medical clinic. He said he had sympathy for the applicant’s proposal because it was more straightforward but he realized the difficulty of limiting the size of the house.

Schneider commended the applicant for the idea of doing relatively modestly sized homes. He saw a benefit of having a modest priced home with appropriate size. The council usually looks pretty closely at house size and lot setbacks in the general area. If the Plymouth Road property was included it probably made more sense. It would be hard to say the council was following what it did in the past. Combine this with the recommendations from staff and the planning commission for denial, it gave him pause. However he thought this lot deserved two homes. It would be more out of character to have one big home on the lot. The question was if there was an alternative configuration. He said he was somewhat on the fence but was leaning toward being worried about setting a precedent.

Wagner said he didn’t want the council to try to design something at the meeting and would prefer tabling the item directing staff to present an alternative with a floor area ratio limit that would accommodate Allendorf’s comments. He would not support lot behind lot in any way. The council still might not approve the proposal but it would provide an alternative to look at.

Wagner moved, Allendorf seconded a motion to table item.

Allendorf asked if there was a way to somehow memorialize in what staff brought back to the council what was being discussed in terms of size. Wagner asked if the lot split could be conditioned to building plans that were aligned to Allendorf’s comments. If the applicant returned asking for a 5,000 square foot house the lot split approval would be nullified. Heine said a condition could be put on the variance and Wagner’s suggested condition was reasonable. Wischnack noted there was a timing issue on the application so the applicant would have to come back with a solution
by the August 17 meeting or would have to waive their right for review within 180 days. Wagner noted he would be absent from the August 17 meeting.

Aggarwal said they would be open to waiving the review deadline. He said he would be out of the country for the August 17 meeting. He said the smaller homes were absolutely the right thing to do and the homes would not be built for somebody specific but would go on the market once built. This provided more flexibility as opposed to building something for a specific buyer. Wischnack clarified that Aggarwal was agreeing to extend the review period for another 60 days. Aggarwal indicated that was correct.

Bergstedt said on one hand there was a staff and planning commission recommendation for denial based on long standing variance standards. On the other hand the council was all in agreement about looking for smaller, more affordable housing and avoiding McMansions. Like others he was not excited about discussing lots behind lots without staff looking at it first. He said it would be beneficial to have staff look at alternatives and also to have all seven council members present especially since this proposal was in Wiersum's ward and he was excused from tonight's meeting.

Schneider said his suggestion for a lot behind lot alternative was made to keep moving toward a resolution rather than just having a denial. While this property probably wasn't ideal for a lot behind a lot, what he was looking for was a little bit of separation from the frontages. He said the current plan had a shared driveway with a turnaround. This was a lot of asphalt that he wasn't sure was wise. Moving one of the homes back 10 to 15 feet would provide relief from the frontage and would blur the lot line issue.

All voted "yes." Motion carried.

E. Resolution amending Council Policy 6.1 regarding standards and criteria for the issuance of liquor licenses

Wischnack and Heine gave the staff report.

Schneider said for some reason the topic had been in the news recently and he received calls from reporters asking what the city was doing. He said it really wasn't newsworthy because what was being proposed was a tweak to the policy.
Hi Ashley and Susan,

We understand that the proposed project is going to council again tonight. I just wanted to add that after speaking with a couple neighbors, many have expressed the same concern as us. I would like to know if it would be helpful to get signatures from neighbors expressing their opposition to the proposed subdivision as well? It sounds like it may be unnecessary, but I wanted to offer.

Best,
Philip

On Wed, Aug 19, 2015 at 10:14 PM, Philip Vorobeychik wrote:

Hi Ashley -

I am writing to voice our opposition as well to the proposed redevelopment on Ridgemount Avenue. We also believe the large, spacious lots in our neighborhood make the area attractive, represent its current character, and add value to the properties. We personally just built a new construction in the area, and did it on the trust that the city would uphold the variance standards of reasonable use, unique circumstance, and character of the neighborhood. We hope to continue to add to the new investment in the area, and believe the proposed subdivision would adversely affect new investment from many prospective buyers for the neighborhood.

Thank you,

Philip, Joseph, and Marina Vorobeychik
304 Zachary Lane