Minnetonka City Council meetings are broadcast live on channel 16. Replays of this meeting can be seen during the following days and times: Mondays, 6:30 p.m., Wednesdays, 6:30 p.m., Fridays, 12 p.m., Saturdays, 12 p.m. The city’s website also offers video streaming of the council meeting. For more information, please call 952.939.8200 or visit eminnetonka.com

Agenda
Minnetonka City Council
Regular Meeting, Monday, May 14, 2018
6:30 p.m.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
4. Approval of Agenda
5. Approval of Minutes: April 2 and 16, 2018 regular council meetings and April 16, 2018 LBAE 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 a conditional use permit for a graduate school within the industrial district at 10225 Yellow Circle Drive
    B. Legal services agreement
11. Consent Agenda - Items Requiring Five Votes:
    A. Resolution approving a preliminary plat of ARUNDEL ADDITION, a three-lot residential subdivision with variances, at 15500 Minnetonka Blvd.
12. Introduction of Ordinances:
    A. Ordinance relating to diseased and hazard trees
       Recommendation: Introduce the ordinance
13. Public Hearings:

A. Temporary on-sale liquor license for The Rotary Club of Minnetonka Foundation, 14600 Minnetonka Blvd.

Recommendation: Hold the public hearing and grant the license (5 votes)

B. Temporary on-sale liquor licenses for Unmapped Brewing, LLC, 14625 Excelsior Blvd.

Recommendation: Hold the public hearing and grant the licenses (5 votes)

C. Ordinance granting an electric franchise to Northern States Power

Recommendation: Conduct a public hearing and adopt the ordinance (5 votes)

14. Other Business:

A. Amendment to resolution 2018-015, as it pertains to an expansion permit for a restaurant with outdoor eating area at 5445 Eden Prairie Road

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

B. Items concerning Solbekken Villas, a residential development at 5740 and 5750 Shady Oak Road

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

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

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

15. Appointments and Reappointments:

A. Reappointments to the senior citizens advisory board

Recommendation: Approve the recommended reappointments

16. Adjournment
1. **Call to Order**

Mayor Brad Wiersum called the meeting to order at 6:30 p.m.

2. **Pledge of Allegiance**

All joined in the Pledge of Allegiance.

3. **Roll Call**

Councilmembers Bob Ellingson, Patty Acomb, Deb Calvert, Tim Bergstedt, Tony Wagner, and Mayor Wiersum were present.

4. **Approval of Agenda**

Wagner moved, Acomb seconded a motion to accept the agenda with an addendum containing corrections to the February 26, 2018 minutes. All voted “yes.” Motion carried.

5. **Approval of Minutes: Feb. 26 and March 5, 2018 regular council meetings**

Bergstedt moved, Calvert seconded a motion to approve the minutes of the Feb. 26, 2018 and March 5, 2018 regular council meetings, with the corrections noted in the addendum. All voted “yes.” Motion carried.

6. **Special Matters: None**

7. **Reports from City Manager & Council Members**

City Manager Geralyn Barone reported on upcoming meeting and events.

8. **Citizens Wishing to Discuss Matters not on the Agenda**

Hennepin County Commissioner Jan Callison gave an update on the county’s activities.

Wagner noted he participated in a meeting related to the county’s organics initiative. One of the focuses is getting habits built. Organics collections is now occurring in some of the large commercial buildings. He said he actively supports the county’s initiative. Callison said the initiative truly is about making it easy for people to do. Wagner said the county has a number of grants available to assist with the initiative.

Wiersum thanked Callison and said the city truly appreciates the level of collaboration between the county and the city.
9. Bids and Purchases:

A. Bids for the Woodhill Road project

Barone gave the staff report.

Bergstedt said it would be a very intensive project. The city received a very favorable bid compared to the engineer’s estimate.

Acomb moved, Bergstedt seconded a motion to award the contract for the Woodhill Road Project No. 18401 to Park Construction Co. in the amount of $5,043,599.03. All voted “yes.” Motion carried.

B. Bids for pickleball courts

Barone gave the staff report.

Wagner moved, Acomb seconded a motion to amend the 2018 CIP to $410,000 for construction of pickleball courts and award the contract to New Look Contracting, Inc. in the amount of $372,431. All voted “yes.” Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolution approving a conditional use permit and site and building plan review for a concession stand and bathroom facilities at Hopkins High School, 10901 Hillside Lane West

Wagner asked that the item be pulled from the consent agenda. He said he had a few neighbors reach out to him about the project. Those that lived on Hillside Lane had questions about access and availability and use of the restroom facilities. They also had questions about how the portable potties would be managed given there were new facilities being constructed. The concern was the portable potties would remain because the restroom facilities would not be open when non Hopkins school activities were taking place.

Patrick Poquette from the Hopkins School District said the portable potties would only be used for the large events. They would only be kept open during school or community education events. Wagner said some of the concern was at times there were scheduled events that were not school or community education events and the assumption was it would be great not to have three or four portable potties there all year round. Poquette said for rented events the restroom facilities would be open.

Ellingson moved, Wagner seconded a motion to adopt resolution 2018-036 approving a conditional use permit and final site and buildings for a concession stand and bathroom facilities at Hopkins High School, 10901 Hillside Lane West. All voted “yes.” Motion carried.
11. Consent Agenda – Items requiring Five Votes:

A. Resolution approving a conditional use permit, with a parking variance, for CREO Arts and Dance Academy at 15100 Minnetonka Industrial Road

Ellingson moved, Calvert seconded a motion to adopt resolution 2018-037 approving a conditional use permit, with a parking variance, for CREO Dance and Arts Academy at 15100 Minnetonka Industrial Road. All voted “yes.” Motion carried.

12. Introduction of Ordinances: None

13. Public Hearings:

A. Temporary on-sale liquor license for ResourceWest, for use at 14600 Minnetonka Boulevard

Barone gave the staff report.

Wiersum opened the public hearing at 6:56 p.m.

Tarrah Palm, executive director of ResourceWest, provided information about the event celebrating the organization’s 25th anniversary.

Wiersum closed the public hearing at 6:58 p.m.

Acomb complimented ResourceWest for all the work it has done.

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

B. Items related to the Cloud 9 Condominium’s Housing Improvement Area

1) Adopt a resolution approving an amended housing improvement fee for the Cloud 9 Sky Flats Housing Improvement Area

2) Adopt a resolution approving the first amendment to the development agreement with respect to the Cloud 9 Sky Flats Housing Improvement Area

Community Development Director Julie Wischnack gave the staff report.

Wiersum opened the public hearing at 7:01 p.m. No one spoke. He closed the public hearing at 7:01 p.m.

Calvert moved, Wagner seconded a motion to adopt resolution 2018-038 approving an amended housing improvement fee for the Cloud 9 Sky Flats Housing Improvement Area and resolution 2018-039 approving the first
amendment to the development agreement with respect to the Cloud 9 Sky Flats Housing Improvement Area. All voted “yes.” Motion carried.

C. On-sale brewer’s taproom and Sunday liquor license, and off-sale liquor license (for growlers) for Brass Foundry Brewing Co., 5959 Baker Road

Barone noted staff needed more time to complete the background check.

Acomb moved, Calvert seconded a motion to continue the public hearing to April 16, 2018. All voted “yes.” Motion carried.

14. Other Business:

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

City Planner Loren Gordon gave the staff report.

Wagner said the ordinance associated with auto dealerships along the 394 corridor was revised around 10 years ago. New dealerships were required to do structured parking. He asked what would trigger the ordinance if there was a more major plan. Gordon said if a new dealership was involved, the requirement would be that half of the vehicles on the property needed to be screened or were in structured parking. He said he would research what the trigger was for an existing dealership.

Wiersum asked if there were height restrictions for the buildings and if so, what the restrictions were. Gordon said the height was a function of the building setbacks.

Lynn Robson, facilities director for Morrie’s Automotive Group, said Morrie’s went through a buy/sell in March 2016. As part of the manufacturer approvals, they conditioned consent based on some facility improvements. Ford required the relocation of the Lincoln franchise. Ford and Lincoln are now standalone franchises. Lincoln was relocated in January 2018. The goal of this project was to improve the site circulation, traffic flow and to create a better experience for customers and employees. She said 12,000 square feet had been added to accommodate additional service capacity including a three lane service drive to accommodate peak hour traffic, and a two bay carwash.

Brannin Gries, the project architect, said he was working with Ford’s architects out of Detroit to bring the facility up to their standards. He said around 45 stalls would be lost in the parking area on an already tight site so they were looking at another area to expand the parking. After hearing the concerns of the planning commission and neighbors, images were developed to better represent the corner and maintain a residential feel. A solid brick fence would not only keep the residential feel but would also block the cars.
Wagner asked for more information about the inventory that left the site when Lincoln relocated. Robson said there were around 100 new vehicles in inventory at the Lincoln store. Some of those had been in offsite storage. She said this time of the year the inventory increases while other times of the year it decreases.

Rob Haas, 13224 Southridge Road, said he lived in the neighborhood for 39 years. He said this plan was one of the most disturbing things he had seen as far as encroaching on the neighborhood. The lot had been vacant for around 10 years. Before that, it was a home. There was agreement that the changes to the dealership itself was OK. The existing carwash was extremely noisy. Using the vacant lot as a parking lot would mean cars coming and going all the time. Motion sensor lighting would probably make it even worse. He said his biggest concern was this would set a very bad precedent. Sears Imported Auto owned three houses in the neighborhood. If Morrie’s was allowed to use the vacant lot for parking, nothing could prevent Sears from doing the same thing.

Steve Anderson, 13208 Southridge Road, said he lived in the neighborhood off and on for 63 years. He said when the upper lot was done, the vehicles were supposed to face toward the highway. A biological barricade was supposed to be installed. This was not done, instead most of the trees that were there were removed. Residents were opposed to the strip mall that went in across the street. He said his bedroom window is lit up by vehicles from both Whole Foods and Morrie’s. He agreed a bad precedent would be set by allowing parking on the vacant lot. He suggested Morrie’s sell the property to the city for a Pickleball court or a playground. He said every spring Canadian geese land on the property. The plan would take away a feeding source for a federally protected animal.

Acomb asked if the applicant had any plans to address the lighting issues. Gries said he was unaware of any lighting issue from the upper lot.

Gordon referred back to Wagner’s question about the trigger for screening for existing dealerships and dealerships operating under a conditional use permit. He said there were a number of standards for a conditional use permit. There were not any standards for an existing dealership making changes.

Wagner said he passes by the site often. He thought the service improvements and building expansion were both merited and would likely lead to better functionality. He said the 394 ordinance was created because auto dealerships can cause a challenging neighborhood relationship with the amount of unloading, cars and traffic. From a parking expansion standpoint if there was a desire to store more cars, the expectation in the ordinance was for structured parking. Although 40 spaces were lost, there was a gain of 100 from the vehicles that were no longer at this facility. He agreed with the neighbors about an expansion of parking into the residential neighborhood. This was not the desired intent of the council. He said he would not support that expansion but would support the building renovation.
Acomb agreed the improvements to the building would be welcomed. She had concerns about the creep into the neighborhood. She said there had been questions raised at the planning commission hearing about the use of the residential properties owned by Sears. Gordon said he was unaware of any current violations on those properties although there had been some complaints over the years. Acomb said shared the concern about the impact the creep from the car dealership into the neighborhood would have on the character of the neighborhood. She supported the improvements to the building and encouraged improvements to address the lighting from the upper lot. She did not favor expanding the parking onto the residential lot.

Calvert said she agreed with Wagner and Acomb. The property was zoned residential. To put parking and add hard surface next to someone’s home seemed intrusive and counter to the city’s zoning. She thought the changes to the building would be very attractive and were a huge improvement. She agreed with Acomb’s concern about the lighting. She encouraged replacing any vegetative buffer that had been removed.

Bergstedt said he too agreed with the other councilmembers comments. The building improvements were much needed. He said the parking expansion went beyond creep with the proposed parking right in the neighborhood. He agreed with Calvert’s comments about adding hard surface directly in the neighborhood.

Ellingson said he agreed with the comments. He liked the building improvements but did not support the parking expansion into the neighborhood.

Wiersum said it was clear the council did not support the parking expansion into the neighborhood. He said the building expansion made a lot of sense in terms of the way the automotive business had evolved over time. He remembered when he bought his first car there was not a celebration room at the dealership. This was now a common part of the business. As he looked at the improvements he was supportive of what they were attempting to do but it was an increasing intensification of use in the location. There was no more land available to further increase the intensity. If the plan was to continue to grow, creativity will be necessary. He said his expectation was this property would not get larger. When he was out campaigning last year, he heard the number one thing people care about in Minnetonka was the preservation of neighborhoods. For the council to allow commercial areas into R1 neighborhoods and the loss of affordable housing when this occurs was contrary to the council’s objectives.

B. Ridgedale area public realm guidelines

Wischnack gave the staff presentation.

Joan McLeod, project consultant, presented the guidelines. She said the guidelines looked at the existing conditions and began to outline how public realm improvements would be treated when they occur. Public realm was really an area that began to transform a district in a controlled way. The city however, did not have a lot of control over a lot of the area in the Ridgedale area. The
guidelines would help guide developers and those that wanted to refresh their properties in a way that contributed to the whole. It’s a way to allow for buy in and communication to happen to benefit the district as a whole.

Wagner said as he thought back to the discussions for the Ridgedale and Opus areas, there was the idea that there was this element that the city would try to develop around a sense of place. He said the document did a good job in articulating expectations of what the city was looking for. He wasn’t quite sure it gave the theme of the sense of place. It might be beneficial to be more purposeful about things like a larger public park and opening up Crane Lake. Being more specific about what theme the city wanted might be helpful. He questioned if there was more that could be done in the document to give guidance to developers.

McLeod said there was plenty of room to add additional information. If there was a need to strengthen some of the overall vision upfront, that could be done. She said things continue to evolve so the town square was not included but could be. The guidelines were really a living and breathing document. Wischnack said the guidelines were trying to portray an experience that would be very different from the experience seen today. This was phase one and the vision would continually be improved upon as well as the strategy to get there.

Wagner said what was being looked at was very different than what currently exists and that was what the council was looking for. The question becomes if it would be beneficial to paint more of a picture of what was really expected for the area. He noted every project that has come in since the vision statement was all about density. This had been expected. The expectations set in the guidelines would be what would get proposed. Given this was a living document, he thought it should be refreshed periodically. The vision for the Ridgedale area was for it to be a gathering place and not just a shopping mall. Weaving this into the narrative may be something to include in the next version of the document.

Acomb said she understood the public realm were vignettes and not necessarily what would actually happen. She appreciated it was a living and evolving document. She agreed with Wagner’s comments that what the document describes would impact the kind of development that gets proposed. Throughout the area she would like to see the city work on pedestrian access to the mall. If this was shown to the developers, they would be more likely to work toward that. McLeod said there had been quite a bit of work done on pedestrian access but it was not included in the guidelines. Wischnack said the inspiration for the guidelines was in the vision document with all the internal connections with the identified green corridors. She said both Wagner and Acomb’s comments suggested a private development guideline portion of the document. This had not been the original direction but this didn’t mean the direction could not change or that type of information could not be included in next phase. She noted that kind of discussion about connection to the mall and the public space already occurred in the visioning process. Acomb said she would like to see it included in the guidelines as well. McLeod noted the name of the document was “Ridgedale Area Public Realm Guidelines” so the focus had been on the public areas.
Acomb said she understood that but the document was intended for developers so including the expectations might be important.

Wagner said the public realm was the theme of what the city wanted to do. The idea was that the parks would be the gathering places and the private development would touch all those areas so the document had to bridge the gap.

Wischnack suggested adding a chapter about private development that would include information about private development throughout the area and not just the mall itself. Acomb said this would be helpful.

Calvert said all the greenscape was very welcome and gets to one of the city’s core values. She said the vision document included images of tree-lined pedestrian walkways through the parking lot up to the mall to give some protection from the sun. The guidelines referenced lighter pavement. She liked the idea of reducing the urban heat island. She also liked the idea of impervious pavers. In terms of landscaping she was encouraged to see reference to native species especially in the rain gardens. She would promote a pollinator corridor if possible. As far as trying to create a theme or character, she thought including artwork would be helpful. She is a huge fan of public sculptures. She said she thought many of the design elements in the document were exciting.

Wiersum said the document was well done and really got the imagination going. He said clearly the document was about the public realm because that was the part the city had some control over. This did lead to the question about what would happen in the middle which would really drive what things would ultimately look like. Having themes and setting expectations so when developers come forward was important. He noted with all the plantings, there would be a significant maintenance cost. He hoped those costs could be shared because of the benefits to all. He said one of the design elements important to him was the signs. He wanted to make sure the signs were easy to read given the importance of wayfinding. He thought the work on the perimeter did a great job of bringing the natural environment so valued in the city to the area in a better way than had been done in the past. There still was the big unknown about what would happen on the big island in the middle. What happens there would ultimately determine how much “place” would be created.

Wagner said there were references to “complete streets.” For him this meant including dedicated bike lanes. He suggested if this was what was meant, it be clarified in the language. McLeod said it really was about pedestrian and bike connectivity. She agreed backing off from using that term would be helpful.

Wagner said he received a suggestion from a neighborhood resident that he thought was a great idea. The resident suggested extending the zone further down Plymouth Road because of the trail enhancements. There’s a great trail to the wetlands by Meadow Park and it was kind of unnoticed. This was about a block away from the area being included. He said one last comment was about setting the right expectation about getting across Plymouth Road given the existing and proposed senior housing in the area. He would love to be able to
say that a person could cross at every intersection on Plymouth Road, but this was not realistic. He would like this to be looked at to come up with options on what could be done. City Engineer Will Manchester said this could be included during the Ridgedale Drive design process.

Annette Bertelsen, 13513 Larkin Drive, said the neighbors were excited about all the things happening including the pedestrian friendly aspect, design standards and increasing the entertainment in the area. She said she and her husband and a few of the neighbors talked with a landscape architect about the guidelines. They let him know there were two big goals. One was to create a consistent, cohesive look to unify the area. There was agreement this was achieved in the guidelines. The second goal was to create a unique, distinctive identity and sense of place. She said there was room for improvement in that area. There was not a unique sense of character or place coming through in the document. She said the landscape architect said he didn’t know Minnetonka but reading the document should have given him the feeling of the city and this did not happen. He didn’t get a sense of what made Minnetonka unique. He suggested including a statement of character that defined the style and character that was trying to be achieved. The statement would be developed through a public engagement process. She asked the council to consider this.

Patty Aossey, 13501 Larkin Drive, said she really liked the idea of connectivity and understood the difficulty that some of the area was privately owned. She was concerned about safety. She noted during the Highland Bank discussion part of the agreement was about snow removal. She drove by the building many times during the winter and the sidewalks were not cleared. When the sidewalks were finally cleared they couldn’t be used because they were covered in ice. She said one of the things that needed to be considered was how the city would enforce what had been agreed to in the areas not owned by the city and making sure property owners kept the connections useful all year round. Wischnack agreed there was an issue this winter with the snow removal on that property. There was a new contractor that did not understand the parameters of the agreement. The city has provided the contractor detailed information.

Wagner said it might be useful to include some information in the guidelines about the expectations for winter maintenance. The expectation was to be able to walk the area all year round. Wiersum said it was important setting clear expectations about what the winter maintenance should be given the city’s responsibilities in all areas of the city and the need to prioritize those responsibilities. The expectations should be reasonable. Barone said given the high density in the area, staff could look at what the practice has been and look at being more aggressive in the area.

15. Appointments and Reappointments: None
16. **Adjournment**

Bergstedt moved, Calvert seconded a motion to adjourn the meeting at 8:32 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
Minutes
Minnetonka City Council
Monday, April 16, 2018

1. Call to Order

Mayor Brad Wiersum called the meeting to order at 6:30 p.m.

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

Councilmembers Deb Calvert, Tim Bergstedt, Bob Ellingson, and Mayor Wiersum were present. Councilmembers Patty Acomb and Tony Wagner were excused.

4. Approval of Agenda

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

5. Approval of Minutes: None

6. Special Matters:

A. Proclamation declaring April 22, 2018 as Earth Day

Wiersum read the proclamation.

B. Proclamation declaring April 27, 2018 as Arbor Day

Calvert read the proclamation.

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on upcoming council meetings and city events. Wiersum thanked the public works crews for doing a phenomenal job clearing snow after the weekend snowfall.

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 for Delton Avenue pedestrian improvements**

Wiersum pulled the item from the consent agenda. He said he fully supported the proposed improvements. He asked residents to be considerate of pedestrians in the city. He is amazed at how often he sees dangerous situations involving pedestrians and wanted to raise awareness to the issue.

Ellingson moved, Calvert seconded a motion to adopt resolution 2018-040 accepting plans and specifications and authorizing the advertisement for bids for the Delton Avenue Pedestrian Improvements Project No. 18408. All voted “yes.” Motion carried.

**B. Resolution repealing and replacing Council Policy 11.3, regarding private use of city easements**

Ellingson moved, Bergstedt seconded a motion to adopt Resolution 2018-041. All voted “yes.” Motion carried.

**C. Agreements for Metropolitan Council Local Housing Incentives Account (LHIA) Funds for Homes Within Reach**

Ellingson moved, Bergstedt seconded a motion to approve the agreement with the Metropolitan Council for LHIA funds for Homes Within Reach and the sub-recipient agreement with Homes Within Reach. All voted “yes.” Motion carried.

**D. Resolution certifying the results of the April 10, 2018 Ward 3 Councilmember Special Election**

Wiersum pulled the item from the consent agenda. He said he was excited to have Councilmember-elect Mike Happe join the council. He thanked the voters in Ward 3 noting there was a 13 percent turnout which was pretty good for a municipal special election. He thanked staff for their work and all five candidates for their efforts.

Happe said he was excited to serve on the council. He agreed the voter turnout was impressive. He thanked the voters.

Ellingson moved, Calvert seconded a motion to adopt resolution 2018-042 certifying the results of the April 10, 2018 Ward 3 Councilmember Special Election. All voted “yes.” Motion carried.

**E. Resolution amending an interim use permit for Garden City, a seasonal flower market, at 11400 Highway 7**

Ellingson moved, Bergstedt seconded a motion to adopt resolution 2018-043 amending an interim use permit for a seasonal flower market at 11400 Highway 7. All voted “yes.” Motion carried.
11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances:

A. Items concerning Ridgedale Active Adult Apartments at 12421 Wayzata Blvd.:

1) Master Development Plan,
2) Site and Building Plan with variances, and
3) Preliminary and Final Plats

City Planner Loren Gordon gave the staff report.

Calvert said previously she voiced a concern about the immediate left hand turn into the parking from the roundabout. She said it appeared there was a drive that would lead into the underground parking. This seemed really close to the road and could be a possible pinch point. Gordon said the issue would continue to be looked at during the planning commission review.

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

B. Items concerning Solbekken Villas, a residential development, at 5740 and 5750 Shady Oak Road:

1) Ordinance repealing and replacing existing PUD and master development plan;
2) Final site and building plan review; and
3) Preliminary and final plats.

Gordon gave the staff report.

Calvert said she had a concern about the amount of guest parking. Her other concern was the drainage and seepage from the hillside to the back of the project.

Barone noted Wagner had expressed a concern to her earlier in the day related to the townhome design and the look from Shady Oak Road.

Wiersum said he shared some of the concerns expressed. He trusted the engineers could deal with the water flow coming off the slope. He agreed with Calvert’s concern about the sufficiency of guest parking. He also had a concern about snow storage.

Ed Briesemeister said he was representing the applicant. During the concept plan review a couple of the councilmembers mentioned a development off County Road 101 where parking was an issue. He visited the site and said this project would have more visitor parking than anywhere else he had visited in the city. There would be approximately 14 spots for visitor parking.
Wiersum said architecturally it was a very pleasant looking project.

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

C. Ordinance regarding massage license requirements

Community Development Director Julie Wischnack gave the staff report.

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

13. Public Hearings:

A. Items related to the financing of Opus Station Apartments (Dominium Apartments) at 11001 Bren Road East

Wischnack gave the staff report.

Julie Eddington from Kennedy and Graven explained the items in front of the council.

Calvert noted that one of the unusual factors of the TIF assistance was the inclusion of a two percent inflationary factor. The staff report indicated this was an unusual aspect of the financing. She asked if there was any precedent for this in the city and what the implications were. Barone said there was precedent but suggested the council have a more detailed discussion about the item when that part of the proposal was brought back to the council. The actions taken tonight did not obligate the council to the TIF proposal.

Wiersum asked who would guarantee the short-term, multi-family housing revenue note for $30.5 million. Was there any risk to the city? Eddington said the notes related to the workforce housing development would be bought by Bridgewater Bank. There was a loan agreement and a guarantee from the developer. The developer would be solely responsible for paying the debt service on the notes. The city was not obligated in any way.

Wiersum opened the public hearing at 7:25 p.m. No one spoke. He closed the public hearing at 7:25 p.m.

Wiersum said he was excited about the project and the opportunity to get this amount of affordable housing.

Calvert moved, Ellingson seconded a motion to adopt resolution 2018-044 calling a public hearing on the issuance of senior multifamily housing revenue bonds proposed to be issued by the City of Minnetonka, and take other actions related to the issuance of the bonds; resolution 2018-045 authorizing the issuance of a multifamily housing revenue note; adopting a housing program for workforce
housing; and authorizing the execution and delivery of the multifamily housing
revenue note and related documents; resolution 2018-046 supporting a tax credit
application for workforce housing within a multifamily housing project; and
resolution 2018-047 supporting a tax credit application for senior housing within a
multifamily housing project. All voted “yes.” Motion carried.

B. On-sale brewer’s taproom and Sunday liquor license, and off-sale liquor
license (for growlers) for Brass Foundry Brewing Co., 5959 Baker Road

Barone said the applicant had withdrawn the application for a liquor license.

Wiersum closed the public hearing at 7:29 p.m.

14. Other Business:

A. Items related to Minnetonka Hills Apartments

Wischnack gave the staff report.

Calvert moved, Ellingson seconded a motion to adopt resolution 2018-048
approving the execution of documents in connection with a partial release of
property related to Minnetonka Hills Apartments; and authorizing city officials to
approve non-substantive changes to the related documents. All voted “yes.”
Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Calvert moved, Ellingson seconded a motion to adjourn the meeting at 7:33 p.m. All
voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
1. Call to Order.

Mayor Brad Wiersum called the meeting to order at 6:15 p.m.

2. Roll Call:

Councilmembers Deb Calvert, Tim Bergstedt, Bob Ellingson, and Mayor Wiersum were present. Councilmembers Patty Acomb and Tony Wagner were excused.


City Manager Geralyn Barone indicated an addendum updating the agenda.

4. Appeals to the board of review:

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

Wiersum read the following into the record:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Lobsang Shiyga</td>
<td>$336,600</td>
<td>$359,800</td>
<td>$310,000</td>
</tr>
<tr>
<td>Tsering Choezom</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chime Lhadon</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13530 McGinty Rd E</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55305</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15-117-22-21-0021</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2) Patrick McGannon</td>
<td>$760,700</td>
<td>$760,700</td>
<td>$650,000</td>
</tr>
<tr>
<td>Michael Henry</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4815 Fairhills Rd E</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55345</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>28-117-22-24-0027</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3) Thomas Pearson</td>
<td>$444,200</td>
<td>$441,300</td>
<td>$425,000</td>
</tr>
<tr>
<td>Gale Pearson</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15427 Holdridge Rd</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wayzata, MN 55391</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>04-117-22-34-0034</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4) Annie Korf</td>
<td>$250,000</td>
<td>$601,500</td>
<td>$465,600</td>
</tr>
<tr>
<td>15420 Oakcroft Pl 223</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wayzata, MN 55391</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>04-117-22-21-0239</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5) Byron Wieberdink</td>
<td>$1,020,300</td>
<td>$1,106,700</td>
<td>$959,500</td>
</tr>
<tr>
<td>Debra Wieberdink</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11625 Live Oak Dr</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55305</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11-117-22-12-0009</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>------------</td>
<td>-----------------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>6</td>
<td>Gleason Glover Andrea Carroll 4211 Highland Rd Minnetonka, MN 55345 21-117-22-42-0041</td>
<td>$437,200</td>
<td>$478,700</td>
</tr>
<tr>
<td>7</td>
<td>Jingxin Zhou Fusheng Liu 12011 Fairview Ct Minnetonka, MN 55343 23-117-22-34-0074</td>
<td>$908,600</td>
<td>$1,009,200</td>
</tr>
<tr>
<td>8</td>
<td>Steven Prueter Constance Prueter 280 Bellwether Path Wayzata, MN 55391 04-117-22-21-0194</td>
<td>$778,600</td>
<td>$796,400</td>
</tr>
<tr>
<td>9</td>
<td>Kevin McBride Elisa McBride 11494 Cedar Pass Minnetonka, MN 55305 11-117-22-41-0010</td>
<td>$878,400</td>
<td>$884,900</td>
</tr>
<tr>
<td>10</td>
<td>Viktoria Bublyk 10055 Cove Dr Minnetonka, MN 55305 12-117-22-42-0026</td>
<td>$330,000</td>
<td>$355,900</td>
</tr>
<tr>
<td>11</td>
<td>Fed Natl Mortgage Assoc 12720 Pioneer Rd Minnetonka, MN 55343 26-117-22-22-0005</td>
<td>$221,100</td>
<td>$243,200</td>
</tr>
<tr>
<td>12</td>
<td>Steven Loe Joan Loe 9875 Enclave Dr Minnetonka, MN 55305 12-117-22-11-0071</td>
<td>$500,100</td>
<td>$547,200</td>
</tr>
<tr>
<td>13</td>
<td>John Thomas Selene Thomas 16180 State Hwy No 7 Minnetonka, MN 55345 29-117-22-11-0085</td>
<td>$378,000</td>
<td>$400,000</td>
</tr>
<tr>
<td>14</td>
<td>Schnel No 1 LLP 16182 State Hwy No 7 Minnetonka, MN 55345 29-117-22-11-0086</td>
<td>$410,000</td>
<td>$424,000</td>
</tr>
<tr>
<td>15</td>
<td>Hill 192 LLC 16184 State Hwy 7 Minnetonka, MN 55345 29-117-22-11-0087</td>
<td>$365,000</td>
<td>$400,000</td>
</tr>
<tr>
<td>16</td>
<td>Boundary Waters LLB LLC 16190 State Hwy 7 Minnetonka, MN 55345 29-117-22-11-0088</td>
<td>$405,000</td>
<td>$431,000</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>-----------------------------</td>
<td>-----------------------------</td>
<td>---------------------------------</td>
</tr>
<tr>
<td>17) AP Ventures LLC</td>
<td>$405,000</td>
<td>$431,000</td>
<td>$413,000</td>
</tr>
<tr>
<td>16192 State Hwy No 7</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55345</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>29-117-22-11-0089</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>18) Whitley Mott</td>
<td>$365,000</td>
<td>$400,000</td>
<td>$383,000</td>
</tr>
<tr>
<td>16200 State Hwy No 7</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55345</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>29-117-22-11-0090</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>19) Schnel No 1 LLP</td>
<td>$414,000</td>
<td>$424,000</td>
<td>$411,000</td>
</tr>
<tr>
<td>16202 State Hwy No 7</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55345</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>29-117-22-11-0091</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20) McClelland &amp; Miller RE LLC</td>
<td>$365,000</td>
<td>$400,000</td>
<td>$383,000</td>
</tr>
<tr>
<td>16204 State Hwy No 7</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55345</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>29-117-22-11-0092</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>21) Michael Zucker</td>
<td>$450,100</td>
<td>$490,200</td>
<td>$465,000</td>
</tr>
<tr>
<td>Deirdre Keller</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4730 Timber Ridge Pl</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55345</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>30-117-22-21-0029</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>22) Muthu Meyyappan</td>
<td>$363,700</td>
<td>$382,100</td>
<td>$363,700</td>
</tr>
<tr>
<td>Devi Meyyappan</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2300 Essex Rd</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55305</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10-117-22-21-0007</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>23) Martha Kudak</td>
<td>$485,900</td>
<td>$508,300</td>
<td>$485,900</td>
</tr>
<tr>
<td>James Field</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2630 Abbey Hill Dr</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55305</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10-117-22-41-0045</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>24) Craig Lau</td>
<td>$866,300</td>
<td>$825,000</td>
<td>$773,000</td>
</tr>
<tr>
<td>Michele Lau</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14801 Stone Rd</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wayzata, MN 55391</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>09-117-22-13-0040</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>25) David Muhs</td>
<td>$358,100</td>
<td>$382,300</td>
<td>$338,000</td>
</tr>
<tr>
<td>16051 Tonkawood Ct</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55345</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20-117-22-44-0032</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>26) James Smisek</td>
<td>$289,700</td>
<td>$318,600</td>
<td>$285,000</td>
</tr>
<tr>
<td>Susan Smisek</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>400 Kenmar Cir</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55305</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>03-117-22-21-0020</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>27) Dana Gurstel</td>
<td>$436,300</td>
<td>$482,200</td>
<td>$445,000</td>
</tr>
<tr>
<td>9708 St Johns Rd</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55305</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13-117-22-41-0045</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------</td>
<td>-----------------------------</td>
<td>-----------------------------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td>28) Allen Lauer</td>
<td>$230,800</td>
<td>$265,500</td>
<td>$250,000</td>
</tr>
<tr>
<td>Lou Ann Lauer</td>
<td>4912 West La Minnetonka, MN 55345</td>
<td>30-117-22-23-0030</td>
<td></td>
</tr>
<tr>
<td>29) Michael Meents</td>
<td>$944,900</td>
<td>$993,100</td>
<td>$860,000</td>
</tr>
<tr>
<td>Brenda Hovander</td>
<td>17502 Co Rd No 101 Wayzata, MN 55391</td>
<td>08-117-22-33-0033</td>
<td></td>
</tr>
<tr>
<td>30) Radoslaw Tomczak</td>
<td>$311,800</td>
<td>$336,900</td>
<td>$320,000</td>
</tr>
<tr>
<td>Agnieszka Kadej</td>
<td>9824 Cove Dr Minnetonka, MN 55305</td>
<td>12-117-22-44-0019</td>
<td></td>
</tr>
<tr>
<td>31) Gerald Sobelman</td>
<td>$727,100</td>
<td>$785,200</td>
<td>$740,000</td>
</tr>
<tr>
<td>Joanne Sobelman</td>
<td>3529 Green Ridge Rd Minnetonka, MN 55305</td>
<td>13-117-22-32-0111</td>
<td></td>
</tr>
<tr>
<td>32) Paul Larsen</td>
<td>$253,200</td>
<td>$286,300</td>
<td>$265,000</td>
</tr>
<tr>
<td>Carol Ann Larsen</td>
<td>5131 Belwood La Minnetonka, MN 55345</td>
<td>29-117-22-41-0045</td>
<td></td>
</tr>
<tr>
<td>33) Ryan Westrum</td>
<td>$311,800</td>
<td>$336,900</td>
<td>$320,000</td>
</tr>
<tr>
<td>Myriah Frimanslund</td>
<td>9820 Cove Dr Minnetonka, MN 55305</td>
<td>12-117-22-44-0018</td>
<td></td>
</tr>
<tr>
<td>34) Kareem Kayyali</td>
<td>$1,021,800</td>
<td>$1,112,200</td>
<td>$1,020,000</td>
</tr>
<tr>
<td>Katie Oberg</td>
<td>2125 Portico Green Wayzata, MN 55391</td>
<td>09-117-22-22-0053</td>
<td></td>
</tr>
<tr>
<td>35) Jason Gunstenson</td>
<td>$205,000</td>
<td>$466,500</td>
<td>$440,000</td>
</tr>
<tr>
<td>Tonya Gunstenson</td>
<td>4124 Dvorak Rd Minnetonka, MN 55305</td>
<td>23-117-22-24-0006</td>
<td></td>
</tr>
<tr>
<td>36) James Gibb</td>
<td>$311,800</td>
<td>$336,900</td>
<td>$320,000</td>
</tr>
<tr>
<td>Amanda Gibb</td>
<td>9816 Cove Dr Minnetonka, MN 55305</td>
<td>12-117-22-44-0017</td>
<td></td>
</tr>
<tr>
<td>37) Ben Nemode</td>
<td>$743,700</td>
<td>$743,700</td>
<td>$700,000</td>
</tr>
<tr>
<td>Katherine Erickson</td>
<td>14954 Linner Cir Wayzata, MN 55391</td>
<td>04-117-22-42-0021</td>
<td></td>
</tr>
</tbody>
</table>
Bergstedt moved, Ellingson seconded a motion to accept the advisors’ recommendations. All voted “yes.” Motion carried.

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

Wiersum read the following into the record:

<table>
<thead>
<tr>
<th>Petitioner</th>
<th>2017 Estimated Market Value</th>
<th>2018 Estimated Market Value</th>
<th>2018 Advisors' Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) (Edward) Neng Xu Hui Wang</td>
<td>$414,000</td>
<td>$442,800</td>
<td></td>
</tr>
<tr>
<td>5202 Picha Rd</td>
<td></td>
<td></td>
<td>Minnetonka, MN 55345</td>
</tr>
<tr>
<td></td>
<td>29-117-22-43-0071</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2) Jane Levin Judith Reisman</td>
<td>$125,600</td>
<td>$158,700</td>
<td></td>
</tr>
<tr>
<td>3412 Oak Ridge Rd #115</td>
<td></td>
<td></td>
<td>Minnetonka, MN 55305</td>
</tr>
<tr>
<td></td>
<td>13-117-22-42-0073</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3) Randall Sercombe Clare Sercombe</td>
<td>$959,400</td>
<td>$1,031,800</td>
<td></td>
</tr>
<tr>
<td>13851 Crowne Hill La</td>
<td></td>
<td></td>
<td>Minnetonka, MN 55305</td>
</tr>
<tr>
<td></td>
<td>10-117-22-24-0023</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4) Vladimir Eletsky Tatiana Eletsky</td>
<td>$392,500</td>
<td>$471,300</td>
<td></td>
</tr>
<tr>
<td>2662 Cedar Green</td>
<td></td>
<td></td>
<td>Minnetonka, MN 55305</td>
</tr>
<tr>
<td></td>
<td>12-117-22-42-0279</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5) James Fredkove Donna Fredkove</td>
<td>$425,000</td>
<td>$437,700</td>
<td></td>
</tr>
<tr>
<td>12811 Sherwood Pl 7</td>
<td></td>
<td></td>
<td>Minnetonka, MN 55305</td>
</tr>
<tr>
<td></td>
<td>10-117-22-11-0037</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6) GE Group LLC</td>
<td>$252,500</td>
<td>$268,400</td>
<td></td>
</tr>
<tr>
<td>2200 Windsor Lake Dr</td>
<td></td>
<td></td>
<td>Minnetonka, MN 55305</td>
</tr>
<tr>
<td></td>
<td>12-117-22-12-0010</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7) Walter Rasula Mary Rasula</td>
<td>$301,100</td>
<td>$340,900</td>
<td></td>
</tr>
<tr>
<td>17860 Tioga Tr</td>
<td></td>
<td></td>
<td>Wayzata, MN 55391</td>
</tr>
<tr>
<td></td>
<td>18-117-22-14-0077</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8) Bradford Armitage Diann Armitage</td>
<td>$285,800</td>
<td>$306,800</td>
<td></td>
</tr>
<tr>
<td>1915 Yorkshire Ave S</td>
<td></td>
<td></td>
<td>Minnetonka, MN 55305</td>
</tr>
<tr>
<td></td>
<td>01-117-22-43-0011</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Petitioner</td>
<td>2017 Estimated Market Value</td>
<td>2018 Estimated Market Value</td>
<td>2018 Advisors’ Recommendation</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------------------</td>
<td>-----------------------------</td>
<td>-------------------------------</td>
</tr>
</tbody>
</table>
| 9) Robert Labat Dixie Labat  
4539 Aspenwood Tr  
Minnetonka, MN 55345  
20-117-22-33-0081 | $215,200 | $255,600 | |
| 10) Susan Selseth  
4506 Crawford Rd  
Minnetonka, MN 55343  
23-117-22-43-0044 | $199,500 | $221,200 | |
| 11) Chi Keung Yeung  
Wai Kuen Yeung Kok  
3612 Sussex Pl  
Minnetonka, MN 55345  
16-117-22-34-0034 | $237,200 | $264,000 | |
| 12) Maureen Hagen  
9705 Cimarron Tr  
Minnetonka, MN 55305  
12-117-22-14-0075 | $184,700 | $217,500 | |
| 13) Miles Longman  
Heidi Longman  
14680 Williston Glen  
Minnetonka, MN 55345  
28-117-22-11-0074 | $982,600 | $982,600 | |
| 14) Barney Harris  
Pamela Harris  
14238 Trace Ridge Rd  
Wayzata, MN 55391  
15-117-22-22-0041 | $876,000 | $959,400 | |
| 15) James Ruhland  
Kathleen Ruhland  
2710 Hidden Creek La  
Wayzata, MN 55391  
09-117-22-42-0044 | $526,300 | $561,800 | |
| 16) Dyanne Bauer  
6161 Creek View Ridge  
Minnetonka, MN 55345  
31-117-22-34-0042 | $204,500 | $222,700 | |
| 17) Michael Goggin  
Julie Odermann  
15412 Holdridge Rd  
Wayzata, MN 55391  
04-117-22-34-0021 | $435,000 | $466,500 | |
| 18) Robert Callan  
3325 Breconwood Cir  
Wayzata, MN 55391  
18-117-22-14-0125 | $390,000 | $434,700 | |

Bergstedt moved, Ellingson seconded a motion to refer the items to the advisors. All voted “yes.” Motion carried.
C. Petitions to the Local Board of Appeal and Equalization to be referred back to the Assessing staff for review:

Wiersum read the following into the record:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1) MTKA II MP LLC</td>
<td>$5,115,000</td>
<td>$5,115,000</td>
<td></td>
</tr>
<tr>
<td>c/o Altus Group</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10709 Wayzata Blvd</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55305</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>01-117-22-24-0002</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2) HMW LLC</td>
<td>$7,000,000</td>
<td>$7,200,000</td>
<td></td>
</tr>
<tr>
<td>c/o Altus Group</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10600 Wayzata Blvd</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55305</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>01-117-22-24-0030</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3) VS Minnetonka LLC</td>
<td>$6,952,000</td>
<td>$7,925,000</td>
<td></td>
</tr>
<tr>
<td>c/o Altus Group</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14505 Minnetonka Dr</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55345</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>16-117-22-41-0008</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4) MMB Medical Partners LLC</td>
<td>$11,160,000</td>
<td>$12,400,000</td>
<td></td>
</tr>
<tr>
<td>c/o Altus Group</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15450 State Highway 7</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55345</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>21-117-22-34-0061</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5) Zvago Coop Glen Lake</td>
<td>$3,186,000</td>
<td>$15,788,000</td>
<td></td>
</tr>
<tr>
<td>14301 Stewart La</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnetonka, MN 55345</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>34-117-22-22-0132</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Bergstedt moved, Ellingson seconded a motion to refer the items to staff. All voted “yes.” Motion carried.

5. Recess and continue meeting to 6:15 p.m. on Monday, April 30, 2018.

Calvert moved, Bergstedt seconded a motion to close the agenda to further petitions and continue the meeting to 6:15 p.m. on April 30, 2018. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
Brief Description
Resolution approving a conditional use permit for a graduate school within the industrial district at 10225 Yellow Circle Drive

Recommendation
Recommend the city council adopt the resolution approving the request

Proposal
The Adler Graduate School, represented by Jeffrey Allen, is requesting a conditional use permit to relocate a graduate school into an existing office building at 10225 Yellow Circle Drive. The Adler School currently operates in Richfield and is a non-profit organization, with 501(c)(3) taxing status. The school offers a Master of Arts Degree in Adlerian Counseling and Psychotherapy and has 311 enrolled students. The applicant projects that the school enrollment would remain the same at the new location. The school would have a total of 22 staff members working onsite at various hours of the day (10 general staff members, 6 staff directors and 6 part-time associate staff members).

As proposed, the Adler Graduate School would host classes throughout the year. The majority of classes would occur at night, Monday through Friday, between 6:15 p.m.-9:30 p.m. However, the applicant has proposed one or two classes each semester that would be held once a week during the day between 9 a.m.-4:30 p.m. Additionally, there would be weekend classes held Saturday and Sunday, between 8:30 a.m.-4:00 p.m.

To accommodate the school, the applicant is proposing internal remodeling. No exterior site improvements are proposed at this time. If approved, the applicant wishes to begin construction work this summer so that the building can be used for classes starting in August 2018.

Planning Commission Hearing
The planning commission considered the request on April 26, 2018. The commission report and associated plans are attached. Staff recommended approval of the proposal, finding:

1. The proposal would meet all conditional use permit standards for a public building.
2. The proposed school would generate vehicles trips in the immediate area during “off peak” times.

At the meeting, a change memo was presented updating a table in the written staff report. A public hearing was opened to take comment but no one appeared to speak. Following the public hearing, the commission discussed and generally expressed support for the proposal.

Planning Commission Recommendation
On a 4-0 vote, the commission recommended that the city council approve the proposal. Meeting minutes are attached. The attached staff report has been updated to reflect the change memo presented to the commission.
Staff Recommendation

Staff recommends the city council adopt the resolution approving a conditional use permit for a graduate school within the industrial district at 10225 Yellow Circle Drive.

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

Originator: Drew Ingvalson, Planner
MINNETONKA PLANNING COMMISSION  
April 26, 2018

**Brief Description**  
Conditional use permit for a graduate school within the industrial district at 10225 Yellow Circle Drive

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

---

**Introduction**

The Adler Graduate School, represented by Jeffrey Allen, is requesting a conditional use permit to relocate a graduate school into an existing office building at 10225 Yellow Circle Drive. The Adler School currently operates in Richfield and is a non-profit organization, with 501(c)(3) taxing status. The school offers a Master of Arts Degree in Adlerian Counseling and Psychotherapy and has 311 enrolled students. The applicant projects that the school enrollment would remain the same at the new location. The school would have a total of 22 staff members working onsite at various hours of the day (10 general staff members, 6 staff directors and 6 part-time associate staff members).

As proposed, the Adler Graduate School would host classes in fall, winter, and spring semesters. The majority of classes would occur at night, Monday through Friday, between 6:15 p.m. and 9:30 p.m. However, the applicant has proposed one or two classes each semester that would be held once a week during the day between 9 a.m. and 4:30 p.m. Additionally, there would be weekend classes held Saturday and Sunday, between 8:30 a.m. and 4:00 p.m.

To accommodate the school, the applicant is proposing internal remodeling. No exterior site improvements are proposed at this time. If approved, the applicant wishes to begin construction work this summer so that the building can be used for classes starting in August 2018.

**Staff analysis**

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

1. **Would the proposal meet city code standards?**

   Yes. The conditional use permit request is appropriate and would meet the standards outlined in city code. While the industrial district does not contain any specific provisions for schools, religious intuitions or gathering spaces, the ordinance does allow – as conditionally permitted uses – public buildings and “other uses similar to those permitted in this section, as determined by the city.” As was the case with Eagle Ridge Academy, which operates within the Opus Business District, the city has reviewed schools under the “uses similar to” provision. The city has found that schools operate similarly to public buildings in that they are spaces in which large groups of people gather at specified times for a specific purpose.
The only specific conditional use permit standard required by ordinance for public buildings is that the proposal must receive site and building plan approval. Site and building plan standards are outlined in the “Supporting Information” section of this report. The proposal would meet all of the required standards.

2. **Would the proposal be appropriate for the site?**

**Proposed Use**

Yes, the proposed facility would be appropriate for the site. The subject property is in a mixed-use guided area that is predominately occupied by office buildings. The subject property is currently occupied by Travelliance and Optimization Associated Inc. (OAI). These existing tenants plan to occupy the space until construction would occur this summer, if approved. Another office user, Veracity recently left their space with the subject building.

Typically, schools are not generally considered compatible with industrial districts because of the noise and possible hazards associated with industrial uses. However, the subject area is currently dominated by office users, a permitted use within the industrial district. Staff finds that the proposed use, a graduate school, would be in harmony with the surrounding uses of the area.

**Traffic and transportation**

Student vehicle trips would be concentrated around the proposed school’s hours of operation. Since the majority of classes start at 6:15 p.m. and end by 9:30 p.m., a majority of the students would arrive on site around 6 p.m. and leave significantly after peak travel times.

Within the Opus Overlay District, the city ordinance applies a maximum number of peak p.m. hour trips to each property to avoid overloading the Bren Road and TH 169 Interchange. By ordinance, the property has been allocated a maximum of 15 trips at the subject interchange during the p.m. peak hours of 4 and 6p.m. The city secured WSB & Associates to review the proposal for potential impacts of the traffic operations within the Opus area. The study found that the school would not have a significant impact on the surrounding area and would generate five peak p.m. trips at the Bren Road and TH 169 Interchanges. This is well under the maximum trip allocated for the property. More information about the trip generation can be found in the “Supporting Information” section of this report. (See attached for the full traffic study.)

**Staff Recommendation**

Recommend that the city council adopt the resolution approving a conditional use permit for Adler Graduate School at 10225 Yellow Circle Drive.

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

Surrounding Land Uses
Northerly: ERD Enterprises (office building) zoned industrial and guided mixed use
Easterly: Multiple office buildings, zoned industrial, and guided mixed use
Southerly: Hwy 62, City of Eden Prairie
Westerly: Boveda Inc. (office building), zoned industrial and guided mixed use

Planning
Guide Plan designation: Mixed Use
Zoning: I-1, Industrial

Site features and Property
The subject property is 4.5 acres in size. The site is improved with a 37,500 square foot office building that was built in 1982. In addition to office spaces, the building also has eight underground parking stalls. The property is also improved with a 188-stall parking lot.

School Operation
Currently, the Adler Graduate School has 311 students enrolled in their graduate program. The school projects to have similar enrollment sizes at their new location. The Adler Graduate School offers fall, winter and spring semester courses (summer courses not offered currently). The school primarily holds courses during the evenings and weekends to accommodate students that are currently employed full-time. The chart below shows the number of students enrolled in courses during various timeframes.

<table>
<thead>
<tr>
<th></th>
<th>Fall</th>
<th>Winter</th>
<th>Spring</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Day</td>
<td>Night</td>
<td>Day</td>
</tr>
<tr>
<td>Monday</td>
<td>-</td>
<td>65</td>
<td>- 83</td>
</tr>
<tr>
<td>Tuesday</td>
<td>-</td>
<td>115</td>
<td>- 105</td>
</tr>
<tr>
<td>Wednesday</td>
<td>6</td>
<td>44</td>
<td>2 (10)</td>
</tr>
<tr>
<td>Thursday</td>
<td>-</td>
<td>116</td>
<td>- 82</td>
</tr>
<tr>
<td>Friday</td>
<td>-</td>
<td>-</td>
<td>4</td>
</tr>
<tr>
<td>Saturday</td>
<td>-</td>
<td>-</td>
<td>233*</td>
</tr>
<tr>
<td>Sunday</td>
<td>-</td>
<td>37</td>
<td>-</td>
</tr>
</tbody>
</table>

*Winter Saturday enrollment combined 1st half (130) and 2nd half (103) of semester courses
**Spring Saturday enrollment combined 1st half (103) 2nd half (73) of semester courses
***Spring Sunday enrollment combined 1st half (52) and 2nd half (47) of semester courses

<table>
<thead>
<tr>
<th></th>
<th>Fall</th>
<th>Winter</th>
<th>Spring</th>
<th>Summer</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Day</td>
<td>Night</td>
<td>Day</td>
<td>Night</td>
</tr>
<tr>
<td>Monday</td>
<td>-</td>
<td>65</td>
<td>- 83</td>
<td>-</td>
</tr>
<tr>
<td>Tuesday</td>
<td>-</td>
<td>115</td>
<td>- 105</td>
<td>-</td>
</tr>
<tr>
<td>Wednesday</td>
<td>6</td>
<td>44</td>
<td>10</td>
<td>58</td>
</tr>
<tr>
<td>Thursday</td>
<td>-</td>
<td>116</td>
<td>- 82</td>
<td>7</td>
</tr>
</tbody>
</table>
### Traffic Generation

To avoid overloading the Bren Road and TH 169 interchange, all non-residential parcels within the Opus District are subject to trip generation requirements. Following the construction of the Bren Road interchange, p.m. peak trip generation numbers were assigned to each parcel based on maximum development potential and current zoning standards. By current ordinance, the subject property is allocated 15 trips during the p.m. peak hours. By ordinance, a site redevelopment which would increase the amount of trips generated to the interchange would be required to “purchase” additional trips to recover the city’s portion of the interchange’s construction costs.

The city secured WSB & Associates to perform a traffic study to determine the amount of traffic the subject proposal would generate at the Bren Road and TH 169 interchange and review for any potential impacts on traffic operations within the Opus District. The review of potential impacts included a review of road changes due to the addition of Southwest Light Rail Transit (SWLRT) (specifically the potential reversal of Red Circle Drive). The full study can be found within the attachments. In summary, the study found:

- The proposed site would generate an average of five trips to the Bren Road and TH 169 interchange. This is well below the site’s current trip allocation of 15 trips.

- The existing roadway system that provides the direct access to the site currently operates at a very good level of service, as there are no conflicting flows. The p.m. peak hour trip generation from this site will have very little impact on the traffic operations on Bren Road or Yellow Circle Drive.

- The implementation of the SWLRT and the future reversal of Red Circle Drive would reduce the number of trips from this site at the Bren Road and TH 169 Interchange from five trips to about three trips. The future roadway system, with the reversal of Red Circle Drive, would continue to operate at a very good level of service with the addition of the proposed Adler Graduate School.

---

<table>
<thead>
<tr>
<th></th>
<th>0</th>
<th>0</th>
<th>0</th>
<th>0</th>
<th>0</th>
<th>0</th>
<th>0</th>
</tr>
</thead>
<tbody>
<tr>
<td>Friday</td>
<td></td>
<td></td>
<td></td>
<td>4</td>
<td>0</td>
<td>19</td>
<td></td>
</tr>
<tr>
<td>Saturday</td>
<td></td>
<td></td>
<td>233*</td>
<td></td>
<td>176**</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sunday</td>
<td></td>
<td></td>
<td>37</td>
<td></td>
<td>99***</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Winter Saturday enrollment combined 1st half (130) and 2nd half (103) of semester courses
**Spring Saturday enrollment combined 1st half (103) 2nd half (73) of semester courses
***Spring Sunday enrollment combined 1st half (52) and 2nd half (47) of semester courses

Per last year’s enrollment data, there were never more than 130 students on campus for courses in any given timeframe. The applicant believes that these enrollment and course numbers will continue in following years and at the new site.
Meeting of April 26, 2018

Subject: CUP, Adler Graduate School

Parking

The subject property has 196 existing parking stalls. This far exceeds the amount of parking required by ordinance (126 spaces) and the anticipated parking needs of the Adler Graduate School.

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;

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

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

   **Finding:** The proposed use is consistent with the goals, policies and objectives of the comprehensive plan. The site is part of the Opus 2 development, which is guided for mixed-use. The larger development includes industrial, commercial, office, and residential land uses.

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

   **Finding:** The proposal has been reviewed by the city’s building, engineering, planning, natural resources, and fire staff. Staff has determined that it would not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements.

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

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

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

   **Finding:** The majority of the performance standards outlined in the zoning ordinance are related to development and construction. The applicant is proposing to reuse an existing building without exterior changes. As such, many of the standards are not applicable.

6. The use does not have an undue adverse impact on the public health, safety or welfare.
Finding: Staff does not believe this proposal would have an undue adverse impact on the public health, safety or welfare.

City Code §300.21 Subd.6(e) requires that public buildings meet site and building plan standards as outlined in City Code §300.27:

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

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

2. consistency with this ordinance;

Finding: The proposal meets all minimum ordinance standards.

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

Finding: The proposal does not include any changes to 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: All proposed changes are interior to the building. As such, the proposal would not change the site’s visual appearance.

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

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

Finding: The applicant is not proposing any site improvements at this time.

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

Finding: With no proposed site improvements, the proposal would not negatively impact the location of existing open space on the site.
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: No changes to the exterior of the building are proposed at this time.

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: No changes to the property are being proposed.

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: No exterior building or site changes are being proposed at this time.

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 not negatively impact adjacent or neighboring properties.

Neighborhood Comments

The city sent notices to 28 area property owners and received no comments to date.
Pyramid of Discretion

Motion Options

The planning commission has the following motion options:

1. Concur with staff’s recommendation. In this case, a motion should be made recommending the city council approve the proposal based on the findings outlined in the staff-drafted resolution.

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

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

Voting Requirement

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

Deadline for Decision

July 9, 2018
Location Map

Project: Adler Graduate School
Address: 10225 Yellow Cir Dr
Existing Floor Plan

EXISTING LOWER LEVEL PLAN

SCALE: 1/8" = 1'-0"
EXISTING UPPER LEVEL PLAN

SCALE: 1"=1'-0"

NORTH

EXISTING FLOOR PLAN
March 19, 2018

City of Minnetonka
Attn: Ashley Cauley
Senior Planner
14600 Minnetonka Blvd., Minnetonka, MN 55345

Re: Conditional Use Permit – 10225 Yellow Circle Drive

Dear Ms. Cauley,

Adler Graduate School ("AGS") is a party to that certain Purchase Agreement with LJK Investments, LLC ("LJK") to purchase the property and the improvements located at 10225 Yellow Circle Drive, Minnetonka, MN 55343, referenced as PID # 3611722430025. AGS is currently seeking a Conditional Use Permit to allow for an education facility within the I-1 industrial zoning district.

History of the School

The Minnesota Adlerian Society was founded in 1967 and was inspired by the work of Dr. Rudolf Dreikurs. The Society began in the Twin Cities area as a small movement to introduce Adlerian concepts to the community and provide practical ideas for parenting. Within two years, the Society was marked by broad public exposure and enthusiastic volunteerism. Initially a part of the Society, the School was started by a group of professionals dedicated to teaching the practice of Alfred Adler’s “Individual Psychology.”

On May 25, 1969, the School was separately chartered and began offering courses as the Alfred Adler Institute of Minnesota (AAIM), an independent, 501(c)(3) tax-exempt organization. The Alfred Adler Institute of Minnesota offered courses for graduate credit beginning in 1972 and course work for graduate degrees beginning in 1977. In 1998 the Institute changed its name to the Alfred Adler Graduate School (AAGS) and, in 2004, the School’s name was further simplified to the Adler Graduate School (AGS).

The Adler Graduate School is a self-supporting, non-profit organization dedicated to fulfilling its commitment to providing quality education, clinical training, research, and public service to the communities of this region. Several factors contribute to the School’s uniqueness. The organization grew out of a recognized community need for assistance in the development of more effective parenting skills. AGS’ subsequent growth has resulted from an on-going effort to address a variety of educational needs in the Twin Cities area, including classes for prospective and practicing human services professionals, educators, and programs for the public. Today, AGS is a widely respected, graduate-level institution, dedicated to preparing students for a wide variety of professional roles and challenges.

The School’s practitioner-based faculty consists of carefully selected, experienced, practicing therapists, counselors, and educators who have a demonstrated talent for inspired teaching. Faculty members share a commitment to enhancing the effectiveness of the human services and education professions by providing exceptional learning opportunities for students. Faculty members’ work is guided by the ideals and philosophy of Individual Psychology. Faculty members are committed to making their community a healthier place in which to live.
The focus on field-based experiential learning, with a strong and carefully supervised internship component and an emphasis on the integration of theory and practice (enabling the student to apply what is being learned during the educational process), results in significant clinical competence. This competence helps AGS graduates as they seek opportunities in the human service fields, both locally and beyond.

The Adler Graduate School offers a Master of Arts Degree in Adlerian Counseling and Psychotherapy with majors in six different emphasis areas and certificates in three areas. AGS' curriculum presents a broad spectrum of current theories of psychology, with an emphasis on Adlerian principles.

Vision

"The Adler Graduate School will be a leader in empowering and developing mental health professionals to transform society through social interest in action."

Mission

"Preparing mental health professionals with a strong Adlerian foundation to foster encouragement, collaboration, and a sense of belonging to the individuals, families, and the culturally diverse communities they serve."

Core Values

- Quality Education
- Adlerian Principles
- Diversity
- Institutional Sustainability

Operation of the School

The current and projected enrollment numbers for the school is 311 students with many individuals completing classes online. A copy of the current year's schedule is attached to the Conditional Use Permit application. Classes are regularly held in the evenings during the week and on weekends, with no regular classes being held during the general daytime hours of the weekday. Classes during the week are generally from 6:00 p.m. until 9:30 p.m. and on Saturday classes are from 9:00 a.m. until 4:00 p.m. Classes are rarely held on Sundays, with the last enrollment period containing only 2 total days in which a class was held on a Sunday.

An average evening consists of 9-10 instructors and approximately 83 students on campus. During the peak hours from 4:00 p.m. through 6:00 p.m. it is anticipated that the premise would contain approximately 10 staff, 5 teachers, and 10 students. A copy of an ALTA/NSPS Land Title Survey has been included with the CUP application which identifies 183 standard parking spaces and 5 handicap parking spaces located on the property.

Adler Graduate School is dedicated to providing Master's level Mental Health Classes and Workshops along with the necessary support to help students within the community achieve long-term success working within this profession. Based on the various positive impacts Adler Graduate School will have on the community along with a negligible negative impact affecting the community as a result of the requested use, we request the City of Minnetonka
grant the Conditional Use Permit allowing Adler Graduate School to operate as an education facility within the I-1 industrial zoning district

Sincerely,

Adler Graduate School

By: [Signature]

Jeffrey Allen, President
Memorandum

To: Drew Ingvalson, Planner
   City of Minnetonka
   14600 Minnetonka Blvd
   Minnetonka, MN 55345

From: Anthony Heppelmann, PE

Date: April 16, 2018

Re: Adler Graduate School Traffic Study

Introduction

Adler Graduate School (AGS) is proposing to use the existing building at 10225 Yellow Circle Drive as a graduate school offering a Master of Arts Degree in Adlerian Counseling and Psychotherapy. The site location is shown on Figure 1. Classes during the week are generally held in the evening between 6:15 pm and 9:30 pm. An average evening consists of 9 to 10 instructors with approximately 83 students on campus. The proposed total enrollment is 311 students with many students completing classes online. During the pm peak hour AGS anticipates 10 staff, 5 teachers and 10 students at the school. The purpose of this traffic study is to determine the following.

1. **The maximum number of pm peak hour trips at the Bren Road and TH 169 interchange that will be generated by the site between the hours of 4:00 pm and 6:00 pm.** The site is located within the Opus Industrial Park which has a trip generation ordinance that requires purchase of additional capacity at the Bren Road and TH 169 interchange if the site will generate more trips to the interchange than is allocated in the ordinance. This site has been allocated 15 pm peak hour trips based on the current zoning of the site. This study estimates the number of pm peak hour trips that will be added to the Bren Road and TH 169 Interchange from the proposed use.

2. **The potential impacts on traffic operations on other roadways within the Opus Industrial Park.** The trip generation estimate above addresses the potential impacts and mitigation associated with the Bren Road and TH 169 interchange. In addition, the site access on Yellow Circle Drive is evaluated to determine if any modifications are required at the access to the site. This analysis also considers the impacts of SWLRT and the reversal of Red Circle Drive.
Figure 1
Project Location
Projected Trip Generation for Adler Graduate School

The trip generation for the Adler Graduate School was estimated using two different methods. The first method uses the applicable trip generation rates from the Institute of Transportation Engineers Trip Generation Manual (10th Edition). The second method estimates the trip generation based on the estimated staff, student and teacher count during the pm peak hour.

The average pm peak hour (4 pm to 6 pm) trip generation rate for a University or College based on the Institute of Transportation Engineers (ITE) Trip Generation Manual is 0.15 trips per student. The average trip generation rate in the ITE manual for this use is based on 9 studies. The range in rates varied from 0.05 to 0.77. Based on 83 students and the average of 0.15 trips per student the pm peak hour trip generation for the site would be 12 trips.

Adler Graduate School estimated a total of 25 people on site during the pm peak hour; 10 staff, 5 teachers, and 10 students. Assuming, the 25 people either arrive during the pm peak hour or leave during the pm peak hour would result in 25 trips in the pm peak hour. The teachers and students would likely be arriving prior to the classes starting at 6:15 and the staff may be either arriving or leaving but probably not both.

Trip Distribution and Estimated Trips to Bren Road Interchange

The Trip Generation Ordinance for the Opus Industrial Park assumes that 20% of the traffic generated by this site will use the Bren Road and TH 169 Interchange. Assuming 20 percent of the traffic uses the Bren Road and TH 169 interchange and the site pm peak hour trip generation of 25, the site would add 5 pm peak hour trips to the Bren Road and TH 169 interchange, which is 10 trips under the site allocation of 15.

Potential Impacts on Trip Distribution from Implementation of SWLRT and Reversal of Red Circle Drive

The implementation of SWLRT will change the internal circulation of the roadways serving this site and as a result will change how traffic gets to the site. The proposed reconfiguration of the roadways in the area of the site is shown on Figure 2. In the current conditions, traffic from the Bren Road and TH 169 interchange would take Bren Road West to Bren Road East and follow Bren Road East to Yellow Circle Drive and then Yellow Circle Drive to the site. To exit they would be able to access Yellow Circle Drive and then follow Yellow Circle Drive to Bren Road East to the Bren Road and TH 169 Interchange. Based on this configuration it was estimated that 20 percent of the traffic generated by this site would use the Bren Road and TH 169 Interchange.

In the future, with implementation of the SWLRT and the reversal of Red Circle Drive it will be more difficult to get from the Bren Road and TH 169 Interchange to the site. Traffic from the Bren Road and TH 169 Interchange would take Bren Road West to Bren Road East to Red Circle Drive to Yellow Circle Drive to the site. Some of these trips are likely to shift to the Red Circle
Drive access on Shady Oak Road. Traffic leaving the site would have the same access to the Bren Road and TH 169 Interchange that it had in the past. In the future with the implementation of SWLRT and the reversal of Red Circle Drive it is estimated that only 10 percent of the traffic generated by this site would use the TH 169 and Bren Road Interchange rather than the previous 20 percent. This would cut the number of trips generated by this site at the Bren Road and TH 169 interchange in half, reducing the estimated 5 pm peak hour trips to the interchange to 2 or 3 pm peak hour trips.

Figure 2
Proposed Realignment with SWLRT and reversal of Red Circle Drive
Impact on Yellow Circle Drive Traffic Operations

The proposed land use on this site will generate 25 pm peak hour trips at the driveway access to the site with approximately 20 inbound and 5 outbound. The additional trips at this location will have very little impact on the traffic operations on Yellow Circle Drive.

Conclusions

The following conclusions were reached from the analysis that was conducted for this traffic study of the proposed Adler Graduate School.

- Adler Graduate School (AGS) is proposing to use the existing building at 10225 Yellow Circle Drive as a graduate school offering a Master of Arts Degree in Adlerian Counseling and Psychotherapy. During the pm peak hour, AGS anticipates 10 staff, 5 teachers and 10 students at the school. Based on this it is estimated that the site will generate 25 pm peak hour trips at the site access.

- The site is located within the Opus Industrial Park which has a trip generation ordinance that requires purchase of additional capacity at the Bren Road and TH 169 interchange if the site will generate more trips to the interchange than is allocated in the ordinance. This site has been allocated 15 pm peak hour trips based on the current zoning of the site.

- Using the trip distribution assumption used in the ordinance that 20% of the site generated traffic will use the Bren Road Interchange will result in 5 pm peak hour trips to the Bren Road and TH 169 Interchange, which is 10 trips under the allocation for this site.

- The implementation of the SWLRT and the reversal of Red Circle Drive will reduce the number of trips from this site at the Bren Road and TH 169 Interchange from 20% to 10%. This would reduce the actual number of pm peak hour trips to the Bren Road and TH 169 interchange from 5 to about 3.

- The existing roadway system that provides the direct access to the site currently operates at a very good level of service since there are no conflicting flows. The pm peak hour trip generation from this site will have very little impact on the traffic operations on Bren Road or Yellow Circle Drive.

- The future roadway system with the reversal of Red Circle Drive will also operate at a very good level of service. Again, the proposed land use will have very little impact on the traffic operations for Yellow Circle Drive.
6. Report from Planning Commission Members: None

7. Public Hearings: Consent Agenda: None

8. Public Hearings

A. Conditional use permit for a graduate school within the industrial district at 10225 Yellow Circle Drive.

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

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

Schack asked if there are any schools currently in Opus. Ingvalson answered affirmatively. Eagle Ridge Academy, International Spanish Language Academy, Bren Road School, and Lions Gate Academy.

Jeffrey Allen, president of Adler Graduate School, applicant, stated that the school provides graduate counseling degrees.

Sewall asked if patients would be seen at the site. Mr. Allen answered in the negative.

Mr. Allen looked forward to the school being part of the community.

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

Sewall thought the proposal would help alleviate traffic since the peak hours would be different than the surrounding uses and vehicles would be traveling in the opposite direction of most other vehicles. He supports staff’s recommendation.

Hanson agreed.

Schack liked the idea that the proposal would provide diversification of the uses in the area, so it would not be so quiet at night. It would feel more neighborly. She supports staff’s recommendation.

**Sewall moved, second by Schack, to recommend that the city council adopt the resolution approving a conditional use permit for Adler Graduate School at 10225 Yellow Circle Drive with modifications provided in the change memo dated April 26, 2018.**

**Schack, Sewall, Hanson, and Kirk voted yes. O’Connell, Powers, and Knight were absent. Motion carried.**
Resolution No. 2018-

Resolution approving a conditional use permit for a graduate school within the industrial district at 10225 Yellow Circle Drive

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

Section 1. Background.

1.01 Jeffrey Allen, on behalf of the Adler Graduate School, has requested a conditional use permit to operate a school within an industrial district.

1.02 The property is located at 10225 Yellow Circle Drive. It is legally described as:

Lot 8, Block 1 Opus 2 Sixth Addition, Hennepin County, Minnesota

1.03 City Code §300.20 Subd. 4(e) allows public buildings as conditional uses within the I-1 zoning district.

1.04 City Code §300.20 Subd. 4(l) allows “other uses similar to those permitted within this section, as determined by the city” as conditional uses within the I-1 zoning district.

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

1.06 On April 26, 2018, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the planning commission. The planning commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. General Standards.

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

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

2. The use is consistent with the goals, policies and objectives of the comprehensive plan;
3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;

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

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

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

Section 3. Specific Standards.

3.01 City Code §300.21 Subd.6 (e) lists the following specific standards that must be met for granting a conditional use permit for a public building within the industrial district.

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

2. consistency with this ordinance;

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

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

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

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

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

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

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

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

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

Section 4. Findings.

4.01 The proposal meets the general standards that must be met for granting a conditional use permit as outlined in City Code §300.21 Subd. 2.

1. A public building is a conditionally-permitted use within the industrial district. The city has conditionally allowed schools as a use similar to a public building under the “other uses similar to” section of the ordinance.

2. The proposed use is consistent with the goals, policies and objectives of the comprehensive plan. The site is part of the Opus 2 development, which is guided for mixed-use. The larger development includes industrial, commercial, office, and residential land uses.

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

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

5. The majority of the performance standards outlined in the zoning ordinance are related to development and construction. The applicant is proposing to reuse an existing building without exterior changes. As such, many of the standards are not applicable.

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

4.02 The proposal meets the specific standards that must be met for granting a conditional use permit for a public building within the industrial district as outlined in City Code §300.21 Subd. 6 (e).

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

2. The proposal would meet all minimum ordinance standards.

3. The proposal would have no impact on the site’s existing natural features
as the proposal does not include any exterior changes to the site.

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

5. With no site or exterior building improvements proposed at this time, the
proposal would not negatively impact the existing property or building.

6. The proposal would not negatively impact adjacent or neighboring
properties.

Section 5. Council Action.

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

1. Subject to staff approval, the property must be developed and maintained
in substantial conformance with the following plans:
   • Narrative date-stamped March 21, 2018
   • Plans dated March 21, 2018

2. This resolution must be recorded with Hennepin County prior to issuance
of a building permit.

3. The applicant must inform city staff in writing if any significant changes
are made to the schools programming that would increase the p.m. peak
trip generation. This includes, but is not limited to, general school
programming and course start and/or end times as changes in these
areas may require an updated traffic study. If an updated study indicates
a negative impact on the surrounding roadway system or parking
demand, staff may require the conditional use permit be brought back to
the city council for further review.

4. A building permit is required for any changes to the building.

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 would require a revised
conditional use permit.
7. The property owner must pay 2018 property taxes by the annual property tax due date.

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 14, 2018.

Brad Wiersum, Mayor

Attest:

David E. Maeda, City Clerk

**Action on this resolution:**

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on May 14, 2018.

David E. Maeda, City Clerk
City Council Agenda Item #10B  
Meeting of May 14, 2018

**Brief Description:** Legal services agreement

**Recommended Action:** Authorize execution of a legal services agreement with Weitz & Luxenberg, P.C., Super Law Group, LLC, and Gray, Plant, Mooty, Mooty & Bennett, P.A. regarding litigation

**Background**

The city council has met in closed session on September 11, 2017 and May 7, 2018 to consider potential litigation. Council authorization is required to retain legal counsel to represent the city in the litigation.

**Recommendation**

Authorize execution of a legal services agreement with Weitz & Luxenberg, P.C., Super Law Group, LLC, and Gray Plant Mooty Mooty & Bennett, P.A. regarding litigation.

Submitted through:
  Geralyn Barone, City Manager
  Will Manchester, City Engineer

Originated by:
  Corrine Heine, City Attorney
City Council Agenda Item #11A
Meeting of May 14, 2018

Brief Description
Resolution approving the preliminary plat of ARUNDELL ADDITION, a three-lot residential subdivision with variances, at 15500 Minnetonka Blvd

Recommendation
Adopt the resolution approving the preliminary plat

Proposal
Dan Schmidt of Sather Bergquist Inc., on behalf of the property owner, is proposing to divide the existing property at 15500 Minnetonka Blvd. into three, single-family lots. Given the size and configuration of the existing lot, a new public street could be constructed to provide access to three lots meeting all minimum lot area and dimension standards. However, the applicant is proposing to simply widen the existing driveway to serve the new lots.

The proposed subdivision requires the following variances:

1. Lot width at right-of-way variance from 80 feet to 0 feet for Lots 1 and 2. This variance is required due to access via a private drive rather than a public street.

2. Wetland setback and buffer variances for the existing driveway. At the time of its construction in 2007, the driveway did not “trigger” the city’s wetback buffer and setback requirements. However, the wetland ordinance has since been revised. Redevelopment of the property does now “trigger” the 25-foot wetland buffer and setback.

3. Building setback variance from 29 feet to 20 feet for the existing home. This variance is again required due to access via a private drive rather than a public street. If the lot on which the existing home is located abutted a public road it would meet minimum side yard setback requirements. However, without a public road, the property becomes a lot-behind-lot and has a minimum 29-foot setback from the southeasterly (side) property line and does not meet this requirement.

Planning Commission Hearing
The planning commission considered the request on April 26, 2018. The commission report and associated plans are attached. Staff recommended approval of the proposal, finding:

1. But for the access via a private driveway instead of a public street, the proposed lots would significantly exceed all minimum lot area and dimension requirements.

2. Access via a private driveway – and associated width and setback variances – is reasonable in this situation, as it would:
   - Require less site disturbance;
   - Result in less than half of the tree removal required for the public road configuration; and
   - Provide a larger setback between adjacent homes/properties.
3. The wetland buffer and setback variances are reasonable, as they would simply recognize an existing situation.

At the meeting, a public hearing was opened to take comment. Two area residents appeared before the commission. One resident spoke in favor of the proposal, particularly noting support for development access via a private driveway rather than a public street. The other resident opposed the proposal, expressing concerns about impact to wildlife, area property taxes, and home values. Following the public hearing, the commission discussed the proposal and concurred with staff recommendation.

Planning Commission Recommendation

On a 4-0 vote, the commission recommended that the city council approve the proposal. Meeting minutes are attached. Since the planning commission hearing, additional variance findings related to the proposed lot-behind-lot configuration have been added to the resolution.

Planning Commission Staff Report Correction

On page 4 of the staff report, staff states,

“The subject driveway was originally constructed no later than 2009, per aerial photos, and was most likely constructed with the existing home, completed in 2007. At that time, the city’s buffer requirement was not triggered by the driveway addition on the property. However, since that time, the city has revised its ordinance and the redevelopment of the property does trigger the 25-foot wetland buffer and setback.”

The last sentence of this paragraph should be revised to “however, since that time, the city has revised its interpretation of the ordinance and redevelopment of the property would trigger the 25-foot wetland buffer and setback.”

Staff Recommendation

Staff recommends the city council adopt the resolution approving the preliminary plat of ARUNDEL ADDITION, a three-lot residential subdivision with variances, at 15500 Minnetonka Blvd.

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

Originator: Susan Thomas, AICP, Assistant City Planner
           Drew Ingvalson, Planner
MINNETONKA PLANNING COMMISSION
April 26, 2018

Brief Description
Preliminary plat of ARUNDEL ADDITION, a three-lot residential
subdivision with variances, at 15500 Minnetonka Blvd.

Recommendation
Recommend the city council adopt the resolution approving the
preliminary plat.

Introduction
Dan Schmidt of Sather Bergquist Inc., on behalf of the property owner, is proposing to divide the
existing property at 15500 Minnetonka Blvd. into three, single-family lots. The existing home
would remain and two new homes would be constructed. (See attached.)

Proposal Summary
The following is intended to summarize the applicant’s proposal. Additional information
associated with the proposal can be found in the “Supporting Information” section of this report.

- **Existing Site Conditions.** The 11.5-acre subject
  property is located north of Minnetonka Blvd.,
  west of the City Hall campus. The majority of the
  property, nearly 8.5 acres, is considered wetland
  and unbuildable. The existing home was
  constructed in 2007, just south of the large
  wetland on the property. The home is 2,800
  square feet, with a 3-car attached garage and
  one-car tuck under garage. (See wetland in green
  and home in blue in image to the right.)

  The highest point of the site is located along the
  southern property line. From this point, the site
  slopes downward toward the large wetland on the
  north and east sides of the property. The subject
  wetland drains off-site, into Minnehaha Creek.
There is a public sewer line on the subject property (see red line in the image to the right). Currently, there is a 20-foot wide easement over the sewer line (see orange area in the image to the right). However, staff finds that this easement area has inadequate width for future maintenance and it appears that the easement area does not cover the entire area of the sewer line.

- **Proposed Lots.** The applicant proposes to create two, new lots south of the existing home. The existing lot and new lots, which would all be well over 22,000 square feet in size, would be accessed via a private drive off Minnetonka Blvd. (See proposed black property lines in the image to the right and attached.)

- **Site impacts.** As proposed, grading would occur to widen the private drive, construct new driveways, build new homes, and install required utilities and stormwater management facilities. This grading would result in removal of, or substantial impact to, 17 percent of the site’s high-priority trees and 24 percent of the site’s significant trees.

**Proposal Requirements**

This proposal requires:

- **Preliminary Plat Approval:** The applicant is requesting to split the subject property into three, single-family lots. This requires preliminary plat approval.

- **Lot Width at Right-of-Way Variance:** Two of the proposed lots would not have frontage onto a public right-of-way. This requires a lot width at right-of-way variance from 80 feet to 0 feet.

- **Wetland Setback and Buffer Variances:** The existing driveway on Lot 1 is 20-feet from the wetland edge. City code requires a 25-foot wetland setback and wetland buffer for driveways. This requires a variance from 25 feet to 20 feet for both the wetland setback and wetland buffer.

- **Building Setback Variance:** As proposed, the existing home (on proposed Lot 1) would not meet the lot-behind-lot setback requirement of 29 feet. A property setback variance is needed from 29 feet to 20 feet.

**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 lot sizes and configurations appropriate?**

Yes. With the exception of the lot width at right-of-way requirement, the lots would meet all minimum size and dimensional standards as outlined in city code. (See attached and table below)

<table>
<thead>
<tr>
<th>Proposed Lots (Private Driveway)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Area</strong></td>
</tr>
<tr>
<td><strong>Required</strong></td>
</tr>
<tr>
<td>Lot 1</td>
</tr>
<tr>
<td>Lot 2</td>
</tr>
<tr>
<td>Lot 3</td>
</tr>
</tbody>
</table>

*All numbers rounded down to nearest 5 ft or 5 sq. ft.*

Staff believes that the proposed lot sizes and configurations are appropriate as:

- With the exception of the lot width at right-of-way requirement, the lots would exceed the minimum area and dimensional requirements;
- Each lot would have reasonable area to construct a single-family home; and
- The proposed lots would be in harmony with each other and the existing neighborhood.

• **Is the proposed private driveway access and lot width at right-of-way variance reasonable?**

Yes. By city code, all lots within an R-1 subdivision must have at least 80 feet of frontage on the public right-of-way from which the lot will have access. Proposed Lot 3, or the southerly lot, would have frontage on Minnetonka Boulevard. This right-of-way is “usable” for driveway access – there are many multiple homes that have driveway access to Minnetonka Boulevard. However, as a Hennepin County roadway, a county permit would be required for driveway alteration. (See attached).

Due to the narrow lot width on Minnetonka Blvd., the applicant is proposing lots that do not abut a public right-of-way and would use a shared private drive from Minnetonka Blvd. As an exercise, the applicant has provided a preliminary plat that shows the potential for a public street on the subject property. (See attached and the following table).
Under this alternative, all of the lots would meet all ordinance requirements. As shown in the example, the new road would create non-conforming setbacks for some structures on adjacent properties. What has been a side yard would technically become a front yard. However, it is possible that this plan could be adjusted to reduce or eliminate the non-conformity. (See attached.)

After review, staff finds that a shared driveway, with lots that do not abut a public right-of-way, is preferred to having a public road entering on the subject site. Specifically, staff has found that the lot-behind-lot layout and shared driveway would:

- Require less site disturbance due to the use of the existing driveway area;
- Result in less than half of the tree removal required for the public road configuration; and
- Provide a larger setback between adjacent homes/properties to the west and the proposed driveway.

**Are the setback variances reasonable?**

Yes. Staff has reviewed the requests and found that both of the variances requests are reasonable.

**Wetland Buffer and Setback Variance.** The existing driveway on Lot 1 is 20 feet from the existing wetland edge, but city code requires a 25-foot wetland buffer and setback.

The subject driveway was originally constructed no later than 2009, per aerial photos, and was most likely constructed with the existing home, completed in 2007. At that time, the city’s buffer requirement was not triggered by the driveway addition on the property. However, since that time, the city has revised its ordinance and the redevelopment of the property does trigger the 25-foot wetland buffer and setback.

Staff finds that the subject wetland buffer and setback variance request is reasonable as:

- The existing driveway has legal non-conforming status and was allowed by the city at the time of its construction and could remain even if the proposal were not to move forward; and

<table>
<thead>
<tr>
<th>Public Road Example</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Area</strong></td>
</tr>
<tr>
<td>Total</td>
</tr>
<tr>
<td><strong>Required</strong></td>
</tr>
<tr>
<td>Lot 1</td>
</tr>
<tr>
<td>Lot 2</td>
</tr>
<tr>
<td>Lot 3</td>
</tr>
</tbody>
</table>

All numbers rounded down to nearest 5 ft. or 5 sq. ft.
• The subject driveway is not being expanded or rebuilt beyond its existing location.

**Property Line Setback Variance.** As stated previously, the subject home was constructed in 2007 and met all city requirements at that time. However, with the proposed subdivision of the property, the subject home would now have non-conforming property line setbacks.

If Lot 1 abutted a public road, it would have a 30-foot aggregate side yard and 10-foot minimum side yard setback. The property would meet these requirements. However, without a public road, it becomes a lot-behind-lot property and has a minimum 29-foot setback from the southeasterly (side) property line.

Staff finds that the property line setback variance for Lot 1 is reasonable as:

• The subject home would exceed the property line setback requirement for a conforming lot;
• The existing home would maintain at least a 51-foot separation from the closest neighboring home;
• The “pie” shape of the lot creates a practical difficulty in meeting the property line setback.

• **Are the proposed site impacts reasonable?**

Yes. The proposed subdivision has been evaluated for conformance with the city’s natural resource ordinances, including the wetland and tree protection ordinances. These ordinances attempt to balance the community benefit of preserving natural resources with private development rights.

The property is subject to the regulations of the wetland and tree ordinances.

**Wetland.** The site contains a large, Manage-1 wetland, generally located north and east of the proposed homes. As stated previously, the existing driveway on Lot 1 is 20-feet from the wetland edge and currently encroaches into the 25-foot wetland setback and wetland buffer and require variances; however, this is an existing site condition and would remain if this proposal were not to move forward.

Alternatively, homes on the proposed lots would not impact the wetland. As conditions of approval: (1) homes and accessory building would be required to meet all minimum wetland setbacks; (2) a 25-foot wetland buffer must be established around the wetland; (3) a conservation easement must be dedicated over the wetland and buffer; and (4) escrow must be submitted in the amount to install wetland buffer with native vegetation on Lot 1.

**Trees.** The ordinance regulates tree removal and mitigation. The highest level of protection is provided to woodland preservation areas (WPA) and high-priority trees during subdivision of the property. During subdivision, just 25% of WPA and 35% of high-priority trees may be removed or impacted. There is no WPA on the site. However, there are 6 high-priority trees and 254 significant trees.
The proposal would result in removal of, or substantial damage to the critical root zones of, 17 percent of the site’s high-priority trees and 24 percent of the site’s significant trees. This would meet the standards of the tree protection ordinance.

In addition, the applicant provided tree removal information for a subdivision served by a public road. While this proposal would meet city ordinance, over twice the amount of trees would need to be removed with this plan. The additional trees would need to be removed largely due to the new public road, while the private drive plan would require less tree removal because it would be in the same location as the existing residential driveway.

<table>
<thead>
<tr>
<th>Trees</th>
<th>Existing</th>
<th>Impacted or Removed (Private Drive)</th>
<th>Impacted or Removed (Public Road)</th>
</tr>
</thead>
<tbody>
<tr>
<td>High-Priority</td>
<td>6</td>
<td>1 tree or 17%</td>
<td>2 tree or 33%</td>
</tr>
<tr>
<td>Significant</td>
<td>254</td>
<td>62 trees or 24%</td>
<td>129 trees or 51%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>260</td>
<td>63 trees or 24%</td>
<td>132 trees or 51%</td>
</tr>
</tbody>
</table>

**Summary Comments**

The applicant provided staff with a request for a three-lot subdivision with variances. This request included a private drive in lieu of a public road to serve the existing home and proposed homes. As an exercise, the applicant provided staff with a proposal that meets city ordinance, including the addition of a new public road to serve the three lots. However, in staff’s opinion, the use of a shared, private driveway would preserve natural resources and privacy for adjacent homes.

**Staff Recommendation**

Recommend the city council adopt the resolution approving the preliminary plat of ARUNDEL ADDITION, a three-lot residential subdivision with variances, at 15500 Minnetonka Blvd.

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

Project No. 18004.08a

Property 15500 Minnetonka Blvd.

Applicant Dan Schmidt of Sather Bergquist, on behalf of the property owner

Surrounding Uses
- **North:** Single Family Home and City Park (Jidana), Zoned R-1, Guided for Low Density and Open Space (Minnehaha Creek located farther North)
- **South:** Manchester Village Townhomes, Zoned PUD, Guided Medium Density
- **East:** Single Family Home and Office Building (Campbell-Sevey), Zoned R-1 and B-1, Guided Low Density and Service Commercial
- **West:** Single Family Homes, Zoned R-1, Guided Low Density

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

Variance History
- While not common, city has previously approved width at right-of-way variances in extenuating circumstances.

In 2005, the city approved a lot width at right-of-way variance at 18724 Ridgewood Road for a two-lot subdivision. Similar to the subject request, the applicant proved that a subdivision could be completed with a public road, but the city found that lot-behind-lot plat was preferable, as it would preserve trees and reduce impervious surface on the site.

In 2016, the city approved a preliminary plat for a shared private drive at 14700 Copperfield Place after the applicant provided a subdivision plan that could be completed with access off a public road. However, the city found that the private drive was a preferred option at this location as this plan would reduce access points on a busy county road. While these properties still had adequate frontage onto a public road, the plat approval was completed with a private drive, similar to the subject proposal.

Lot Behind Lot

Setbacks
- Lots 1 and 2 are defined by city code as “lot behind lot” properties because they do not have any frontage on a public right-of-way. Lot behind lot properties are required to have a setback from all properties lines of 40 feet or 20% of the average distance between opposite lines, whichever is less, but no less than 25 feet. For the subject homes, staff used the average distance between property lines within the buildable area. Based on this calculation, the existing home on Lot 1 would not meet the setback requirement.
R-1 Setbacks (non-Lot Behind Lots) As stated previously, Lots 1 and 2 are defined as a “lot behind lot” properties, thus requiring different setbacks than properties with adequate frontage. Properties with adequate frontage (such as Lot 3) have the following setbacks:

- Front: Minimum 35 feet from the right-of-way of local and neighborhood collector streets and railroad lines, or 50 feet from the right-of-way of major collector or arterial roadways.

- Side: The sum of the side yard setback shall not be less than 30 feet, with a minimum setback of 10 feet.

- Rear: Minimum of 40 feet or 20 percent of the depth of the lot, whichever is less.

Setbacks If approved the following structure setbacks would be required for the new lots:

Lot 1
East and West: 29 feet
South: 29 feet
North: Setback set by wetland setback

Lot 2
North and South: 31 feet
West: 40 feet
East: Setback set by wetland setback

Lot 3
Front: 50 feet
Sides: The sum of the side yard setback shall not be less than 30 feet, with a minimum setback of 10 feet.
Rear: Setback set by wetland setback

Grading Grading would occur to improve the existing driveway, construct individual driveways and homes, and install required utilities and stormwater management practices. Generally, fill would be added in the area of the home sites. Excavation would occur to add a filtration basin.

Stormwater Runoff from the newly created impervious surface would be directed toward the new raingarden to the west and would drain toward the wetland buffer area to the east. The proposed plan has been reviewed by the city’s water resources engineering coordinator and found to be generally consistent with requirements of the city’s stormwater management plan. However, some changes will be required to meet specific city code standards and have been added as conditions within the resolution. (See attached.)

Utilities Public water would be accessed from the existing line south of Minnetonka Boulevard. Sanitary sewer would be accessed off an
existing sewer line that cuts across the property. Staff has also added
a condition of approval that requires the applicant to provide an
adequate drainage and utility easement over the existing sanitary
sewer line (See attached.)

Zoning Variance
A variance may be granted from the requirements of the zoning
ordinance when: (1) it is in harmony with the general purposes and
intent of the ordinance; (2) it is consistent with the comprehensive
plan; and (3) when an applicant establishes that there are practical
difficulties in complying with the ordinance. Practical difficulties mean
that the applicant proposes to use a property in a reasonable manner
not permitted by the ordinance, the plight of the landowner is due to
circumstances unique to the property not created by the landowner,
and, the variance if granted, would not alter the essential character of
the locality. (City Code §300.07)

Lot Variance
By city code 400.055, the city may approve variances from the
requirements of the subdivision ordinance. An applicant must meet
the burden of proving that: (1) the proposed variance is reasonable
use of the property, considering such things as functional and
aesthetic justifications or improvement to the appearance and stability
of the 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. (See
attached resolution).

Outside Agencies
The applicant’s proposal has been submitted to various outside
agencies for review, including Hennepin County and Minnehaha
Creek Watershed District. Their comments have been attached to this
report.

Pyramid of Discretion

Motion Options
The planning commission has two options:
1. Concur with the staff recommendation. In this case a motion should be made recommending the city council adopt the resolution approving the preliminary plat, with variance.

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

**Voting Requirement**

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

**Neighborhood Comment**

The city sent notices to 97 area property owners and has received no written comments.

**Deadline for Action**

May 14, 2018
null
Grading, Drainage and Erosion Control Plan

Submitted 4/9/18
Utility Plan

*GENERAL UTILITY NOTES*

1. Hydrant shall be 8" Bury. Watermain shall have 7.5" cover.
2. Sanitary Catch Basin Shall be REEFAN R-1647.
3. 6" PVC sanitary services and riser to be 5 or 6.
4. Curb ramps to have expansion pads to curb stop.
5. All sewer services are located 3' downstream of water services.
6. All watermain shall be DIP Class 50 PVC polypropylene. Unless otherwise noted.
7. The contractor shall verify all existing conditions, verify existing invert, loc. & elev. and notify the owner if any discrepancies prior to beginning construction.
8. Unless otherwise noted, all as specified in the above note. All materials, construction techniques, and testing shall conform to the 1999 ed. of the standard utility specifications for water main and service line installation and sanitary sewer and storm sewer installation by the City Engineering Association of W. Va. and to the "Standards Specifications for Pipework Construction" manual of PPI, 2000 edition including the company addendum.
9. All storm sewer pipe shall be class 3 unless otherwise noted.
10. Water service to have curb stop & box at R/W line.
11. Connect to watermain with corporation stop and saddle-see specs.
12. Sanitary service to connect to main with 8" 6" wide and 6" 1/8 bend.
13. Sanitary service and water services to extend 10" beyond R/W. water service to be 6" copper.
14. San service to be 6" PVC, 528-26.
15. No work to be done within the wetland boundary.

Submitted 4/9/18
MCWD 67' BUFFER
46,400 SF

MINNETONKA 25' BUFFER
(35 FT MIN., 134 FT MAX.) - 46,500 SF

BUFFER RULES

MCWD buffer - 75 feet,
- For every 5 percent decrease in average buffer slope from 20 percent, the Base Buffer Width may be reduced 2 feet.
- Buffer slope is 5% so there is 6 feet buffer reduction.
- For every grade of Hydrologi: Sd 1 Group above Type 0 for the predominant buffer soil condition, the Base Buffer Width may be reduced 2 feet.
- According to the NRCS maps, the majority of the site is Type A, so there is 8 feet in buffer reduction.
- The minimum applied buffer is 67 feet. Minimum Buffer Average is 53.5 feet and the maximum buffer is 134 feet.

City of Minnetonka
- 36 feet wetland setback for the homes (there is a reduced setback to 25 feet allowed for uncovered and unenclosed decks and patios as well as conditioned building areas, but they cannot extend into the buffer)
- 25 feet wetland buffer. A wetland buffer variance would be required down to no less than 20 feet in the location of the existing drain (and then immediately extend to 25 feet outside the drive location).

Submitted 4/9/18

MCWD BUFFER AVERAGING PLAN
ARUNDEL ADDITION
SCOTT ARUNDEL
Tree Removal Plan

Submitted 4/9/18
**TREE INVENTORY**

<table>
<thead>
<tr>
<th>Tree</th>
<th>Location</th>
<th>Species</th>
<th>Diameter</th>
<th>Height</th>
<th>Condition</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>NE Corner</td>
<td>Oak</td>
<td>60</td>
<td>25</td>
<td>Fair</td>
<td>None</td>
</tr>
<tr>
<td>2</td>
<td>SE Corner</td>
<td>Oak</td>
<td>70</td>
<td>30</td>
<td>Good</td>
<td>None</td>
</tr>
<tr>
<td>3</td>
<td>SW Corner</td>
<td>Pine</td>
<td>100</td>
<td>40</td>
<td>Excellent</td>
<td>None</td>
</tr>
</tbody>
</table>

**ALTITU Formation Table**

The following table references the ALTA survey responsibilities and requirements:

<table>
<thead>
<tr>
<th>Site Address</th>
<th>Minnesota Boulevard, Minneapolis, Minnesota 55405</th>
</tr>
</thead>
<tbody>
<tr>
<td>Final Zone Description</td>
<td>This summary identifies the Zone of interest (a) all above ground elevation determined by the USGS 1-foot contour map is used to determine the 0.5% wind climate base area for the survey. The final zone for the survey includes all trees that meet the criteria set forth above.</td>
</tr>
<tr>
<td>Parcel Description</td>
<td>Current Map: 1710-001-001-001, 1710-001-001-002</td>
</tr>
<tr>
<td>Remarks</td>
<td>The survey was performed by Sathre-Bergquist in June 2017.</td>
</tr>
</tbody>
</table>
Grading, Drainage and Erosion Control Plan

Submitted 4/9/18
Utility Plan

EXCEPTION

MINNETONKA AVENUE 3, PLAT 71

Submitted 4/9/18

SAUTE-BERGQUIST, INC.

PRELIMINARY UTILITY PLAN
ARUNDEL ADDITION
SCOTT ARUNDEL
MCWD 67' BUFFER
46,400 SF

MINNETONKA 25' BUFFER
(35 FT MIN., 134 FT MAX.) - 46,500 SF

BUFFER RULES

MCWD Buffer - 75 feet.

- For every 5 percent decrease in average buffer slope from 20 percent, the Base Buffer Width may be reduced 2 feet.

- For every grade of hydrologic Soil Group above Type C, the Base Buffer Width may be reduced 2 feet.

- According to the NRCS maps, the majority of the site is Type A. soils so there is 6 feet in buffer reduction.

The minimum applied buffer is 67 feet. Minimum Buffer Average is 33.5 feet and the maximum buffer is 134 feet.

City of Minnetonka

35 feet wetland setback for homes (there is a reduced setback to 25 feet allowed for uncovered and unenclosed decks and patios as well as conditioned building areas, but they cannot extend into the buffer)

25 feet wetland buffer. A wetland buffer variance would be required down to no less than 20 feet in the location of the existing drain (and then immediately altered to 25 feet outside the drive location).

Submitted 4/9/18
Tree Removal Plan

The Tree Removal Plan is preliminary. The grading plan will need to be revised to provide for storm water treatment for the proposed homes and streets.

Submitted 4/9/18
Drew Ingvalson

From: Elizabeth Showalter <eshowalter@minnehahacreek.org>
Sent: Tuesday, April 10, 2018 10:11 AM
To: Drew Ingvalson
Subject: Re: Minnetonka Planning Project - 15500 Minnetonka Blvd

Drew,

I received a message about the 15500 Minnetonka Blvd subdivision. As you are likely aware the project will also require a variance from our rules. I have been working with Dan on preparing their variance application. If you are still able, I would appreciate you listing obtaining MCWD permits for Wetland buffers under the Wetland Protection rule as a condition of approval.

I am out of the office today, but I can provide a formal comment letter tomorrow if needed.

Thanks,
Elizabeth Showalter

Get Outlook for iOS

On Mon, Apr 9, 2018 at 5:41 PM -0500, "Heidi Quinn" <hquinn@minnehahacreek.org> wrote:

FYI-
I believe that you had a pre-app about this

HQ

From: Karen Telega [mailto:ktelega@eminnetonka.com]
Sent: Monday, April 9, 2018 2:25 PM
To: Heidi Quinn <hquinn@minnehahacreek.org>
Cc: Drew Ingvalson <dingvalson@eminnetonka.com>
Subject: Minnetonka Planning Project - 15500 Minnetonka Blvd

The city of Minnetonka has received applications for the following development project:

Project Name: Arundel Addition
Project Location: 15500 Minnetonka Blvd

Additional information regarding this project can be found on the city's project page at: https://tinyurl.com/15500MinnetonkaBlvd
If a separate review process or permit is required by your agency for the proposed project, please contact the applicant directly. If you have any questions, please contact the planner assigned to the project.

**Applicant:**
Dan Schmidt
schmidt@sathre.com
952-476-6000

**Planner:**
Drew Ingvalson
dingvalson@eminnetonka.com
952-939-8293
Mr. Drew Ingvalson  
Planner  
City of Minnetonka  
14600 Minnetonka Blvd.  
Minnetonka, MN 55345  

April 13, 2018

Re: Final Plat Review – Arundel Addition (Received 04/09/18)  
15500 Minnetonka Boulevard (County State Aid Highway 5)  
Hennepin County Plat Review ID #3687 (Reviewed 04/10/18)  
*Subdivides existing 12 acre single family lot into three parcels, adding two single family homes*

Dear Mr. Ingvalson:

Please consider the following in your review of this proposal:

**Access**
We accept the proposal to retain the existing driveway, adding several trips per day with the two additional households.

**Recommendations**
While our recent conversion of this section of Minnetonka Boulevard to a three-lane design provides for sufficient space for left-turns into this driveway, we request the applicant widen the existing shoulder to better allow for westbound right-turning vehicles into the property. It’s important to remove this movement, however modest, out of the through traffic stream.

As part of our continued long-range efforts to enhance safety and operations by consolidating access points throughout the county roadway system, we request that the city work with the applicant to obtain cross access easements to the following properties; 15406, 15416, and 15518 Minnetonka Boulevard. Provision of these easements at this time allows for the opportunity to redirect these access points internally, away from Minnetonka Boulevard in the future either through land redevelopment or the reconstruction of Minnetonka Boulevard.

**Right-of-Way**

**Requests**
In order to fully allow for our typical three-lane urban section in the future, we request dedication of right-of-way to match 50 feet from the centerline of Minnetonka Boulevard. This dedication will also allow for potential improvements such as a sidewalk or the extension of the existing off-road trail approximately 1,500 feet to the east.
Storm Water and Drainage

Requirements
Please ensure discharge rates remain less than existing flow rates. The county storm water system will not take water from new drainage areas. Additional treatments may be necessary if flow rates cannot match existing.
Storm water and drainage questions can be directed to Drew McGovern at 612-596-0208, drew.mcgovern@hennepin.us.

Permits
Requirements
Please inform the developer that all construction within county right-of-way requires an approved Hennepin County permit prior to beginning construction. This includes, but is not limited to, driveway and street access, drainage and utility construction, trail development, and landscaping.
Permit questions can be directed to Michael Olmstead at 612-596-0336, michael.olmstead@hennepin.us.

More information
Please contact us for any further discussion of these items.
- Bob Byers at 612-596-0354, robert.byers@hennepin.us
- Jason Gottfried at 612-596-0394, jason.gottfried@hennepin.us

Sincerely,

Chad Ellos, PE
Transportation Planning Division Manager

---

Minnesota Statutes 505.03, 505.021, and 462.358, Plats and Surveys, allow up to 30 days for county review of preliminary plats abutting county roads.
PARCEL ID: 1611722310004

OWNER NAME: Stephen D Arundel

PARCEL ADDRESS: 15500 Minnetonka Blvd,
Minnetonka MN 55345

PARCEL AREA: 11.49 acres, 500,478 sq ft

A-T-B: Abstract

SALE PRICE: $870,000

SALE DATA: 01/2007

SALE CODE: Excluded From Ratio Studies

ASSESSED 2017, PAYABLE 2018
PROPERTY TYPE: Residential
HOMESTEAD: Non-Homestead
MARKET VALUE: $333,800
TAX TOTAL: $12,981.96

ASSESSED 2018, PAYABLE 2019
PROPERTY TYPE: Residential
HOMESTEAD: Non-homestead
MARKET VALUE: $899,800

Comments:

This data (i) is furnished 'AS IS' with no representation as to completeness or accuracy; (ii) is furnished with no warranty of any kind; and (iii) is not suitable for legal, engineering or surveying purposes. Hennepin County shall not be liable for any damage, injury or loss resulting from this data.

COPYRIGHT © HENNEPIN COUNTY 2018
staff that an increase in the use of the site would have to be reviewed by the commission and approved by the city council.

Sewall has learned that a resident’s view is not a protected right. He felt for the adjacent neighbors who would have a different view. He previously preferred to have access on Hopkins Crossroads instead of Mill Run, but he would now rather have the entrance on Mill Run since there are already turn lanes on Mill Run. He gave kudos to the applicant for the design changes. The building is much more attractive now. It is still very large. He is torn because he would like the access on Mill Run.

Chair Kirk believed the proposal would not be harmonious with the character of the neighborhood. The houses on adjoining properties are close to their property lines. The proposal meets all of the rules including setbacks and building height. He was concerned with the site having enough parking because the surrounding streets would not accommodate many parked vehicles. Hopkins Crossroads is not a safe road. Vehicles pass vehicles turning left on the right shoulder. The ordinance states that the collector road is the right place for the access. He would like to see turn lanes added to Hopkins Crossroads. He was on the fence. He will support staff’s recommendation, but hopes something will be done to make Hopkins Crossroads safer in that area.

**Schack moved, second by Hanson, to recommend that the city council adopt the resolution approving a conditional use permit for a religious institution at 2333 and 2339 Hopkins Crossroad and 11170 Mill Run.**

**Schack, Hanson, and Kirk voted yes. Sewall voted no. O’Connell, Powers, and Knight were absent. Motion carried.**

This item is scheduled to be reviewed by the city council at its meeting on May 14, 2018.

C. **Preliminary plat of Arundel Addition, a three-lot residential subdivision with variances, at 15500 Minnetonka Boulevard.**

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

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

Chair Kirk asked why staff is recommending approval of this lot-behind-lot application. Ingvalson answered that the site would be able to be subdivided with a public street and cul-de-sac, but a private drive would save trees and decrease site disturbance.

Daniel Schmidt, of Sathre-Bergquist, engineer for the project, stated that Ingvalson did a good job and he was available for questions.

The public hearing was opened.

Christi Brusven, 15518 Minnetonka Boulevard, stated that she supports the private drive. It is reasonable because a public road along the fence line would make her lot a corner
lot, add congestion to Minnetonka Boulevard, cause the removal of more trees and eliminate the buffer to her property.

John Keefe, 15416 Minnetonka Boulevard, stated that he opposes the subdivision. It would eliminate wildlife, the million dollar houses would cause his property taxes to go up, and the removal of trees would decrease his privacy and cause the value of his property to go down. He was concerned with the noise construction machinery would cause. He asked where the driveway would be located. He did not want it located along his property. He was worried his house would be included in FEMA’s floodplain designation if the houses would be built.

No additional testimony was submitted and the hearing was closed.

Schack confirmed that the proposed driveway would stay in the same location as the current driveway. Mr. Schmidt estimated that the driveway width would be increased from 14 feet to 20 feet.

Chair Kirk confirmed with Ingvalson that the site accommodate a public street with a cul-de-sac. Chair Kirk noted that the property is bound to be developed at some point. Staff found this proposal to be the best option.

Schack’s priority is saving the trees. She understood that change is hard. The property owner has rights and the property will be developed. The proposal is a decent plan and the best one possible.

Sewall found the private drive to be the best option. The current location will stay the same, so many trees would be saved. Compared to what could be done, a three-lot subdivision is fortunate. He appreciated the applicant and staff creating the best option.

In response to Chair Kirk’s question, Colleran explained that tree mitigation requirements would be determined during the building permit process. Keeping the driveway where it is will save three large oak trees.

Chair Kirk thought this would be the best plan.

Hanson moved, second by Sewall, to recommend that the city council adopt the resolution approving the preliminary plat of Arundel Addition, a three-lot residential subdivision with variances, at 15500 Minnetonka Blvd.

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

This item is scheduled to be reviewed by the city council at its meeting on May 14, 2018.

Schack moved, second by Sewall, to recommend that the planning commission continue the meeting until midnight.
Resolution No. 2018-

Resolution approving the preliminary plat of
ARUNDEL ADDITION, with variances, at 15500 Minnetonka Boulevard

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

Section 1. Background.

1.01 Dan Schmidt of Sather Bergquist, on behalf of the property owner, is requesting preliminary plat approval of ARUNDEL ADDITION. The three-lot subdivision includes a:

1. Lot Width at Right-of-Way Variance from 80 feet to 0 feet (Lots 1 and 2).
2. Wetland Setback and Buffer Variances from 25 feet to 20 feet (Lot 1).
3. Building Setback Variance from 29 feet to 20 feet (Lot 1).

1.02 The property is located at 15500 Minnetonka Boulevard. It is legally described within Exhibit A.

1.03 On April 26, 2018, 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 approval of the request to the city council.

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 of the standards requires that all lots within a plat must have 80 feet of frontage on the public right-of-way from which the lot will have access.

2.02 City Code 400.030 Subd.6(a)(3) states that variances to permit lots with substandard or no frontage on the public right-of-way from which the lot will have access will be considered, but not necessarily granted, only upon evidence that all of the following standards are or will be met:

1. One of the following conditions exists:
a) severe grades make it infeasible according to the city to construct a public street to minimum city standards;

b) the city determines that a right-of-way extension would adversely impact natural amenities including wetlands or stands of regulated trees; or

c) there is no feasible present or future means of extending right-of-way from other directions;

2. If access to the public right-of-way is to be provided by a private access easement,

   a) the number of lots to share a common private access drive does not exceed three;

   b) the easement must address the property owners' respective responsibilities for driveway installation and future maintenance;

   c) the easement must require that the driveway to be constructed meets minimum requirements established at the time of subdivision approval by the engineering department and the fire marshal; and

   d) the easement must be recorded in the land title records, and proof of recording must be provided to the city.

3. If a property could be developed with required frontage on a public street, the number of lots created by this variance must not exceed the number of lots that could be subdivided with a public street;

4. The neck portion of a neck or flag lot must have a minimum width of 14 feet plus the actual driveway width required by the fire marshal pursuant to the uniform fire code. If an easement is used to provide access, the easement must have a minimum width equal to the width required for a neck, plus an additional ten feet; and

5. The variance must not set a precedent that would alter the essential character of the neighborhood from lots with frontage to lots-behind-lots.

2.03 City Code §400.055 states that the city may approve a variance from subdivision requirements. A variance may be granted, but is not mandated, when the applicant meets the burden of proving that:

1. The proposed variance is a reasonable use of the property, considering such things as:

   a) functional and aesthetic justifications for the variance; and
b) improvement to the appearance and stability of the property and neighborhood.

2. The circumstances justifying the variance are unique to the property, are not caused by the landowner, are not solely for the landowner's convenience, and are not solely because of economic considerations; and

3. The variance would not adversely affect or alter the essential character of the neighborhood.

2.04 City Code §323.23(8)(b)(2) states that driveway areas must not be located within 20 feet of a wetland overlay district and must be outside of any required buffer area.

2.05 City Code §300.10(5)(e) states that minimum setbacks for principal buildings on lots-behind-lots must be 40 feet or 20% of the average distance between opposite lot lines, whichever is less, but no less than 25 feet.

Section 3. Findings.

3.01 But for the access location and lot width at right-of-way of proposed Lots 1 and 2, the proposed preliminary plat would meet the design requirements as outlined in City Code §400.030.

3.02 The proposal would meet the standard for lot City Code 400.030 Subd.6(a)(3) variances to permit lots with substandard or no frontage on the public right-of-way.

1. The extension of right-of-way and public street would adversely impact natural amenities including stands of regulated trees.

2. Just three lots would share the common private access drive.

3. As a condition of the resolution a private easement must be recorded to address the property owners' respective responsibilities for driveway installation and future maintenance. The easement, which must be recorded at the county, must require that the driveway meet minimum engineering department and fire marshal requirements; and

4. The number of lots created by this variance would not exceed the number of lots that could be subdivided with a public street;

5. The subject property is significantly larger than any other lot in the area. It is unlikely that this variance would set a precedent that would alter the essential character of the neighborhood from lots with frontage to lots-behind-lots.
3.03 The proposal would meet the variance standard as outlined in City Code §400.055.

1. Reasonable Use. The applicant proposed two lot-behind-lot properties, Lots 1 and 2, with 0-feet of frontage on a public right-of-way. The properties would access via a shared private drive from the south. The proposed lots and access are reasonable as they would: (1) require less site disturbance due to the use of the existing residential driveway area; (2) reduce the amount of trees removed by the project; and (3) provide a larger setback between the adjacent homes/properties to the west and proposed driveway.

2. Unique Circumstances. The subject property is 11.5 acres in size with several high priority and significant trees. Property access could be gained via a public road; in such arrangement, no variance would be required. However, the applicant proposes to utilize an existing driveway to be used as a shared private driveway. Taken together, the size, situation, and ability to be divided without a variance constitutes a unique circumstance not similar to other residential properties in the area.

3. Neighborhood Character. The existing home is located on a large property. The property could accommodate a public road, but development of the property with a public road would be more out of character due to the site disturbance, tree loss, and loss of privacy for westerly homes.

3.04 The proposal meets the variance standard outlined in City Code §300.07 Subd.1(a) for a wetland buffer and wetland setback variance:

1. Intent of Ordinance: The proposal, and resulting variance request, would be in keeping with the city’s zoning ordinance. The intent of the wetland buffer and setbacks is to recognize, preserve and protect the environmental, aesthetic and hydraulic functions of the city’s wetlands. The proposal is consistent with this purpose and intent as it will maintain the existing legal non-conforming setback and will not further risk the integrity of the wetland.

2. Comprehensive Plan: The proposal would be consistent with the city’s comprehensive plan. The intent of the plan is to maintain, preserve, and support existing natural features within the City. If approved, the wetland setback and wetland buffer would not be reduced beyond its existing distance.

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

a) Reasonableness: The request to maintain an existing driveway that does not meet wetland buffer and setback requirements is reasonable. The existing driveway has legal non-conforming
status. It was allowed by the city at the time of its construction and could remain even if the proposal were not to move forward.

b) Unique Circumstance: The legal non-conformity status of the driveway is a circumstance unique to the property. The subject driveway was originally constructed no later than 2009, per aerial photos, and was most likely constructed with the existing home, completed in 2007. At that time, the city’s buffer requirement was not triggered by the driveway addition on the property. However, since this time, the city has revised its interpretation of the ordinance and the redevelopment of the property would now trigger the 25-foot wetland buffer and setback.

c) Character of Locality: The subject driveway will not alter the character of the neighborhood. The driveway was allowed by the city at the time of its construction and could remain even if the proposal did not move forward.

The proposal meets the variance standard outlined in City Code §300.07 Subd. 1(a) for a property line setback variance for a principal building on a lot-behind lot property:

1. Intent of Ordinance: The proposal, and resulting variance request, would be in keeping with the city’s zoning ordinance. The intent of setback requirements is to ensure that neighborhoods retain residential characteristics and provide adequate space between homes and public right-of-ways. At its closest point, the proposed home would be located 51 feet from the nearest home.

2. Comprehensive Plan: The proposal would be consistent with the city’s comprehensive plan. The intent of the city’s comprehensive plan is to maintain, preserve, and support the character of existing neighborhoods. If approved, the setbacks would be similar to those of homes within the area and city overall.

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

a) Reasonableness: The request to reduce the property line setback for the existing home on Lot 1 is reasonable. The proposed structure would be set back 20 feet from the subject property line and would be at least 51 feet from the closest potential home. This would exceed the property line setback requirement for a conforming lot within the R-1 district.

b) Unique Circumstance: The proposed Lot 1 would be 7.7- acres in size with approximately 9,585 square feet of buildable area. The proposed lot would greatly exceed the code required lot area and buildable area, but would not meet the setback requirements due
to increased setbacks for lot-behind-lots and the “pie” shape of the lot. The large size of the existing lot, encumbrance of the wetland, lot-behind-lot status and “pie” shape create a unique circumstance.

c) Character of Locality: The majority of homes in the neighborhood have setbacks that are similar to the proposed structure. If approved, the home would not alter the essential character of the subject neighborhood.


4.01 The above-described preliminary plat, with access variance, 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 revised final plat drawing that clearly illustrates the following:

   1. Dedication of 50 feet of right-of-way from the center line of Minnetonka Boulevard.

   2. Minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way(s) and minimum 7-foot wide drainage and utility easements along all other lot lines.

   3. A 50-foot drainage and utility easement centered over the existing sewer line on the property.

   4. Utility easements over existing or proposed public utilities, as determined by the city engineer.

   5. Drainage and utility easements over wetlands, 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.

   1. Title evidence that is current within thirty days before release of the final plat.
2. Conservation easement over the Manage-1 wetland and required 20-foot wetland buffer and a drawing of the easement. The easement may allow removal of hazard, diseased, or invasive species. City staff may allow surface stormwater practices in the easement, provided those areas are established with native vegetation and the city is permitted to repair or maintain any storm water facility that exists in the buffer area.

3. A private driveway access and maintenance easement between the public right-of-way and all of the lots within the development. The easement must state the maintenance responsibilities of each owner. The easement must be 25 feet wide. The private drive must be at least 20 feet wide, with the exception of driveway entrance/exit onto Minnetonka Boulevard for the preservation of three mature trees.

4. Private utilities easement for any private utilities crossing properties lines.

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, submit the following:
   a) Two sets of mylars for city signatures.
   b) An electronic CAD file of the plat in microstation or DXF.
   c) Park dedication fee of $10,000.
   d) The proposed location of the filtration basin is within an electric easement. The applicant must provide an agreement from the electric company to allow the filtration basin within this private easement area or the applicant must provide a revised stormwater management plan to be reviewed and approved by the city’s engineering department.
   e) The applicant must provide escrow in an amount equal to the cost of installing the required native vegetation wetland buffer on Lot 1.
4. Subject to staff approval, ARUNDEL ADDITION must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:

- Site plan, dated April 9, 2018
- Grading, Drainage and Erosion Control plan, dated April 9, 2018
- Utility plan, dated April 9, 2018
- Tree Removal plan dated April 9, 2018

5. Prior to issuance of a building permit for the first new house within the development, submit the following documents:

a) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.

b) Proof of subdivision registration and transfer of NPDES permit if applicable.

c) A construction management plan in city approved format.

d) A final utility plan. The plan must:

1) Show proposed sewer and water service connections and alignment.

2) Show individual services stubbed to the individual lots with private easements and agreements across the lots

3) Include a public hydrant located adjacent to the north side of Minnetonka Boulevard and next to the shared driveway.

4) Show the removal of any unused services back to the main and remove the wye and sleeving.

5) Indicated new sewer services at a minimum 6-inch pipe.

6. Prior to issuance of a building permit for each lot:

a) Submit a grading and tree preservation plan. The plan must be in general conformance with preliminary plat drawing dated April 9, 2018 unless otherwise modified by the conditions of approval. The final grading and tree preservation plan:

1) Should position the final house, driveway, utilities and associated grading to minimize tree loss.

2) Should adjust grading to avoid impacts to trees proposed to remain.
3) Should position stormwater treatment to avoid tree loss.

4) Should adjust the grading to minimize impacts to tree #599.

5) May not result in removal of more than 35 percent of the site’s high-priority trees in total. Currently, no more than two high-priority trees could be removed across the three lots.

Tree mitigation will be determined by staff at the time of building permit issuance for each lot.

b) Submit a stormwater management plan and agreement for staff review and approval. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance. The applicant must also demonstrate that the following criteria are met:

- Volume: Provide for onsite retention of 1-inch of runoff from all impervious surfaces.

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

- Water Quality: Provide for all runoff to be treated to at least 60-percent annual total phosphorus removal efficiency and 90 percent annual total suspended solids removal efficiency.

In addition:

1) Runoff must be treated prior to discharging to wetlands.

2) The site is located within a well-head protection area and drinking water supply management area – documentation must be submitted verifying that infiltration is permitted.

3) Provide clarification regarding the emergency overflows. It appears that the outlet control structure is at a lower elevation than the surface emergency overflow identified in the plan.

4) The emergency overflow of the filtration basin is directed towards private property. The applicant must verify that peak stormwater rates are being reduced, and will not worsen drainage conditions on neighboring properties.
5) Easement and maintenance agreements will be required for the proposed stormwater facilities.

c) All principle structures must be setback at least 20 feet from the 931-foot contour

d) Low floors must be elevated at least 2 feet above the floodplain elevation of 931.0 feet.

e) Submit a driveway permit. Driveways should be limited to 10 percent grade.

f) The applicant must obtain a permit from Hennepin County for work within the right-of-way.

g) 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.

h) Submit cash escrow in the amount to be determined by city staff. The 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.

i) Submit all required hook-up fees.

j) 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.

7. Current plans show the outlet pipe of the rain garden on Lot 2 within the floodplain. A floodplain alteration permit will be required for any disturbance below 931-foot elevation. No net fill is permitted below this elevation. The applicant will be required to contact Minnehaha Creek Watershed District for additional requirements regarding the installation of the pipe.
8. As-built surveys will be required for any floodplain area disturbances.

9. No stormwater pipes, rip rap or associated appurtenances are allowed below the delineated wetland edge.

10. The private drive must be at least 20 feet wide, with the exception of the entrance area to preserve mature trees #676, #703 and #704.

11. Each new lot must be custom graded at the time of building permit. Mass grading of the site is not allowed.

12. No tree removal is allowed prior to issuance of the building permits for each lot unless determined necessary by city staff.

13. The properties are subject to the setbacks below:

   **Lot 1**
   West: 29 feet
   Southeast: 20 feet
   South: 29 feet
   North: Setback set by wetland setback

   **Lot 2**
   North and South: 31 feet
   East: 40 feet
   West: Setback set by wetland setback

   **Lot 3**
   Front: 50 feet
   Sides: The sum of the side yard setback shall not be less than 30 feet, with a minimum setback of 10 feet.
   Rear: Setback set by wetland setback

14. The applicant must obtain Minnehaha Creek Watershed District permits for wetland buffers under the wetland protection rule.

15. Permits may be required from other agencies including Hennepin County, Minnehaha Creek Watershed District, and the MPCA. It is the applicant’s or property owner’s responsibility to obtain all necessary permits.

16. During construction, the streets must be kept free of debris and sediment.

17. Unless the city council approves a time extension, the final plat must be recorded by May 14, 2019.

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 14, 2018.
Brad Wiersum, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on May 14, 2018.

David E. Maeda, City Clerk
EXHIBIT A

All that part of the West 1/2 of the Northeast 1/4 of the Southwest 1/4 of Section 16, Township 117, North Range 22, West Fifth Principal Meridian, lying North of the Minnetonka and Excelsior Road; EXCEPT The West 205 feet of that part of Northeast 1/4 of Southwest 1/4 of Section 16, Township 117, Range 22 lying North of Minnetonka Boulevard; ALSO EXCEPT: The East 37 feet of the West 243 feet of that part of the Northeast 1/4 of the Southwest 1/4 of Section 16, Township 117, Range 22 lying North of Minnetonka Boulevard; ALSO EXCEPT: That part of the West 1/2 of the Northeast 1/4 of the Southwest 1/4 of Section 16, Township 117, Range 22, described as follows: Commencing on the East line of said tract at its intersection with the Northerly line of Minnetonka Boulevard; thence Westerly along said Northerly line 145 feet; thence North parallel with the East line of said West 1/2 of Northeast 1/4 of Southwest 1/4 150 feet; thence Easterly parallel with the Northerly line of Minnetonka Boulevard 145 feet to the East line of said West 1/2; thence South 150 feet to beginning; ALSO EXCEPT: That part of the West 1/2 of the Northeast 1/4 of the Southwest 1/4 of Section 16, Township 117, Range 22 describe as follows: Commencing at a point on the Northerly line of Minnetonka Boulevard distant 145 feet Westerly of its intersection with the East line of Said West 1/2 of Northeast 1/4 of the Southwest 1/4; thence Westerly along said Northerly line 150 feet; thence North parallel with said East line of West 1/2 of Northeast 1/4 of Southwest 1/4 150 feet; thence Easterly parallel with the Northerly line of Minnetonka Boulevard 150 feet; thence South 150 feet to beginning.
Brief Description  Ordinance relating to diseased and hazard trees

Recommendation  Introduce the ordinance

Background
Since at least 1935, state law has authorized cities to control plant diseases, although over the decades, the legislature has amended and recodified the specific statutes that provide that authority, in order to address new diseases and plant pests. For example, the city adopted an ordinance regarding trees affected with Dutch elm disease and oak wilt in 1973, acting under general legislative authority related to “plant diseases.” The state legislature caught up to the city in 1974, by enacting specific legislation related to the control of Dutch elm disease and oak wilt. The city’s ordinance on Dutch elm disease and oak wilt is found in Section 840 of the city code.

Most recently, in 2003, the legislature enacted Minnesota Statutes, Section 18G.13, which authorizes cities to adopt and enforce regulations to control and prevent the spread of plant pests and diseases, by resolution or ordinance. Rather than identify specific diseases, such as Dutch elm disease and oak wilt, the 2003 legislation returned to the use of the generic term “plant pests” in recognition that changing ecologies may present new threats to our plant resources. The definition of “plant pests” includes any living agent capable of reproducing itself and causing harm, including insects, bacteria, viruses, microorganisms, and other agents.

As the council is aware, the latest threat to Minnesota trees is the emerald ash borer. With the inevitable arrival of emerald ash borer, the city’s ordinance should be revised to manage this insect pest as well as any future pest that may also infest Minnetonka’s urban forest. City staff has prepared an ordinance that amends Section 840, related to diseased trees, and also amends Section 845.010, related to hazard trees.

Amendments to Section 840
The proposed changes to Section 840 include the following:

- Terminology has been revised to mirror the terminology in the enabling legislation, which is Minnesota Statutes 18G.13.

- The ordinance expressly identifies the emerald ash borer beetle as a plant pest, in addition to the plant diseases of Dutch elm and oak wilt. More importantly, the ordinance also includes plant pests that may be identified in the future.

- The ordinance no longer details the specific actions that need to be taken for the control of each specific plant pest. Instead, the ordinance contemplates that the city will adopt a “plant pest program” by resolution – as authorized by the state law. The ordinance establishes the procedure to be followed to adopt or amend
the plant pest program, but it no longer sets out the specific means of abating or addressing each plant pest. This change simplifies the ordinance, because the preferred methods of controlling pests vary based on the specific pest involved.

**Resolution adopting plant pest program**

The ordinance contemplates that the council will adopt a plant pest program by resolution. A draft resolution and attached plant pest program are provided with this report for information. The resolution and program will be presented to the council for adoption at the same meeting that the ordinance is presented for adoption. The plant pest program identifies the authority for establishing the program, the responsible parties to abate the nuisance condition, details the biology of the regulated plant pests, including signs and symptoms as well as control and sanitation measures.

Staff recommends that the plant pest program be adopted by resolution rather than ordinance. State law allows adoption of the program by resolution. Resolutions are somewhat less cumbersome to adopt, which should improve the city’s flexibility in responding to new plant pests as they are identified. The details of pest management will be formatted in a manner that allows the city to effectively communicate plant pest management to property owners. The plant pest program will be posted on the city’s website for easy public access.

Dutch elm disease, oak wilt and emerald ash borer beetle are the current pests outlined in the program. However as other pests are identified that could cause economic or environmental harm or harm to human health through their impact on trees, city staff will request that the council amend the plant pest program to incorporate these pests.

It is important to note that, based on recent direction from the city council and in anticipating of the discovery of emerald ash borer within the city, city staff is proposing in the pending 2019-2023 Capital Improvement Program that the city fund the full cost of removing infested trees from city right-of-ways. This is not the city’s current practice. Currently a cost-share program is provided to property owners who have diseased elms or oaks within the right-of-way. Therefore, if the council approves the 2019-2023 Capital Improvement Program as proposed, staff will revise the draft plant pest program to address the city’s accepted responsibility for removing right-of-way trees beginning in 2019.

**Amendment to Section 845.010**

The proposed ordinance also amends Section 845.010, the city’s public nuisance ordinance. The amendment would require that a property owner remove a tree if that tree poses a risk to public property or easements.

Currently when staff identifies private trees that present a risk to public property or easements, the staff requests that the property owner remove the tree. If the property owner refuses then staff removes the risk portion of the tree from public property. This can often be a difficult process and results in misshapen trees or stubs, which is not a best practice for tree pruning and should be avoided. By declaring such trees to be a
public nuisance, the city has the authority to perform the tree removal and assess the cost to the owner of the hazardous tree.

**Recommendation**

Introduce the ordinance.

Submitted through:
- Geralyn Barone, City Manager
- Brian Wagstrom, Public Works Director

Originated by:
- Corrine Heine, City Attorney
- Jo Colleran, Natural Resources Manager
- Hannibal Hayes, City Forester
Resolution No. 2018-

Resolution adopting council policy 8.3, regarding a plant pest program

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

Section 1. Background.

1.01. State law authorizes cities to adopt and enforce regulations, by ordinance or resolution, to control and prevent the spread of plant pests and diseases.

1.02. City Code section 840.015 provides that the city’s plant pest regulations must be adopted by resolution of the city council, after a public hearing.

Section 2. Council Action.

2.01. The city council hereby adopts Council Policy 8.3, Plant Pest Program.

Adopted by the City Council of the City of Minnetonka, Minnesota, on .

__________________________________________
Brad Wiersum, Mayor

Attest:

__________________________________________
David E. Maeda, City Clerk

Action on this resolution:

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

__________________________________________
David E. Maeda, City Clerk
Policy Number 8.3
Plant Pest Program

Purpose of Policy: This policy establishes a plant pest program as authorized by Minn. Stat. § 18G.13 and Minnetonka City Code § 840.015

Authority for establishing program
This plant pest program is established pursuant to Minnesota Statutes, section 18G.13, subdivision 7, Minnetonka City Code section 840.015.

Determination of plant pests to be prevented, controlled, managed or eliminated

The Minnetonka city council finds that the following plant pests may cause significant damage or harm to the city’s economy, environment or human health:

- Dutch elm disease fungus, *Ophiostoma novo-ulmi*
  - Elm bark beetles, *Scolytus multistriatus, Scolytus schevyrewi* or *Hylurgopinus rufipes*

- Emerald ash borer beetle, *Agrilus planipennis Fairmaire*

- Oak wilt disease fungus, *Ceratocystis fagacearum*

Responsible parties
City staff survey the entire city—including public lands, private property, and the right-of-way (road edge)—for the above-listed plant pests. Responsibility for managing diseased trees and incurring the cost of required sanitation (and optional prevention and control measures) is as follows:

- Public lands – the city is responsible for performing and paying the costs of plant pest control, prevention, and management on lands that are owned by the city.

- Private property – the property owner is responsible for performing and paying the costs of plant pest control, prevention, and management on the property owner’s land. If a public nuisance exists and the property owner fails to abate the nuisance, the city may perform the work and assess the costs against the owner’s property in the manner provided by section 845 of the Minnetonka City Code.
Right-of-way – Property ownership generally extends to the centerline of the abutting street, which means the property owner owns the land and the trees on the land, and the city has an easement for street and utility uses. The property owner is responsible for performing and paying the costs of plant pest prevention and control; however, if a tree in the right-of-way is marked for removal, the city will pay for half the cost of diseased tree removal (up to half the city contractor’s rate, not including tax), in recognition of the city’s interest in protecting the traveling public.

Dutch elm disease fungus and elm bark beetles
Since the 1930s, hundreds of thousands of elms have died from Dutch elm disease (DED). Despite its common name, this fungus probably originated in Asia, then spread to Europe and the United States. Although disease-resistant varieties are being developed, all native elm species are susceptible to DED, which is carried from infected to healthy elms by native or European elm bark beetles. After the fungus is introduced into an elm’s water-conducting system, leaves (typically at the branch tips) wilt, turn yellow, and often drop from the branches. An infected elm dies because, in its attempt to stop the spread of the fungus, it blocks its own ability to transport water. Because the root systems of adjacent elms often graft (fuse together), DED can spread directly between trees generally growing 50-100 feet apart.

Signs and Symptoms:
- Are most obvious between late spring and late summer, though trees infected the previous year may become symptomatic as soon as they leaf out in early spring.
- Visible wilting
- Discoloration of the leaves (yellow or brown)
- Branch death
  - If beginning in the crown, wilting begins first at branch tips (“flagging”) and progresses through the crown
  - When infection occurs through root grafting (less common), branch death may begin in the lower crown on the side nearest the graft; it then spreads to the entire crown, sometimes quite rapidly
- Brown staining of the year’s new wood, just under the bark

Prevention and Control Measures:
- Before removing diseased trees, homeowners are advised to:
  - Have a qualified tree care professional inject healthy adjacent elm trees with a fungicide and reevaluate every two or three years (depending on the chemical used) for continued protection. This systemic chemical spreads to all parts of the plant, reducing the risk of above- and below-ground spread of the DED fungus.
  - Where terrain permits, a root-graft barrier should be installed between diseased elms and any healthy trees of the same species within a 100-foot
radius, in order to prevent the spread of DED between the shared root systems of adjacent elm trees.

- Replace removed trees with species outside the elm family. A diverse community forest is more resistant to the spread of epidemic-level diseases and pests.

**Required Sanitation Measures:**
- City staff will identify and mark infected elm trees throughout Minnetonka.
- Tree removal and all associated work must be completed by the indicated deadline (typically 30 days after marking):
  - Dispose of marked tree(s) and all branches and logs by chipping or removal to an approved brush drop site.
  - Debark stump(s), or cut to within one inch of ground level, or have the stump(s) removed.

**Emerald ash borer beetle**
Emerald ash borer, often called EAB, is a non-native (invasive) insect from Asia that kills ash trees and related species in the Oleaceae family (such as white fringetree). According to the Minnesota Department of Agriculture, no North American ash population is resistant to EAB. In areas where emerald ash borer is established, ash tree mortality rates approach 100 percent. Once EAB infests an area, it cannot be eradicated. Minnesota is home to approximately 900 million ash trees, the highest population of any state. The life cycle of emerald ash borer begins when an adult lays eggs in the bark crevices of ash trees. Hatched larvae burrow into the wood and begin to feed, creating S-shaped galleries under the bark as they move. Over a period of three to five years, subsequent generations of larvae damage the wood and disrupt the tree’s ability to draw water and nutrients from the soil, eventually killing the tree. In Minnesota, larvae typically overwinter for one or two years before hatching out in early summer. The new adults chew characteristic D-shaped exit holes in the bark and feed minimally on ash leaves before flying short distances (up to two miles) to mate and lay eggs on ash trees in new locations. People accelerate the movement of this pest by carrying EAB-infested firewood to new locations.

**Signs and Symptoms:**
- Increased woodpecker activity (as the birds feed on larvae in the living branches)
- “Blonding,” pale coloration of bark due to woodpecker activity
- Thinning foliage in the top third of the crown (less diagnostic)
- Small D-shaped exit holes
- S-shaped galleries under the bark
- Vertical splits in the bark

**Prevention and Control Measures:**
- Educate residents to avoid pruning and removal of ash trees between May and September, when emerald ash borers are most active.
• Have a qualified tree care professional inject healthy ash trees 10” in diameter or larger with emamectin benzoate, an insecticide that kills EAB larvae. Reevaluate every two or three years (depending on the dosage used) for continued protection.
• Develop a plan to gradually remove smaller ash trees, and those in poor health or structure, from the landscape.
• Replace removed trees with species outside the Oleaceae family. A diverse community forest is more resistant to the spread of epidemic-level diseases and pests.
• Never transport ash wood or brush outside the state’s designated quarantined area (which includes the Twin Cities metro). Quarantine information is regularly updated on the Minnesota Department of Agriculture website (search “emerald ash borer quarantine”).

Required Sanitation Measures*:
• City staff will scout for EAB-infested trees in summer, and mark them for removal in the fall/winter.
• Tree removal and all associated work must be completed by the indicated deadline (between October 15 and March 1):
  o Dispose of marked tree(s) and all associated debris by chipping or removal to an approved brush drop site.
  o Debark the stump(s), or cut to within one inch of ground level, or have the stump(s) removed.

*City staff will request that the city council amend these requirements when EAB has spread throughout the city and the city has determined that the population can no longer be managed. At that time, city staff will recommend that the city council require removal only of ash trees infested with EAB if they pose a risk to public safety or public property.

Oak wilt disease fungus
Oak wilt is caused by a fungal pathogen that most commonly spreads between the interconnected (grafted) root systems of trees growing within 50-100 feet of each other. When the fungus is introduced into the water-conducting system of a red oak tree, the leaves wilt, brown, and drop from the branches. The disease can kill a red oak within a few weeks. The tree dies because, in its attempt to stop the spread of the fungus, it blocks its own ability to transport water. To prevent new infections throughout the community, diseased red oaks should be removed before they can produce a fungal spore mat the following spring. Without good sanitation, the spore mat attracts sap beetles that carry the disease to oaks with fresh pruning or storm damage wounds, starting new oak wilt pockets across the wider landscape.

Signs and Symptoms:
• Foliage wilts from the top down, spreading throughout the crown
• Individual leaves wilt from the leaf tip and margins inward, turning bronze or brown
• Rapid and complete wilting within 2-6 weeks
• When the bark is pulled back from a branch with wilting leaves, the wood below is typically discolored

Prevention and Control Measures:
• Educate residents to avoid pruning oak trees between mid-March and October, when the oak wilt fungus and its insect vectors are most active.
• Before removing diseased trees, homeowners are advised to:
  o Have a qualified tree care professional inject healthy adjacent red oak trees with the fungicide propiconazole and reevaluate every other year for continued protection. This systemic chemical spreads to all parts of the plant, reducing the risk of above- and below-ground spread of the oak wilt fungus.
  o Where terrain permits, a root-graft barrier should be installed between diseased red oaks and any healthy red oak trees within a 100-foot radius, in order to prevent the spread of oak wilt fungus between the shared root systems of adjacent red oak trees.
• The city does not require the removal of white and bur oak trees infected with oak wilt disease. Both species of tree are more tolerant of the oak wilt disease than red oak trees, and through removal of infected branches and chemical injection, can be preserved. In addition, neither a white nor a bur oak tree will produce a spore mat in the spring after its death.
• Replace removed trees with species other than oak (and preferably outside the beech family, to which oaks belong). A diverse community forest is more resistant to the spread of epidemic-level diseases and pests.

Required Sanitation Measures:
• City staff will identify and mark infected red oak trees throughout Minnetonka.
• Tree removal and all associated work must be completed by the indicated deadline (February 1) to prevent the formation of a spore mat:
  Dispose of the tree(s) and all associated debris by chipping or removal to an approved brush drop site. (With prior approval and oversight by Natural Resources staff, oak wood may be retained as firewood, see below)
  o Debark the stump(s), or cut to within one inch of ground level, or have the stump(s) removed.
• With prior approval, firewood may be kept using one of the following methods:
  o Cut, split and then stack wood loose for air flow (enough space for a chipmunk to crawl between pieces). Then, call forestry staff for an inspection by October 15.
    ▪ If firewood is not dry when inspected, then the wood must be covered with plastic that is 5 millimeters thick or more. Edges of plastic must be buried in the ground to create a tight seal. The wood must then be re-inspected by November 15.
• If the wood has not been properly covered, it will be deemed a nuisance and the property owner will need to remove all of the wood by February 1.
  o Cut wood into three foot sections, creating space between ends of each log to allow for air flow. Perform this work as soon as possible to allow each section to dry. Then, call forestry staff for an inspection by October 15.
    ▪ If the wood is not sufficiently dry, all wood must be covered with plastic that is 5 millimeters thick or more. Edges of plastic must be buried in the ground to create a tight seal. The wood must then be re-inspected by November 15.
  • If wood has not been properly covered, it will be deemed a nuisance and the property owner will need to remove all of the wood by February 1.

• Firewood must remain covered until July 4 of the following year, to prevent sap-feeding beetles from spreading the oak wilt fungus. City staff will perform random firewood inspections to check that control measures remain in place during this time frame.

Amendments to Policy
This policy may be amended only after a public hearing as required by City Code section 840.015.

Adopted by Resolution No. 2018-
Council Meeting of __________________
The City of Minnetonka Ordains:

Section 1. Section 840 of the Minnetonka City Code is amended to read as follows:

SECTION 840. PLANT PEST CONTROL OF DUTCH ELM AND OAK WILT DISEASE.

840.005. Declaration of Policy.

The city council of the city of Minnetonka finds and determines that the health of the oak and elm trees within the municipal limits is threatened by fatal diseases known as oak wilt disease and Dutch elm disease. It has further found and determined that the city council finds that trees and plant species provide numerous environmental, economic and scenic benefits to the public. The council also finds that certain plant pests are likely to cause economic or environmental harm or harm to human health through their impact on trees and plants. The loss of oak and elm trees, tree and plant species growing upon public or private property due to plant pests would substantially depreciate the value of property within the city and impair the safety, good order and general welfare of the public. It is the intention of the council to manage, control and prevent the impacts caused by harmful plant pests spread of these diseases by the adoption of the following regulations.

840.010. City Forester.

The city forester will coordinate all of the city's activities relating to the management, control and prevention of plant pests that are likely to cause economic or environmental harm or harm to human health. The forester will recommend to the council the details of a program for the control of plant pests in the city, oak wilt and Dutch elm diseases, and perform the duties incident to a control program adopted by the city council.

840.015. Plant Pest Oak Wilt and Dutch Elm Disease Program.
1. It is the intention of the city council to conduct a program of plant pest control pursuant to the authority granted by Minn. Stat. § 18.023, as amended. This program is directed specifically at the prevention, control and elimination or management of oak wilt disease, and Dutch elm diseases, the emerald ash borer beetle, and other plant pests that may be identified in the future as likely to cause economic or environmental harm or harm to human health and is undertaken at the recommendation of the commissioner of agriculture.

2. After a public hearing, the city council may adopt a resolution to establish or amend a written program for plant pest control, management and prevention. The program must include the following elements:

   a. identification of plant pests that the council finds may cause significant damage or harm to the city’s economy, environment, or to human health;

   b. a description of the methods for controlling, preventing, or managing each identified plant pest, and the circumstances under which a given method is appropriate based on the particular plant pest, time of the year, the prevalence of the plant pest within the city, or other factors. Methods to be utilized may include injection, installation of a root graft barrier, quarantine of the plant product, or destruction and proper sanitation of the plant or plant product;

   c. the circumstances under which the city will perform the prescribed method of control, prevention or management at the city’s cost; and

   d. the circumstances under which a private property owner must either (i) perform a prescribed method of control, prevention or management at the property owner’s cost or (ii) reimburse the city for the cost of control, prevention or management work performed by the city.

3. The council may amend the plant pest program from time to time as appropriate based upon then-current technical and expert opinions as may be designated by the commissioner of agriculture, and as approved by other appropriate state agencies.

4. The city forester will act as coordinator between the commissioner of agriculture and the council in the conduct of this program.

840.020. Nuisances Declared.

The stricken language is deleted; the underlined language is inserted.
1. The following things are public nuisances, whether located on public or private property:

   a. any plant, conveyance or article that is infected or infested with plant pests identified in the adopted plant pest program;

   b. any living or dead standing red oak tree, or part of it, including logs, branches, stumps, or firewood, infected to any degree with oak wilt disease fungus \textit{Ceratocystis fagacearum};

   b. any living or dead standing elm tree, or part of it, including logs, branches, stumps, or firewood, infected to any degree with the Dutch elm disease fungus \textit{Ophiostoma novo-ulmi} or any tree or elm wood which harbors any of the elm bark beetles \textit{Scolytus multistriatus}, \textit{Scolytus schevyrewi} or \textit{Hylurgopinus rufipes}; and

   c. any dead elm tree or part of one, including logs, branches, stumps, firewood or other elm material that has tight bark, any living or dead ash tree, or part of it, including logs, branches, stumps or firewood found to harbor the emerald ash borer beetle, \textit{Agrilus planipennis Fairmaire}.

2. A person must not permit any public nuisance as defined in subdivision paragraph 1 above to remain on premises owned or controlled by the person within the city. The nuisance may be abated in the manner prescribed by this chapter.

3. Notwithstanding the provisions of paragraph 2 above, residents may apply for an individual permit from the city forester to allow the storage of elm firewood during the period of October 15 to April 1 of the following year, if the tree from which the wood originated was cut down during that same period. Firewood from elm trees cut down after April 1 but before October 14 of any year may not be stored within the city.

840.025. Inspection and Investigation.

1. The forester or authorized representatives may inspect all premises and places within the city as often as appropriate to determine if any condition described in section 840.020(1) exists. The forester will investigate all reported incidence of infestation by oak wilt fungus, Dutch elm fungus, or elm bark

The stricken language is deleted; the underlined language is inserted.
beetles, emerald ash borer beetles, or other plant pests identified in the adopted plant pest program.

2. The forester or authorized representatives may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned to them under this ordinance.

3. The forester or authorized representatives must identify diseased trees by generally accepted field symptoms such as wilting, yellowing of leaves or staining of wood in accordance with Minnesota Rules chapter 1505. Laboratory confirmation by the Minnesota department of agriculture or University of Minnesota will be used only when it is necessary.

840.030. Abatement of Plant Pest Oak Wilt and Dutch Elm Disease Nuisances.

1. Whenever the forester or authorized representative determines that a nuisance exists on public or private property, in abating the nuisances described above, the forester will cause the nuisance to be abated in the manner prescribed by the adopted plant pest program, infected tree or wood to be sprayed, removed, burned or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of oak wilt or Dutch elm diseases. These abatement procedures must be carried out in accordance with current technical and expert opinions as may be designated by the commissioner of agriculture, and as approved by other appropriate state agencies.

2. For abating a nuisance on private property, the forester must follow the procedures specified in section 845.045 of this code. The written notification to the property owner must provide reference to the adopted plant pest program.

3. The city's costs in abating a nuisance on private property shall be a lien on the property and may be collected in the manner provided in section 845.045 of this code.


1. Whenever the forester or authorized representatives finds with reasonable certainty that the nuisance or infestation described above exists in any tree or wood, they will cause the nuisance or infestation to be abated in accordance with...
current city council policy, sections 840.030 and 845.045 of this code, state law, and Minnesota department of agriculture rules.

2. The forester must keep a record of the costs of abatements done under this chapter.

840.040. Spraying Diseased Trees.

1. Whenever the forester determines that any oak tree, elm tree or elm wood is infected with oak wilt or Dutch elm fungus, or Dutch elm beetles, the forester may spray or inject all nearby trees likely to be infected, with an effective concentrate. Spraying or injecting activities authorized by this section will be conducted in accordance with technical and expert opinions and plans of the commissioner of agriculture and under the supervision of the commissioner and his/her agents whenever possible.

2. The notice provisions of section 840.035 apply to spraying operations conducted under this section.

840.045. Transporting Diseased Wood.

The transportation of diseased trees or wood must comply with the standards set forth in the plant pest programs defined under this chapter will be confined to state highways. Loads must be properly secured so that twigs, branches and other debris is not lost while in route.

840.050. Interference Prohibited.

A person must not prevent, delay or interfere with the forester or representatives while they are engaged in the performance of the duties imposed by this chapter.

840.055. Penalty.

A person who violates a provision of this chapter is guilty of a petty misdemeanor, punishable in accordance with state law.

Section 2. Section 845.010 of the Minnetonka City Code, declaring specified conditions to be public nuisances affecting peace, safety and general welfare, is amended by amending subdivisions 19 and 20 and adding a new subdivision 21, to read as follows:

The stricken language is deleted; the underlined language is inserted.
19. gravel driveways maintained in such a manner that the gravel erodes into, or is placed in, a public street or a water resource such as a wetland, creek, pond or lake; and

20. encroachments onto publicly-owned property or tax-forfeited property under public control without a legal right or permission from the public owner, such as the placement of buildings or other objects, the dumping of organic materials, the storing of privately-owned items, and the undertaking of activities affecting the physical nature of the property such as mowing, vegetation removal, or the application of fertilizer, pesticides, or herbicides; or

21. a tree located on private property that the city forester has determined: (a) has defects in its structure, roots or branches that are likely to cause the tree or part of the tree to fail, and (b) is likely to damage public property or improvements when the tree or part of the tree fails.

Section 3. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

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

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

Brad Wiersum, Mayor

Attest:

David E. Maeda, City Clerk

Action on this Ordinance:

Date of introduction:
Date of adoption:
Motion for adoption:

The stricken language is deleted; the underlined language is inserted.
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication:

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

David E. Maeda, City Clerk

The stricken language is deleted; the underlined language is inserted.
City Council Agenda Item #13A
Meeting of May 14, 2018

Brief Description
Temporary on-sale liquor license for The Rotary Club of Minnetonka Foundation, 14600 Minnetonka Blvd.

Recommendation
Hold the public hearing and grant the license

Background
The city has received an application for a temporary on-sale liquor license from the Rotary Club of Minnetonka Foundation (The Rotary Club) for a fundraising event at the Minnetonka Summer Fest. Summer Fest is a city sponsored event and is scheduled for Saturday, June 23, 2018. The Minnetonka Rotary raises money for the Hopkins/Minnetonka communities. All proceeds are used to support the ICA food shelf, high school scholarships, and other local programs for youth and International/Youth Exchange.

The Event
Summer Fest is an all-day event, but The Rotary Club is proposing to sell beer and wine from 4-11 p.m. A site map is attached showing the location of the beer and wine sales area. Patrons will be allowed to walk around the festival but will not be allowed to leave the premise with alcohol. Police officers will be on-site and are also located at the entrance and exit to make sure that any alcohol is not consumed off-site. Rotary Club volunteers will be serving the beer and wine. The volunteers will be supervised by Rotary Club staff members that have completed the MN Licensed Beverage Association bartending and service online training.

Guests purchasing wine and beer will be required to show identification that they are 21-years-of-age or older, and will be required to wear a wristband verifying their age. Anyone with a wristband will be able to purchase drink tickets, but will only be served one drink at a time.

The Rotary Club will again borrow the city’s driver’s license ID reader to use at the event. The ID reader helps with age verification and valid licenses as an additional safety measure for the event.

Additionally, as with all temporary liquor license holders, the licensee is required to provide a certificate of liability insurance that covers the event. The applicant has provided this information.

Recommendation
Staff recommends the council hold the public hearing and grant the temporary liquor license in connection with a fundraising event for The Rotary Club of Minnetonka Foundation.

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

Originated by:
Kathy Leervig, Community Development Coordinator
Summer Festival 2018
Activities

- Cliff Jumper
- Toxic Rush
- Ninja Dome
- Jurassic Survivor
- Train
- Frozen 5 in 1
- Rec. Tent

K-9 Demos
- PD Dunk Tank
- PD Display

Food Vendors

Ice Arena A

Ice Arena B

Minnetonka Amphitheater

Pony Rides Petting Zoo

Wacky Hair

Water Wars

Adrenaline Rush

Carnival Games
City Council Agenda Item #13B
Meeting of May 14, 2018

Brief Description
Temporary on-sale liquor licenses for Unmapped Brewing, LLC, 14625 Excelsior Blvd.

Recommendation
Hold the public hearing and grant the licenses

Background
The city has received an application for two temporary on-sale liquor licenses from Unmapped Brewing, LLC for outdoor events at 14625 Excelsior Blvd. Beer will be sold outside of the licensed premise in the parking lot which will require approval of two temporary liquor licenses.

The Events
June 16, 2018—Anniversary Party. The event will be held from Noon–11 p.m. The event will feature live music, food trucks, outdoor games and activities. Outdoor activities will be done at 10:00 p.m. The outdoor area will be surrounded by a temporary safety fence.

August 4, 2018—Glen Lake Day Festival. The event will be held in conjunction with the Glen Lake Business Association. The event at Unmapped Brewing will be from 11 a.m.–11 p.m. The event will feature live music, food trucks, outdoor games and activities. Outdoor activities will be done at 10:00 p.m. The outdoor area will be surrounded by a temporary safety fence.

Parking and Security
Unmapped Brewing has secured parking for both events at Bethlehem Lutheran Church, Prestige Academy and First Minnetonka City Bank. With site parking and the agreements, there is approximately 353 spaces available. Parking was not an issue for the events in 2017.

There will be two points of entry for all customers/attendees. Each entrance will have employees/volunteers in charge of checking identifications and issuing a wristband to those patrons age 21 and older. Staff at the events will only serve to those wearing a wristband.

Outdoor Activity Including Intoxicating Liquor
Minnesota State Statute 340A.404 subd 10(c) states that a brewery is eligible for a temporary liquor license for social events upon city approval.

Unmapped Brewing has completed the license application and provided proof of insurance. Neighbors within 400 feet of the brewery were notified by Unmapped Brewing of the events. The police department has also been notified of the event.

There were no issues reported from the events last year.
Recommendation

Staff recommends the council hold the public hearing and grant the temporary liquor licenses in connection with both events.

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

Originated by:
   Kathy Leervig, Community Development Coordinator
Location Map

Unmapped Brewing
14625 Excelsior Blvd.

CITY OF MINNETONKA
Unmapped Brewing Co. – Anniversary Party

Date: Saturday, June 16, 2018

Time: 12:00 PM – 11:00 PM (10:00 PM outdoors)

Agenda: Unmapped’s anniversary party will celebrate our first year! We will be bringing back several of our most popular beers from our first year, and will be creating special posters and merchandise for the event.

We will feature live music from 1:00 – 10:00 PM, food trucks, games, and an outdoor beer tent. The outdoor area will be marked with a safety fence.

Bands – Lena Elizabeth, The Rattlers, St. George’s Folly

Food Trucks – DelSur Empanadas, Fused

Games – Giant Jenga, Giant Tic-Tac-Toe, Bags, Dunk Tank

Parking: Unmapped has received permission from Bethlehem Lutheran Church, Prestige Academy, and First Minnetonka City Bank for additional parking, similar to our previous events.
Unmapped Brewing Co. – Glen Lake Day Festival

Date: Saturday, August 4, 2018

Time: 11:00 AM – 11:00 PM (10:00 PM outdoors)

Agenda: Unmapped Brewing Co. is excited to host the Glen Lake Day festival in conjunction with the Glen Lake Business Association.

Several Glen Lake businesses will be setting up tables and activities for the Glen Lake community from 11:00 AM – 1:00 PM. We will be featuring live music (starting at 1:00 PM and lasting until 10:00 PM), food trucks, games, and an outdoor beer tent. The outdoor area will be marked with a safety fence.

Booths:

1) The Glenn – Alzheimer’s Information
2) Gardens by Lunn – Kids Coloring Contest
3) Healthsource Chiropractic – Chair Massages
4) Bethlehem Lutheran Church – Spin Painting
5) Changing Lifestyle Solutions – Duck Pond
6) Lunds/Byerlys – Basketball
7) Gina Maria’s – TBD
8) Prestige Academy – TBD

Bands: School of Rock, Static Jones

Food Trucks: TBD

Parking: Unmapped has received permission from Bethlehem Lutheran Church, Prestige Academy, and First Minnetonka City Bank for additional parking, similar to our previous events.
April 18, 2018

Dear Neighbor,

This letter is to inform you of a request that we, Unmapped Brewing Co., have made application to the City of Minnetonka for an event at the address of 14625 Excelsior Blvd, Minnetonka, MN, 55345. You are receiving this letter as the city requires us to notify everyone within 400 feet of the address above when we request an outdoor activity includes the serving or sale of liquor as described below:

Name of event: Two events: Unmapped’s Anniversary Party & Glen Lake Day Festival

Date(s) of event: June 16, 2018 & August 4, 2018

Time of event: 11:00 AM – 11:00 PM (10:00 PM for outdoor activities)

Type of liquor served: Beer

Outdoor activities planned: We will be serving beer in an outdoor tent, in addition to hosting live music, food trucks, and outdoor activities/games.

This letter serves as your notice that the city will review this application/request at a regular City Council Meeting. The tentative date for the public hearing before the city council is May 14, 2018. The meeting begins at 6:30 p.m. in the Council Chambers of the Minnetonka Community Center at 14600 Minnetonka Boulevard.

If you have any comments, you may contact Kathy Leervig, Community Development Coordinator, City of Minnetonka, at (952) 939-8274 or by e-mail to: kleervig@eminnetonka.com.

Most Sincerely,

Megan Park
Co-Founder
Unmapped Brewing Co.
Unmapped Brewing Co. Grand Opening - Parking Plan

*Glen Lake Station*

Existing Lot: 138 spaces
Event Space: -50 spaces
Available in Remaining Lot: 88 spaces
*Bethlehem Lutheran Church:* 100 spaces
*First Minnetonka City Bank:* 65 spaces
*Glen Lake Optimists Field:* 100 spaces

**Total # Parking Spaces** 353

*pending approval, but both have been contacted and are verifying

**Marketing**
Unmapped's promotional materials will encourage biking and walking
Promotional materials will also indicate LIMITED parking

**Employee & Volunteer Parking**
Roughly 50 employees and volunteers commuting to Unmapped
i. Carpooling will be encouraged
ii. Employees/Volunteers will be instructed to park off-site
ii. Permission has been given by director of Prestige Academy to use their lot for parking (appx. 35 spaces)
*These lots will not be open to the general public and will be marked as such with signage

**Other Ideas**
Temporary parking signs along Excelsior Blvd (up to Williston Rd. intersection)
City Council Agenda Item #13C  
Meeting of May 14, 2018

Brief Description: Ordinance granting an electric franchise to Northern States Power Company

Recommended Action: Conduct a public hearing and adopt the ordinance

Background

At the April 30, 2018 council meeting, the council introduced an ordinance that would grant a franchise to Northern States Power Company (NSP) for use of the municipality’s streets and public property to operate a public electrical utility. The city’s existing franchise with NSP was adopted in 1998 and is scheduled to expire on August 11, 2018.

The proposed ordinance is the result of negotiations between city staff and NSP over the past year. NSP’s representatives and city staff have reached agreement on the terms. Key provisions of the ordinance were identified in the April 30, 2018 staff report. They are repeated below for the benefit of members of the public who may attend the public hearing. Council members should note the sixth bullet below, which describes the substantive changes made to the ordinance since the April 30 meeting. A redline is attached that shows all changes between the ordinance at introduction and as proposed for adoption.

- The franchise is for a 20-year period, which is the maximum allowed by the charter. The parties agree to meet and begin renewal discussions two years before the franchise expires. **New provision: the franchise includes a continuation clause. In the event the parties have not reached an agreement prior to expiration of the franchise, the franchise will be automatically extended up to a maximum of 12 months, and subject to the right of either party to terminate the extension by 90-days’ notice to the other party.**

- The parties agree to attempt in good faith to resolve disputes by use of a mediator prior to initiating any litigation.

- New provision: the parties will meet annually to discuss items of concern related to the franchise, including collaborative infrastructure planning, vegetation management and reliability performance. The city will inform NSP of its proposed infrastructure projects. Upon the city’s request, NSP agrees to provide its records, to the extent available, of abandoned facilities near those projects.

- Electric facilities must be located in a manner not to interfere with the public use of right-of-way. The city reserves the right to impose reasonable regulations on the use of the right-of-way by ordinance (currently Section 1120 of the City Code).

- Except in case of an emergency, NSP must obtain a permit before it opens or disturbs city property or right of way. In case of an emergency, the permit must be obtained within two business days after the emergency.
When NSP disturbs city property or right-of-way, it must restore the same and be responsible for repairs for a two-year period. *Change from April 30, 2018 staff report: city staff and NSP reached an impasse over language that would have expressly addressed the city’s ability to require a construction performance bond from NSP. The disagreement centered on an interpretation of state law: whether the city has the right to require a construction performance bond of right-of-way users with respect to relocation of facilities in addition to installations, maintenance or repairs that are initiated by the right-of-way user (projects for which the parties agreed a bond could be imposed). The parties agreed to let the law control rather than include terms in the franchise agreement. All references to a construction performance bond have been removed from the franchise; the city’s authority to impose a bond will be determined as a matter of law rather than agreement. Note that Section 2.1 acknowledges the city’s right to impose reasonable regulations as allowed by law.*

The city is required to give NSP reasonable notice of proposed city improvements.

NSP will relocate its facilities in public rights-of-way at its own cost, when it is required for a city project and not solely for convenience, subject to two limitations. If the city orders NSP to relocate facilities for a second time within five years, the city must reimburse NSP for non-betterment costs. Also, NSP has the right to seek recovery of relocation costs when ordered to relocate because a street is vacated, improved or realigned for a renewal or redevelopment plan which is subsidized in whole or in part by a federal agency, but only to the extent the city has received federal funding allocated for relocation.

NSP is allowed to trim trees and shrubs located on public property and rights-of-way to the extent necessary to avoid interference with electric facilities. NSP has provided a side letter to explain its notification practices.

NSP must defend and indemnify the city.

The city must give NSP two weeks’ advance notice of a proposed vacation of right-of-way.

The city has the right to charge a franchise fee, by a separate ordinance. The current franchise fee is incorporated into the ordinance. The city has the ability to increase the franchise fee by separate ordinance, provided that changes may not occur more often than once within 12 consecutive months. NSP must make quarterly payments of the franchise fee to the city. *Change: the notification periods for amending the franchise fee have increased from 60 days to 90 days.*

The ordinance requires that, if the city imposes a franchise fee, it must impose an equivalent fee on other energy suppliers, such as Centerpoint. However, that requirement does not apply if the city uses the NSP franchise fee payments only for betterment of electric facilities.

The city charter requires a public hearing on the proposed franchise. NSP has 90 days after adoption of the franchise to accept its terms.
Recommendation

Conduct the public hearing and adopt the ordinance.

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

Originated by:
  Corrine Heine, City Attorney
ELECTRIC FRANCHISE ORDINANCE

ORDINANCE NO. ________.

CITY OF MINNETONKA, HENNEPIN COUNTY, MINNESOTA

AN ORDINANCE GRANTING TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, PERMISSION TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN IN THE CITY OF MINNETONKA, MINNESOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES, INCLUDING NECESSARY POLES, LINES, FIXTURES AND APPURTENANCES, FOR THE FURNISHING OF ELECTRIC ENERGY TO THE CITY, ITS INHABITANTS, AND OTHERS, AND TO USE THE PUBLIC GROUNDS AND PUBLIC WAYS OF THE CITY FOR SUCH PURPOSES.

THE CITY COUNCIL OF THE CITY OF MINNETONKA, HENNEPIN COUNTY, MINNESOTA, ORDAINS:

SECTION 1. DEFINITIONS.

For purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

1.1 City. The City of Minnetonka, County of Hennepin, State of Minnesota.

1.2 City Utility System. Facilities used for providing non-energy related public utility service owned or operated by City or agency thereof, including sewer, storm sewer, traffic signals, street lighting and water service, but excluding facilities for providing heating, other lighting or other forms of energy.

1.3 Commission. The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all or part of the authority to regulate electric retail rates now vested in the Minnesota Public Utilities Commission.

1.4 Company. Northern States Power Company, a Minnesota corporation, its successors and assigns.

1.5 Electric Facilities. Electric transmission and distribution towers, poles, lines, guys, anchors, conduits, fixtures, and necessary appurtenances owned or operated by Company within the City for the purpose of providing electric energy for public use.

1.6 Notice. A written notice served by one party on the other party referencing one or more provisions of this Ordinance. Notice to Company shall be mailed to the General Counsel, 414 Nicollet Mall, 5th Floor, Minneapolis, MN 55401. Notice to the City shall be mailed to the City Manager, City Hall, 14600 Minnetonka Boulevard, Minnetonka, MN 55345. Either party may change its respective address for the purpose of this Ordinance by written notice to the other party.
1.7 **Public Ground.** Land owned by the City for park, open space or similar purpose, which is held for use in common by the public.

1.8 **Public Way.** Any street, alley, walkway or other public right-of-way within the City.

**SECTION 2. ADOPTION OF FRANCHISE.**

2.1 **Grant of Franchise.** City hereby grants Company, until [insert a date that is 20 years from the date this Ordinance is passed and approved by the City Council], the right to transmit and furnish electric energy for light, heat, power and other purposes for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future. For these purposes, Company may construct, operate, repair and maintain Electric Facilities in, on, over, under and across the Public Grounds and Public Ways of City, subject to the provisions of this Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to ordinance and to the further provisions of this franchise agreement. Two years prior to the expiration of this franchise agreement, the parties shall meet and discuss renewal of this franchise.

2.2 **Effective Date; Written Acceptance.** This franchise agreement shall be in force and effect from and after passage of this Ordinance, its acceptance by Company, and its publication as required by law. The City, by Council resolution, may revoke this franchise agreement if Company does not file a written acceptance with the City within 60 days after publication.

2.3 **Service and Rates.** The service to be provided and the rates to be charged by Company for electric service in City are subject to the jurisdiction of the Commission. The area within the City in which Company may provide electric service is subject to the provisions of Minnesota Statutes, Section 216B.40.

2.4 **Publication Expense.** The expense of publication of this Ordinance will be paid by City and reimbursed to City by Company.

2.5 **Dispute Resolution.** If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party in writing of the default and the desired remedy. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used, or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in Hennepin County District Court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

2.6 **Annual Franchise Performance and Planning Meeting; Annual Reporting.** Company and City shall meet annually to discuss items of concern or interest related to this franchise, including, but not limited to, collaborative infrastructure planning, vegetation management and reliability performance.
2.6.1 At the annual meeting, City and Company each will identify possible, known infrastructure projects scheduled for construction or installation in the upcoming construction season. At City’s request for records of abandoned facilities in a specific location, Company will provide reasonably available records to City in the format in which, at the time of the request, Company keeps the records.

2.6.2 Upon request, but not more than annually, Company shall provide to City reporting information on service reliability, including System Average Interruption Duration Index (SAIDI) and other measures as may be beneficial and mutually agreeable, such as Customers Experiencing Multiple Interruptions (CEMI) or other outage data, infrastructure investments and capital improvements, and customer usage and program participation, the exact format and content of which shall all be mutually agreed to by City and Company.

2.7 Continuation of Franchise. If the City and Company are unable to agree on the terms of a new franchise by the time this franchise expires, this franchise will remain in effect until a new franchise is agreed upon, or until 90 days after the City or Company serves written Notice to the other party of its intention to allow the franchise to expire, but in no event shall this franchise continue for more than one year after expiration of the 20-year term set forth in Section 2.1.

SECTION 3. LOCATION, OTHER REGULATIONS.

3.1 Location of Facilities. Electric Facilities shall be located, constructed and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System. Electric Facilities shall be located on Public Grounds as determined by the City. Company’s construction, reconstruction, operation, repair, maintenance and location of Electric Facilities shall be subject to permits if required by the Minnetonka City Code as it may be amended from time to time, and to other reasonable regulations of the City to the extent not in direct conflict with the terms of this franchise agreement. Company may abandon underground Electric Facilities in place, provided: Company must promptly notify City when Company decides to abandon underground Electric Facilities in place and, at the City’s request, Company will remove abandoned metal or concrete encased conduit interfering with a City improvement project, but only to the extent such conduit is uncovered by excavation as part of the City improvement project.

3.2 Field Locations. Company shall provide field locations for its underground Electric Facilities within City consistent with the requirements of Minnesota Statutes, Chapter 216D.

3.3 Street Openings. Company shall not open or disturb any Public Ground or Public Way for any purpose without first having obtained a permit from the City, if required by the Minnetonka City Code as it may be amended from time to time, for which the City may impose a reasonable fee. Permit conditions imposed on Company shall not be more burdensome than those imposed on other utilities for similar facilities or work. Company may, however, open and disturb any Public Ground or Public Way without permission from the City where an emergency exists requiring the immediate repair of Electric Facilities. In such event Company shall notify the City by telephone and email to the office designated by the City before commencing the emergency repair, if reasonably possible, but in any event as soon as practicable. Not later than the second business day thereafter, Company shall obtain any required permits and pay any required fees.
3.4 Restoration. After undertaking any work requiring the opening of any Public Ground or Public Way, Company shall restore the same, including paving and its foundation, to as good a condition as formerly existed, and shall maintain any paved surface in good condition for two years thereafter. The work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the Public Ground or Public Way in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration at the expense of Company. Company shall pay to the City the cost of such work done for or performed by the City. This remedy shall be in addition to any other remedy available to the City for noncompliance with this Section 3.4, but the City hereby waives any requirement for Company to post a construction performance bond, certificate of insurance, letter of credit or any other form of security or assurance that may be required, under a separate existing or future ordinance of the City, of a person or entity obtaining the City’s permission to install, replace or maintain facilities in a Public Way. Notwithstanding the foregoing, the City reserves the right to require a performance bond for new facilities installation, relocation, replacement, or repairs, when the Company’s completion of its work is required in order for the City to proceed with its work for constructing a public improvement project to the Public Way. This remedy shall be in addition to any other remedy available to the City for noncompliance with this Section 3.4.

3.5 Avoid Damage to Electric Facilities. Nothing in this Ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging Electric Facilities while performing any activity.

3.6 Notice of Improvements. The City must give Company reasonable notice of plans for improvements to Public Grounds or Public Ways where the City has reason to believe that Electric Facilities may affect or be affected by the improvement. The notice must contain: (i) the nature and character of the improvements, (ii) the Public Grounds and Public Ways upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the City will start the work, and (v) if more than one Public Ground or Public Way is involved, the order in which the work is to proceed. The notice must be given to Company a sufficient length of time in advance of the actual commencement of the work to permit Company to make any necessary additions, alterations or repairs to its Electric Facilities. In an emergency situation, the City shall notify Company by telephone and email to the representative designated by the Company before commencing the emergency work, if reasonably possible, but in any event as soon as practicable.

3.7 Shared Use of Poles. Company shall make space available on its poles or towers for City fire, water utility, police or other City facilities whenever such use will not interfere with the use of such poles or towers by Company, by another electric utility, by a telephone utility, or by any cable television company or other form of communication company. In addition, the City shall pay for any added cost incurred by Company because of such use by City.
SECTION 4. RELOCATIONS.

4.1 Relocation of Electric Facilities in Public Ways. If the City determines to vacate a Public Way for a City improvement project, or at City’s cost to grade, regrade, or change the line of any Public Way, or construct or reconstruct any City Utility System in any Public Way, it may order Company to relocate its Electric Facilities located therein if relocation is reasonably necessary to accomplish the City’s proposed public improvement. Except as provided in Section 4.3, Company shall relocate its Electric Facilities at its own expense. The City shall give Company reasonable notice of plans to vacate for a City improvement project, or to grade, regrade, or change the line of any Public Way or to construct or reconstruct any City Utility System. Except in the event of a natural disaster, if a relocation is ordered within five years of a prior relocation of the same Electric Facilities, which was made at Company expense, the City shall reimburse Company for non-betterment costs on a time and material basis, without any markup. Provided, however, that if a subsequent relocation is required because of the extension of a City Utility System to a previously unserved area, Company may be required to make the subsequent relocation at its expense. Nothing in this Ordinance requires Company to relocate, remove, replace or reconstruct at its own expense its Electric Facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the City and is not reasonably necessary for the construction or reconstruction of a Public Way or City Utility System or other City improvement. The City reserves the right to require a performance bond as provided in Section 3.4 above.

4.2 Relocation of Electric Facilities in Public Ground. City may require Company, at Company’s expense, to relocate or remove its Electric Facilities from Public Ground upon a finding by City that the Electric Facilities have become or will become a substantial impairment to the existing or proposed public use of the Public Ground.

4.3 Projects with Federal Funding. Relocation, removal or rearrangement of any Company Electric Facilities made necessary because of a federally-aided state trunk highway project shall be governed by the provisions of Minnesota Statutes, Section 161.46, as supplemented or amended. It is understood that the rights herein granted to Company are valuable property rights. City shall not order Company to remove or relocate its Electric Facilities without compensation when a Public Way is vacated, improved or realigned for a renewal or redevelopment plan which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless the reasonable non-betterment costs of such relocation are first paid to Company. The City is obligated to pay Company only for those portions of its relocation costs for which City has received federal funding specifically allocated for relocation costs in the amount requested by the Company.

4.4 No Waiver. The provisions of this franchise apply only to facilities constructed in reliance on a franchise from the City and shall not be construed to waive or modify any rights obtained by Company for installations within a Company right-of-way acquired by easement or prescriptive right before the applicable Public Ground or Public Way was established, or Company’s rights under state or county permit.

SECTION 5. TREE TRIMMING.

Company may trim all trees and shrubs in the Public Grounds and Public Ways of City to the extent Company finds necessary to avoid interference with the proper construction, operation, repair and maintenance of any Electric Facilities installed hereunder, provided that Company shall save the City
harmless from any liability arising therefrom, and subject to permit or other reasonable regulation by the City.

SECTION 6. INDEMNIFICATION.

6.1 Indemnity of City. Company shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the Electric Facilities located in the Public Grounds and Public Ways. The City shall not be indemnified for that portion of any losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City’s negligence as to the issuance of permits for, or inspection of, Company’s plans or work. The City shall not be indemnified if the injury or damage results from the performance in a proper manner, of acts reasonably deemed hazardous by Company, and such performance is nevertheless ordered or directed by City after notice of Company’s determination.

6.2 Defense of City. In the event the Company must indemnify the City against a claim, Company at its sole cost and expense shall defend the City against such claim if the City provides written notice to Company within a reasonable period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such claim or litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City. Company, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf.

SECTION 7. VACATION OF PUBLIC WAYS.

The City shall give Company at least two weeks prior written notice of a proposed vacation of a Public Way. The City and Company shall comply with Minnesota Rule 7819.3200 with respect to any request for vacation. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way under Minnesota Statutes, Section 160.29.

SECTION 8. CHANGE IN FORM OF GOVERNMENT.

Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.

SECTION 9. FRANCHISE FEE.

9.1 Fee Schedule. During the term of the franchise hereby granted, and in lieu of any permit or other fees being imposed on Company, the City may impose on Company a franchise fee by collecting the amounts indicated in a Fee Schedule set forth in a separate ordinance from each customer in the designated Company Customer Class. The parties have agreed that the franchise fee collected by the Company and paid to City in accordance with this Section 9 shall initially be equal to the amounts indicated in the Fee Schedule adopted by ordinance No. 2007-29 and set forth again below:

<table>
<thead>
<tr>
<th>Class</th>
<th>Fee Per Premise Per Month</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Customer Class</td>
<td>Fee</td>
</tr>
<tr>
<td>---------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Residential</td>
<td>$2.50</td>
</tr>
<tr>
<td>Sm C &amp; I – Non-Dem</td>
<td>$4.50</td>
</tr>
<tr>
<td>Sm C &amp; I – Demand</td>
<td>$4.50</td>
</tr>
<tr>
<td>Large C &amp; I</td>
<td>$4.50</td>
</tr>
<tr>
<td>Public Street Ltg</td>
<td>$0.00</td>
</tr>
<tr>
<td>Muni Pumping –N/D</td>
<td>$4.50</td>
</tr>
<tr>
<td>Muni Pumping – Dem</td>
<td>$4.50</td>
</tr>
</tbody>
</table>

9.2 **Separate Ordinance.** Any change to the franchise fee established by the Fee Schedule set out in Section 9.1 above shall be imposed by a separate ordinance duly adopted by the City Council, which ordinance shall not be adopted until at least 90 days after written notice enclosing such proposed ordinance has been served upon Company by certified mail. The change in fee shall not become effective until the beginning of a Company billing month at least 90 days after written notice enclosing such adopted ordinance has been served upon Company by certified mail. Section 2.5 shall constitute the sole remedy for solving disputes between Company and the City in regard to the interpretation of, or enforcement of, the separate ordinance. A separate ordinance which imposes a lesser franchise fee on the residential class of customers than the amount set forth in Section 9.1 above shall not be effective against Company unless the fee imposed on each other customer classification is reduced proportionately in the same or greater amount per class as the reduction represented by the lesser fee on the residential class. The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than once within any twelve (12) consecutive calendar months.

9.3 **Terms Defined.** For the purpose of this Section 9, the following definitions apply:

9.3.1 “Customer Class” shall refer to the classes listed on the Fee Schedule and as defined or determined in Company’s electric tariffs on file with the Commission.

9.3.2 “Fee Schedule” refers to the schedule in Section 9.1 setting forth the various customer classes from which a franchise fee would be collected if a separate ordinance were implemented immediately after the effective date of this franchise agreement. The Fee Schedule in the separate ordinance may include new Customer Class added by Company to its electric tariffs after the effective date of this franchise agreement.

9.4 **Collection of the Fee.** The franchise fee shall be payable quarterly and shall be based on the amount collected by Company during complete billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise fee for the applicable customer classification in all customer billings for electric service in each class. The payment shall be due the last business day of the month following the end of each quarter (payments being due January 31, April 30, July 31 and October 31 during each calendar year). The time and manner of collecting the franchise fee is subject to the approval of the Commission, and Company agrees not to take any action to delay or interfere with Commission approval. No franchise fee shall be payable by Company if Company is legally unable to first collect an amount equal to the franchise fee from its customers in each applicable class of customers by imposing a surcharge in Company’s applicable rates for electric service. Company may pay the City the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the City at reasonable times provided that the City and its designated
representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers. In addition, the Company agrees to provide, upon City request, but not more than annually, a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any write-offs, recoveries or refunds.

9.5 **Equivalent Fee Requirement.** The separate ordinance imposing the fee shall not be effective against Company unless it lawfully imposes and the City quarterly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from sales of energy within the City by any other energy supplier, provided that, as to such a supplier, the City has the authority to require a franchise fee or to impose a tax. The “same or greater equivalent amount” shall be measured, if practicable, by comparing amounts collected as a franchise fee from each similar customer, or by comparing, as to similar customers the percentage of the annual bill represented by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable to energy sales for any energy use related to heating, cooling or lighting, or to run machinery and appliances, but shall not apply to energy sales for the purpose of providing fuel for vehicles. If the Company specifically consents in writing to a franchise or separate ordinance collecting or failing to collect a fee from another energy supplier in contravention of this Section 9.5, the foregoing conditions will be waived to the extent of such written consent.

9.6 **Exception to Equivalent Fee Requirement.** The requirement in Section 9.5 to impose an equivalent fee on any other energy supplier does not apply if the separate ordinance imposing the fee on Company requires the City to use the franchise fee collected for no purpose other than betterment of the Electric Facilities, including such things as placing the Electric Facilities underground or installing decorative lighting above ground, and incorporates the provisions of this Section 9.6 by reference or restatement. If the City wishes to take advantage of this exception, the City must separately account for all franchise fees received from Company. The City must provide a report to Company no later than 30 days after the due date for each franchise fee payment indicating the current balance of the franchise fee account since the last report, the budgeted expenditures from the account for the current calendar year, and the amount committed by contract for expenditures in the current budget year. The City will promptly give Notice to Company if and when the unallocated balance reaches $10,000,000.00. The unallocated balance means the balance minus any amounts committed by contract for expenditures. Upon receiving this Notice, Company will cease collection at the end of the first full monthly billing cycle that occurs after receipt of the Notice, and thereafter Company will have no further obligation to pay the franchise fee to the City until the first billing month commencing 90 days after Notice that the unallocated balance has fallen below $3,000,000.00. The City will have no obligation to return any amount which exceeds the $10,000,000.00 unallocated balance or any balance remaining upon any repeal of the separate ordinance by the City, provided such balance will be reinstated by the City to the separate account if said separate ordinance is subsequently reenacted. Any franchise fee imposed on Company as authorized by this Section 9.6 shall be the exclusive fee payable by Company under this franchise until the City, by ordinance, repeals the separate ordinance imposing the fee under this Section 9.6. If the Company provides the services for the betterment of the Electric Facilities, Company agrees to make its records regarding its costs available for inspection by the City at reasonable times and at the City’s own expense.
SECTION 10. PROVISIONS OF ORDINANCE.

10.1 Severability. Every section, provision, or part of this Ordinance is declared separate from every other section, provision, or part and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. This Ordinance and other ordinances of the City shall be construed to give effect to all provisions to the maximum extent possible. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

10.2 Limitation on Applicability. This Ordinance constitutes a franchise agreement between the City and Company as the only parties, and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

SECTION 11. AMENDMENT PROCEDURE.

Either party to this franchise agreement may at any time propose that the agreement be amended to address a subject of concern and the other party will consider whether it agrees that the amendment is mutually appropriate. If an amendment is agreed upon, this Ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company’s written consent thereto with the City Clerk within 90 days after the date of final passage by the City of the amendatory ordinance.

SECTION 12. PREVIOUS FRANCHISES SUPERSEDED.

This franchise supersedes any previous electric franchise granted to Company or its predecessor. Upon Company acceptance of this franchise under Section 2.2, the previous franchise shall terminate; provided, however, that the franchise fee ordinance duly adopted on August 20, 2007 as Ordinance No. 2007-29 and implemented by the Company, shall continue in full force and effect.

Passed and approved: _________________________, 2018.

____________________________________
Mayor

Attest:

________________________________
City Clerk

Date Published:____________________: ____________________
April 25, 2018

Mr. Brad Wiersum
Mayor, City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN  55345

Dear Mayor:

During recent franchise negotiations, concerns were brought forward regarding Xcel Energy’s vegetation management efforts in the City of Minnetonka, as well as concerns over removal of abandoned facilities. This letter outlining Xcel Energy’s commitments with respect to trimming trees and tree removal near our distribution lines, and also provides additional clarification on removal of abandoned facilities.

**Vegetation Management Commitments**

- Xcel Energy is responsible for maintaining trees near energized equipment, but does not routinely prune from pole-to-house lines, except when hazardous conditions exist.
- Xcel Energy will attempt to maintain trees on appropriate cycles as a proactive approach to preventing power outages.
- Xcel Energy shall provide city of Minnetonka with advance notice of tree maintenance activities within the city (other than trimming resulting from an emergency); that reasonable notice shall be given and reasonable notice will depend on the circumstances and the need for the tree work.
- The residents in a distribution maintenance area will be notified by outbound phone call of the scheduled maintenance work. They will receive a contact name and phone number in that message. They need to have an active/good phone number with Xcel Energy to reach them.
- Other items of concern related to Xcel Energy’s vegetation management practices may be discussed during the annual franchise meeting between the Company and the City.

**Abandoned Facilities**

- The franchise provides that Company will remove abandoned metal or concrete encased conduit interfering with a City improvement project, but only to the extent such conduit is uncovered by excavation as part of the City improvement project. “Uncovered” generally means that City has uncovered the conduit enough along the length of the project so that the Company can determine whether the facilities belong to the Company. Removal is limited to the length of conduit that interferes with the City’s improvement project.
Please let me know if you have any questions regarding this letter.

Sincerely,

[Signature]

Michelle Swanson
Manager, Community Relations & Economic Development
ELECTRIC FRANCHISE ORDINANCE

ORDINANCE NO. _______.

CITY OF MINNETONKA, HENNEPIN COUNTY, MINNESOTA

AN ORDINANCE GRANTING TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, PERMISSION TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN IN THE CITY OF MINNETONKA, MINNESOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES, INCLUDING NECESSARY POLES, LINES, FIXTURES AND APPURTENANCES, FOR THE FURNISHING OF ELECTRIC ENERGY TO THE CITY, ITS INHABITANTS, AND OTHERS, AND TO USE THE PUBLIC GROUNDS AND PUBLIC WAYS OF THE CITY FOR SUCH PURPOSES.

THE CITY COUNCIL OF THE CITY OF MINNETONKA, HENNEPIN COUNTY, MINNESOTA, ORDAINS:

SECTION 1. DEFINITIONS.

For purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

1.1 City. The City of Minnetonka, County of Hennepin, State of Minnesota.

1.2 City Utility System. Facilities used for providing non-energy related public utility service owned or operated by City or agency thereof, including sewer, storm sewer, traffic signals, street lighting and water service, but excluding facilities for providing heating, other lighting or other forms of energy.

1.3 Commission. The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all or part of the authority to regulate electric retail rates now vested in the Minnesota Public Utilities Commission.

1.4 Company. Northern States Power Company, a Minnesota corporation, its successors and assigns.

1.5 Electric Facilities. Electric transmission and distribution towers, poles, lines, guys, anchors, conduits, fixtures, and necessary appurtenances owned or operated by Company within the City for the purpose of providing electric energy for public use.

1.6 Notice. A written notice served by one party on the other party referencing one or more provisions of this Ordinance. Notice to Company shall be mailed to the General Counsel, 414 Nicollet Mall, 5th Floor, Minneapolis, MN 55401. Notice to the City shall be mailed to the City Manager, City Hall, 14600 Minnetonka Boulevard, Minnetonka, MN 55345. Either party may change its respective address for the purpose of this Ordinance by written notice to the other party.
1.7 **Public Ground.** Land owned by the City for park, open space or similar purpose, which is held for use in common by the public.

1.8 **Public Way.** Any street, alley, walkway or other public right-of-way within the City.

SECTION 2. ADOPTION OF FRANCHISE.

2.1 **Grant of Franchise.** City hereby grants Company, until May 14, 2038, the right to transmit and furnish electric energy for light, heat, power and other purposes for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future. For these purposes, Company may construct, operate, repair and maintain Electric Facilities in, on, over, under and across the Public Grounds and Public Ways of City, subject to the provisions of this Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to ordinance and to the further provisions of this franchise agreement. Two years prior to the expiration of this franchise agreement, the parties shall meet and discuss renewal of this franchise.

2.2 **Effective Date; Written Acceptance.** This franchise agreement shall be in force and effect from and after passage of this Ordinance, its acceptance by Company, and its publication as required by law. The City, by Council resolution, may revoke this franchise agreement if Company does not file a written acceptance with the City within 60 days after publication.

2.3 **Service and Rates.** The service to be provided and the rates to be charged by Company for electric service in City are subject to the jurisdiction of the Commission. The area within the City in which Company may provide electric service is subject to the provisions of Minnesota Statutes, Section 216B.40.

2.4 **Publication Expense.** The expense of publication of this Ordinance will be paid by City and reimbursed to City by Company.

2.5 **Dispute Resolution.** If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party in writing of the default and the desired remedy. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used, or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in Hennepin County District Court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

2.6 **Annual Franchise Performance and Planning Meeting; Annual Reporting.** Company and City shall meet annually to discuss items of concern or interest related to this franchise, including, but not limited to, collaborative infrastructure planning, vegetation management and reliability performance.

2.6.1 At the annual meeting, City and Company each will identify possible, known infrastructure projects scheduled for construction or installation in the upcoming construction
season. At City’s request for records of abandoned facilities in a specific location, Company will provide reasonably available records to City in the format in which, at the time of the request, Company keeps the records.

2.6.2 Upon request, but not more than annually, Company shall provide to City reporting information on service reliability, including System Average Interruption Duration Index (SAIDI) and other measures as may be beneficial and mutually agreeable, such as Customers Experiencing Multiple Interruptions (CEMI) or other outage data, infrastructure investments and capital improvements, and customer usage and program participation, the exact format and content of which shall all be mutually agreed to by City and Company.

2.7 Continuation of Franchise. If the City and Company are unable to agree on the terms of a new franchise by the time this franchise expires, this franchise will remain in effect until a new franchise is agreed upon, or until 90 days after the City or Company serves written Notice to the other party of its intention to allow the franchise to expire, but in no event shall this franchise continue for more than one year after expiration of the 20-year term set forth in Section 2.1.

SECTION 3. LOCATION, OTHER REGULATIONS.

3.1 Location of Facilities. Electric Facilities shall be located, constructed and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System. Electric Facilities shall be located on Public Grounds as determined by the City. Company’s construction, reconstruction, operation, repair, maintenance and location of Electric Facilities shall be subject to permits if required by the Minnetonka City Code as it may be amended from time to time, and to other reasonable regulations of the City to the extent not in direct conflict with the terms of this franchise agreement. Company may abandon underground Electric Facilities in place, provided: Company must promptly notify City when Company decides to abandon underground Electric Facilities in place and, at the City’s request, Company will remove abandoned metal or concrete encased conduit interfering with a City improvement project, but only to the extent such conduit is uncovered by excavation as part of the City improvement project.

3.2 Field Locations. Company shall provide field locations for its underground Electric Facilities within City consistent with the requirements of Minnesota Statutes, Chapter 216D.

3.3 Street Openings. Company shall not open or disturb any Public Ground or Public Way for any purpose without first having obtained a permit from the City, if required by the Minnetonka City Code as it may be amended from time to time, for which the City may impose a reasonable fee. Permit conditions imposed on Company shall not be more burdensome than those imposed on other utilities for similar facilities or work. Company may, however, open and disturb any Public Ground or Public Way without permission from the City where an emergency exists requiring the immediate repair of Electric Facilities. In such event Company shall notify the City by telephone and email to the office designated by the City before commencing the emergency repair, if reasonably possible, but in any event as soon as practicable. Not later than the second business day thereafter, Company shall obtain any required permits and pay any required fees.

3.4 Restoration. After undertaking any work requiring the opening of any Public Ground or Public Way, Company shall restore the same, including paving and its foundation, to as good a
condition as formerly existed, and shall maintain any paved surface in good condition for two years thereafter. The work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the Public Ground or Public Way in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration at the expense of Company. Company shall pay to the City the cost of such work done for or performed by the City. This remedy shall be in addition to any other remedy available to the City for noncompliance with this Section 3.4.

3.5 Avoid Damage to Electric Facilities. Nothing in this Ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging Electric Facilities while performing any activity.

3.6 Notice of Improvements. The City must give Company reasonable notice of plans for improvements to Public Grounds or Public Ways where the City has reason to believe that Electric Facilities may affect or be affected by the improvement. The notice must contain: (i) the nature and character of the improvements, (ii) the Public Grounds and Public Ways upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the City will start the work, and (v) if more than one Public Ground or Public Way is involved, the order in which the work is to proceed. The notice must be given to Company a sufficient length of time in advance of the actual commencement of the work to permit Company to make any necessary additions, alterations or repairs to its Electric Facilities. In an emergency situation, the City shall notify Company by telephone and email to the representative designated by the Company before commencing the emergency work, if reasonably possible, but in any event as soon as practicable.

3.7 Shared Use of Poles.

Company shall make space available on its poles or towers for City fire, water utility, police or other City facilities whenever such use will not interfere with the use of such poles or towers by Company, by another electric utility, by a telephone utility, or by any cable television company or other form of communication company. In addition, the City shall pay for any added cost incurred by Company because of such use by City.

SECTION 4. RELOCATIONS.

4.1 Relocation of Electric Facilities in Public Ways. If the City determines to vacate a Public Way for a City improvement project, or at City’s cost to grade, regrade, or change the line of any Public Way, or construct or reconstruct any City Utility System in any Public Way, it may order Company to relocate its Electric Facilities located therein if relocation is reasonably necessary to accomplish the City’s proposed public improvement. Except as provided in Section 4.3, Company shall relocate its Electric Facilities at its own expense. The City shall give Company reasonable notice of plans to vacate for a City improvement project, or to grade, regrade, or change the line of any Public Way or to construct or reconstruct any City Utility System. Except in the event of a natural disaster, if a relocation is ordered within five years of a prior relocation of the same Electric Facilities, which was made at Company expense, the City shall reimburse Company for non-betterment costs on a time and material basis, without any markup. Provided, however, that if a subsequent relocation is required
because of the extension of a City Utility System to a previously unserved area, Company may be required to make the subsequent relocation at its expense. Nothing in this Ordinance requires Company to relocate, remove, replace or reconstruct at its own expense its Electric Facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the City and is not reasonably necessary for the construction or reconstruction of a Public Way or City Utility System or other City improvement.

4.2 **Relocation of Electric Facilities in Public Ground.** City may require Company, at Company’s expense, to relocate or remove its Electric Facilities from Public Ground upon a finding by City that the Electric Facilities have become or will become a substantial impairment to the existing or proposed public use of the Public Ground.

4.3 **Projects with Federal Funding.** Relocation, removal or rearrangement of any Company Electric Facilities made necessary because of a federally-aided state trunk highway project shall be governed by the provisions of Minnesota Statutes, Section 161.46, as supplemented or amended. It is understood that the rights herein granted to Company are valuable property rights. City shall not order Company to remove or relocate its Electric Facilities without compensation when a Public Way is vacated, improved or realigned for a renewal or redevelopment plan which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless the reasonable non-betterment costs of such relocation are first paid to Company. The City is obligated to pay Company only for those portions of its relocation costs for which City has received federal funding specifically allocated for relocation costs in the amount requested by the Company.

4.4 **No Waiver.** The provisions of this franchise apply only to facilities constructed in reliance on a franchise from the City and shall not be construed to waive or modify any rights obtained by Company for installations within a Company right-of-way acquired by easement or prescriptive right before the applicable Public Ground or Public Way was established, or Company's rights under state or county permit.

**SECTION 5. TREE TRIMMING.**

Company may trim all trees and shrubs in the Public Grounds and Public Ways of City to the extent Company finds necessary to avoid interference with the proper construction, operation, repair and maintenance of any Electric Facilities installed hereunder, provided that Company shall save the City harmless from any liability arising therefrom, and subject to permit or other reasonable regulation by the City.

**SECTION 6. INDEMNIFICATION.**

6.1 **Indemnity of City.** Company shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the Electric Facilities located in the Public Grounds and Public Ways. The City shall not be indemnified for that portion of any losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work. The City shall not be indemnified if the injury or damage results from the performance in a proper manner, of acts reasonably deemed hazardous by Company, and such performance is nevertheless ordered or directed by City after notice of Company's determination.
6.2 Defense of City. In the event the Company must indemnify the City against a claim, Company at its sole cost and expense shall defend the City against such claim if the City provides written notice to Company within a reasonable period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such claim or litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City. Company, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf.

SECTION 7. VACATION OF PUBLIC WAYS.

The City shall give Company at least two weeks prior written notice of a proposed vacation of a Public Way. The City and Company shall comply with Minnesota Rule 7819.3200 with respect to any request for vacation. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way under Minnesota Statutes, Section 160.29.

SECTION 8. CHANGE IN FORM OF GOVERNMENT.

Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.

SECTION 9. FRANCHISE FEE.

9.1 Fee Schedule. During the term of the franchise hereby granted, and in lieu of any permit or other fees being imposed on Company, the City may impose on Company a franchise fee by collecting the amounts indicated in a Fee Schedule set forth in a separate ordinance from each customer in the designated Company Customer Class. The parties have agreed that the franchise fee collected by the Company and paid to City in accordance with this Section 9 shall initially be equal to the amounts indicated in the Fee Schedule adopted by ordinance No. 2007-29 and set forth again below:

<table>
<thead>
<tr>
<th>Class</th>
<th>Fee Per Premise Per Month</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>$ 2.50</td>
</tr>
<tr>
<td>Sm C &amp; I – Non-Dem</td>
<td>$ 4.50</td>
</tr>
<tr>
<td>Sm C &amp; I – Demand</td>
<td>$ 4.50</td>
</tr>
<tr>
<td>Large C &amp; I</td>
<td>$ 4.50</td>
</tr>
<tr>
<td>Public Street Ltg</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>Muni Pumping – N/D</td>
<td>$ 4.50</td>
</tr>
<tr>
<td>Muni Pumping – Dem</td>
<td>$ 4.50</td>
</tr>
</tbody>
</table>

9.2 Separate Ordinance. Any change to the franchise fee established by the Fee Schedule set out in Section 9.1 above shall be imposed by a separate ordinance duly adopted by the City Council, which ordinance shall not be adopted until at least 90 days after written notice enclosing such proposed ordinance has been served upon Company by certified mail. The change
in fee shall not become effective until the beginning of a Company billing month at least 90 days after written notice enclosing such adopted ordinance has been served upon Company by certified mail. Section 2.5 shall constitute the sole remedy for solving disputes between Company and the City in regard to the interpretation of, or enforcement of, the separate ordinance. A separate ordinance which imposes a lesser franchise fee on the residential class of customers than the amount set forth in Section 9.1 above shall not be effective against Company unless the fee imposed on each other customer classification is reduced proportionately in the same or greater amount per class as the reduction represented by the lesser fee on the residential class. The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than once within any twelve (12) consecutive calendar months.

9.3 **Terms Defined.** For the purpose of this Section 9, the following definitions apply:

9.3.1 “Customer Class” shall refer to the classes listed on the Fee Schedule and as defined or determined in Company’s electric tariffs on file with the Commission.

9.3.2 “Fee Schedule” refers to the schedule in Section 9.1 setting forth the various customer classes from which a franchise fee would be collected if a separate ordinance were implemented immediately after the effective date of this franchise agreement. The Fee Schedule in the separate ordinance may include new Customer Class added by Company to its electric tariffs after the effective date of this franchise agreement.

9.4 **Collection of the Fee.** The franchise fee shall be payable quarterly and shall be based on the amount collected by Company during complete billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise fee for the applicable customer classification in all customer billings for electric service in each class. The payment shall be due the last business day of the month following the end of each quarter (payments being due January 31, April 30, July 31 and October 31 during each calendar year). The time and manner of collecting the franchise fee is subject to the approval of the Commission, and Company agrees not to take any action to delay or interfere with Commission approval. No franchise fee shall be payable by Company if Company is legally unable to first collect an amount equal to the franchise fee from its customers in each applicable class of customers by imposing a surcharge in Company’s applicable rates for electric service. Company may pay the City the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the City at reasonable times provided that the City and its designated representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers. In addition, the Company agrees to provide, upon City request, but not more than annually, a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any write-offs, recoveries or refunds.

9.5 **Equivalent Fee Requirement.** The separate ordinance imposing the fee shall not be effective against Company unless it lawfully imposes and the City quarterly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from sales of energy within the City by any other energy supplier, provided that, as to such a supplier, the City has the authority to require a franchise fee or to impose a tax. The “same or greater equivalent amount” shall be measured, if practicable, by comparing amounts collected as a franchise fee from each similar customer, or by
comparing, as to similar customers the percentage of the annual bill represented by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable to energy sales for any energy use related to heating, cooling or lighting, or to run machinery and appliances, but shall not apply to energy sales for the purpose of providing fuel for vehicles. If the Company specifically consents in writing to a franchise or separate ordinance collecting or failing to collect a fee from another energy supplier in contravention of this Section 9.5, the foregoing conditions will be waived to the extent of such written consent.

9.6 Exception to Equivalent Fee Requirement. The requirement in Section 9.5 to impose an equivalent fee on any other energy supplier does not apply if the separate ordinance imposing the fee on Company requires the City to use the franchise fee collected for no purpose other than betterment of the Electric Facilities, including such things as placing the Electric Facilities underground or installing decorative lighting above ground, and incorporates the provisions of this Section 9.6 by reference or restatement. If the City wishes to take advantage of this exception, the City must separately account for all franchise fees received from Company. The City must provide a report to Company no later than 30 days after the due date for each franchise fee payment indicating the current balance of the franchise fee account since the last report, the budgeted expenditures from the account for the current calendar year, and the amount committed by contract for expenditures in the current budget year. The City will promptly give Notice to Company if and when the unallocated balance reaches $10,000,000.00. The unallocated balance means the balance minus any amounts committed by contract for expenditures. Upon receiving this Notice, Company will cease collection at the end of the first full monthly billing cycle that occurs after receipt of the Notice, and thereafter Company will have no further obligation to pay the franchise fee to the City until the first billing month commencing 90 days after Notice that the unallocated balance has fallen below $3,000,000.00. The City will have no obligation to return any amount which exceeds the $10,000,000.00 unallocated balance or any balance remaining upon any repeal of the separate ordinance by the City, provided such balance will be reinstated by the City to the separate account if said separate ordinance is subsequently reenacted. Any franchise fee imposed on Company as authorized by this Section 9.6 shall be the exclusive fee payable by Company under this franchise until the City, by ordinance, repeals the separate ordinance imposing the fee under this Section 9.6. If the Company provides the services for the betterment of the Electric Facilities, Company agrees to make its records regarding its costs available for inspection by the City at reasonable times and at the City’s own expense.

SECTION 10. PROVISIONS OF ORDINANCE.

10.1 Severability. Every section, provision, or part of this Ordinance is declared separate from every other section, provision, or part and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. This Ordinance and other ordinances of the City shall be construed to give effect to all provisions to the maximum extent possible. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

10.2 Limitation on Applicability. This Ordinance constitutes a franchise agreement between the City and Company as the only parties, and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.
SECTION 11. AMENDMENT PROCEDURE.

Either party to this franchise agreement may at any time propose that the agreement be amended to address a subject of concern and the other party will consider whether it agrees that the amendment is mutually appropriate. If an amendment is agreed upon, this Ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company's written consent thereto with the City Clerk within 90 days after the date of final passage by the City of the amendatory ordinance.

SECTION 12. PREVIOUS FRANCHISES SUPERSEDED.

This franchise supersedes any previous electric franchise granted to Company or its predecessor. Upon Company acceptance of this franchise under Section 2.2, the previous franchise shall terminate; provided, however, that the franchise fee ordinance duly adopted on August 20, 2007 as Ordinance No. 2007-29 and implemented by the Company, shall continue in full force and effect.

Passed and approved: __________________________, 2018.

________________________________________________________________________

Mayor

Attest:

_________________________________________

City Clerk

Date Published: __________________________
City Council Agenda Item #14A
Meeting of May 24, 2018

Brief Description
Amendment to resolution 2018-015, as it pertains to an expansion permit for a restaurant with outdoor eating area at 5445 Eden Prairie Road

Recommendation
Adopt the resolution approving the amendment

Background
In Feb. 2017, the city approved a conditional use permit, with an expansion permit, for The Copper Cow at 5445 Eden Prairie Road. The expansion permit allowed for construction of a sloped roof over a portion of the non-conforming building. The sloped roof would increase the building height by roughly seven feet.

Proposal
Permits have been issued for the remodel of the existing building and construction is well underway. Chris Bjorling, one of the owners and operators of the Copper Cow, recently approached city staff regarding the sloped roof. The non-standard size of the trusses and the need to reinforce the adjacent flat roof to support the trusses have significantly increased building cost. Mr. Bjorling has now requested that the city approve a sloped roof over the western half of the building rather than a portion of the building. This would require an amendment to the previously approved expansion permit.
Staff Analysis

In staff’s opinion, the original plan was more visually interesting and attractive than the current proposal. Nevertheless, the current proposal continues to be significantly more attractive than the previously vacant building. As such, staff supports Mr. Bjorling’s this request.

Staff Recommendation

Adopt the resolution for an amendment to resolution 2018-015, as it pertains to an expansion permit for a restaurant with outdoor eating area at 5445 Eden Prairie Road

Originator:  Susan Thomas, AICP, Assistant City Planner
Through:     Loren Gordon, AICP, City Planner
Location Map
Project: The Copper Cow
Applicant: Chris Bjorling
Address: 5445 Eden Prairie Rd
Previously Approved Plans

EXTERIOR ELEVATION KEYNOTES

1. CONCRETE PATIO SLAB.
2. EXISTING CONCRETE SILL TO REMAIN - PROTECT - PAINT.
3. EXISTING CONCRETE BALCONIES TO REMAIN - PROTECT - PAINT.
4. ANODIZED ALUMINUM DRIVE-THRU WINDOWS WITH 1" INSULATED CLEAR GLAZING TO BE INSTALLED IN EXISTING OPENINGS.
5. GALVANIZED METAL DRIVE-THRU WINDOW - TO REMAIN.
6. PROPRIETARY ILLUMINATED SIGNAGE LOCATION.
7. NEW WALL MOUNTED DECORATIVE SCONCE LIGHTING.
8. NEW WALL MOUNTED DECORATIVE LIGHTING.
9. NEW WALL MOUNTED DECORATIVE LAMP.
10. NEW WALL MOUNTED DECORATIVE LIGHT FIXTURE.
11. NEW WALL MOUNTED DECORATIVE LIGHT FIXTURE.
12. NEW WALL MOUNTED DECORATIVE LIGHT FIXTURE.
13. NEW WALL MOUNTED DECORATIVE LIGHT FIXTURE.
14. NEW WALL MOUNTED DECORATIVE LIGHT FIXTURE.
15. NEW WALL MOUNTED DECORATIVE LIGHT FIXTURE.
16. NEW WALL MOUNTED DECORATIVE LIGHT FIXTURE.
17. NEW WALL MOUNTED DECORATIVE LIGHT FIXTURE.
18. NEW WALL MOUNTED DECORATIVE LIGHT FIXTURE.
19. NEW WALL MOUNTED DECORATIVE LIGHT FIXTURE.
20. NEW WALL MOUNTED DECORATIVE LIGHT FIXTURE.
21. NEW WALL MOUNTED DECORATIVE LIGHT FIXTURE.
22. NEW WALL MOUNTED DECORATIVE LIGHT FIXTURE.
23. NEW WALL MOUNTED DECORATIVE LIGHT FIXTURE.
24. NEW WALL MOUNTED DECORATIVE LIGHT FIXTURE.

KEY PLAN

Scale: 3/8" = 1'-0"

FENCE ELEVATION

Scale: 1/8" = 1'-0"

NORTH
Resolution No. 2018-015

Resolution approving a conditional use permit, with variances and an expansion permit, for a restaurant with outdoor eating area at 5445 Eden Prairie Road

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

Section 1. Background.

1.01 The property is located at 5445 Eden Prairie Road. It is legally described as follows:

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

Torrens Property

Begin registered land as evidenced by Certificate of Title No. 1071440

1.02 Chris Bjorling is proposing to operate a restaurant with outdoor seating area on the subject property. The interior and exterior of the existing building would be completely remodeled to accommodate the restaurant. The proposal requires a conditional use permit with the following:

1. Parking Variance from 52 stalls to 28 stalls;

2. Setback variance from residential property from 200 feet to 150 feet for the outdoor eating area;

3. Front yard setback variance from 50 feet to 0 feet for the outdoor eating area; and

4. Expansion permit for a change in the roof pitch over an existing, non-conforming portion of the building.
1.03 On Feb. 1, 2018, the planning commission held a hearing on the request. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments and the staff report, which are incorporated by reference into this resolution. The commission recommend the city council approve the proposal.

Section 2. 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 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.

2.02 City Code §300.21 Subd.4(i) lists the following specific conditional use permit standards for restaurants having on-sale intoxicating liquor or dance hall licenses:

1. Parking shall be in compliance with the requirements of section 300.28 of this ordinance;
2. Shall only be permitted when it can be demonstrated that operation will not significantly lower the existing level of service as defined by the Institute of Traffic Engineers on streets and intersections; and
3. Shall not be located within 100 feet of any low density residential parcel or adjacent to medium or high density residential parcels. The city may reduce separation requirements if the following are provided:
   a) landscaping and berming to shield the restaurant use;
   b) parking lots not located in proximity to residential uses; and
   c) lighting plans which are unobtrusive to surrounding uses.
City Code §300.21 Subd.4(p) lists the following specific standards for accessory sidewalk cafes and outdoor eating areas:

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

2. Shall not be permitted within 200 feet of any residential parcel and shall be separated from residential parcels by the principal structure or other method of screening acceptable to the city;

3. Shall be located and designed so as not to interfere with pedestrian and vehicular circulation;

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

5. Shall be located adjacent to an entrance to the principal use;

6. Shall be equipped with refuse containers and periodically patrolled for litter pick-up;

7. Shall not have speakers or audio equipment which is audible from adjacent parcels; and

8. Shall be located in compliance with building setback requirements.

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

By City Code §300.18 Subd.5(b), buildings within the B-2 zoning district must maintain a 50-foot setback from front property lines. The existing building was constructed 20 years before adoption of the city's first zoning ordinance. It has non-conforming front yard setbacks of nine feet and three feet from south and west property lines respectively. By City Code §300.29 Subd. 7(c) the city may approve expansion of a non-conformity when an applicant meets the burden of proving that:

1. The proposed expansion is a reasonable use of the property, considering such things as: functional and aesthetic justifications for the expansion;
Section 3. FINDINGS.

3.01 The proposed restaurant and outdoor eating area would meet the general conditional use permit standards as outlined in City Code §300.21 Subd.2 and the staff report associated with the applicant’s request. The findings of the staff report are incorporated into this resolution by reference.

3.02 But for the requested variances, the proposed restaurant and outdoor eating area would meet the specific conditional use permit standards as outlined in City Codes §300.21 Subd.4(i) and §300.21 Subd.4(p) and the staff report associated with the applicant’s request. The findings of the staff report are incorporated into this resolution by reference.

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

1. Intent of the Ordinance.

   a) The intent of the ordinance as it pertains to parking requirements is to ensure adequate parking is provided to meet anticipated parking demand. Though parking demand is not likely to be met by available on-site parking during the restaurant’s p.m. peak hours of operation, provision of off-site parking during this time may mitigate the deficit.

   b) The intent of the ordinance as it pertains to outdoor seating area setbacks is to ensure appropriate separation between these areas and residential land uses and property lines, so as to minimize real and perceived nuisance impacts and promote safety. The outdoor seating area would be separated from area residences by existing roadways, commercial properties, and vegetation. Similarly, the seating area would not be closer to roadways than the pedestrian sidewalks in the area.

2. Consistent with Comprehensive Plan. The subject property is located in the Glen Lake village center. One of the overall themes outlined in the
comprehensive plan is to “provide development and redevelopment opportunities that encourage vitality, promote identity, and improve livability” in village centers. The requested variances would result in reuse of an existing building as a new and unique gathering space, consistent with the goals of the comprehensive plan.

3. Practical Difficulties

a) Reasonableness.

1) The requested parking variance is reasonable. Though parking demand is not likely to be met by available on-site parking during the restaurant’s p.m. peak hours of operation, provision of off-site parking during this time may mitigate the deficit. Use of existing off-site parking would be preferable to constructing additional parking on the east side of the site through removal of existing open space.

2) The requested setback variances are reasonable. The outdoor seating area would be separated from area residences by existing roadways, commercial properties, and vegetation. Similarly, the seating area would not be closer to roadways than the pedestrian sidewalks in the area.

b) Unique Circumstance. The existing building and site were developed 20 years prior to the adoption of the city’s first zoning ordinance. Though some aspects of the building and site do not conform to current zoning standards, various businesses and a fast food restaurant successfully operated from the site for decades. The overall success enjoyed by businesses previously occupying the building, despite the non-conformities of the building and site, constitutes unique circumstance not common to every similarly zoned property.

c) Character of the Neighborhood. The Glen Lake village center includes a variety of land uses. A gas station, commercial strip mall, professional offices, electric substation, and residential uses are all located in close proximity to the subject property. While the reuse of the currently vacant existing building would alter the level of site activity, the requested variances themselves would not alter the unique character of the neighborhood.

3.04 The proposal would meet the expansion permit standard as outlined in City Code §300.29 Subd. 7(c):

1. Reasonableness and Neighborhood Character. The proposed roof pitch change is reasonable and would not negatively impact the character of the surrounding neighborhood. The change is for aesthetic reasons only
and it would not increase the footprint or usable space of the existing building

2. **Unique Circumstance.** The existing building is situated in the far southwest corner of the subject property. It exceeds required setbacks from the north and east property lines and has non-conforming setbacks from south and west lines. It is not "centered" on the lot. This is a unique circumstance not common to every similarly zoned property.

**Section 4. City Council Action.**

4.01 The above-described conditional use permit, with variances and expansion permit, is approved. Approval is based on the findings outlined in the associated staff report and section 3 of this resolution. Approval is subject to the following conditions:

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

   - Site plan dated, Jan. 8, 2018
   - Floor plan dated, Jan. 8, 2018
   - Exterior Elevations, dated, Jan. 8, 2018

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

   a) A revised survey showing all existing easements, proposed seating areas, and parking lot reconfiguration generally consistent with Staff-Drafted Configuration A. Note, no improvements are permitted within existing county easements.

   b) A signed parking agreement for the use of at least 13 stalls during evening hours.

   c) A revised enclosure plan illustrating uninterrupted enclosures around seating area, with access only through the restaurant building.

   d) A final landscape plan including planters adjacent to the outdoor seating areas and attention given to the eastern portion of the site previously used as informal seating.

   e) A final materials board.

3. Prior to issuance of a certificate of occupancy, the following must be completed:
a) The parking lot must be restriped generally consistent with Staff-Drafted Configuration A.

b) The egress onto Stewart Lane must be relocated generally consistent with Staff-Drafted Configuration A.

c) Appropriate parking lot “in/out” signage must be installed at entrances/exits and one-way arrows painted within the parking lot.

4. If the area proposed for the outdoor seating area is considered pervious under existing conditions, the area may only be covered with pervious materials. No new impervious surface is allowed.

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

6. The outdoor eating area must be closed by 10:00 p.m. daily.

7. Outdoor audio equipment that is audible from adjacent parcels is not allowed. If an outdoor system is installed, it must be equipped with technology to quickly and easily regulate volume.

8. No dumping of glass or other recyclables is allowed between the hours of 10:00 p.m. and 6:00 a.m.

9. The basement of the existing building may not be converted to accommodate customers.

10. If city staff determines that the establishment has inadequate parking, based upon repeated and verified complaints, the establishment operator and property owner (of restaurant site) must work with city staff to implement a solution, which may include valet parking.

11. The restaurant and outdoor eating area must conform to all aspects of the City Code Chapter 8, Public Health and Public Nuisance Ordinances.

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

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on Feb. 26, 2018.

Brad Wiersum, Mayor
Resolution No. 2018-015

Attest:

[Signature]
David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held Feb. 26, 2018.

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

Resolution amending Resolution No 2018-015 as it pertains to an expansion permit, for a restaurant with outdoor eating area at 5445 Eden Prairie Road

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

Section 1. Background.

1.01 On Feb. 26, 2018 the city council adopted Resolution 2018-015. The resolution approved a conditional use permit, with variance and expansion permit, for a restaurant with outdoor eating area at 5445 Eden Prairie Road.

1.02 The property is legally described as follows:

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

Torrens Property
Begin registered land as evidenced by Certificate of Title No. 1071440

1.03 The approved expansion permit allowed for change in the roof pitch over a portion of western half of the building.

1.04 Chris Bjorling, property owner, is now requesting that the city approve a change in roof pitch over the entire western half of the building rather than just a portion of this area. The request requires an amendment to that portion of Resolution 2018-015 pertaining to the expansion permit.

Section 2. Standards.

2.01 By City Code §300.18 Subd.5(b), buildings within the B-2 zoning district must maintain a 50-foot setback from front property lines. The existing building was
constructed 20 years before adoption of the city’s first zoning ordinance. It has non-conforming front yard setbacks of nine feet and three feet from south and west property lines respectively. By City Code §300.29 Subd. 7(c) the city may approve expansion of a non-conformity when an applicant meets the burden of proving that:

1. The proposed expansion is a reasonable use of the property, considering such things as: functional and aesthetic justifications for the expansion; adequacy of off-site parking for the expansion; absence of adverse off-site impacts from such things as traffic, noise, dust, odors, and parking; and improvement to the appearance and stability of the property and neighborhood.

2. The circumstances justifying the expansion are unique to the property, are not caused by the landowner, are not solely for the landowners convenience, and are not solely because of economic considerations; and

3. The expansion would not adversely affect or alter the essential character of the neighborhood.

Section 3. Findings.

3.01 The proposed revision would continue to meet the expansion permit standard as outlined in City Code §300.29 Subd. 7(c):

1. Reasonableness and Neighborhood Character. The proposed roof pitch change is reasonable and would not negatively impact the character of the surrounding neighborhood. The change is for aesthetic reasons only and it would not increase the footprint or usable space of the existing building.

2. Unique Circumstance. The existing building is situated in the far southwest corner of the subject property. It exceeds required setbacks from the north and east property lines and has non-conforming setbacks from south and west lines. It is not “centered” on the lot. This is a unique circumstance not common to every similarly zoned property.

Section 4. City Council Action.

4.01 Section 4.01 of Resolution 2018-015 is amended as follows:

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

   • Site plan dated, Jan. 8, 2018
   • Floor plan dated, Jan. 8, 2018
• Exterior Elevations, dated, May 1, 2018

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 14, 2018.

_______________________________________
Brad Wiersum, Mayor

Attest:

_________________________________
David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held May 14, 2018.

__________________________________
David E. Maeda, City Clerk

SEAL
City Council Agenda Item #14B  
Meeting of May 14, 2018

Brief Description  Items concerning Solbekken Villas, a residential development at 5740 and 5750 Shady Oak Road.

1) Ordinance repealing and replacing existing PUD and master development plan;
2) Final site and building plan review; and
3) Preliminary and final plats.

Recommendation  Adopt the ordinance and resolution approving the requests

Proposal

Great Oaks Development is proposing to redevelop the combined, 2.29-acre site generally referred to as the Music Barn properties. The proposal includes construction of six buildings containing a total of 15 housing units. Three buildings would be detached, single-level, single-family homes. These homes would be generally located on the eastern portion of the site, adjacent to Shady Oak Road. Three condominium buildings – each containing four single-level condo-style homes – would be located on the western portion of the site. The first floor of these condo buildings would be occupied by garage space, individual unit storage space, and lobby area. In each building, the lobby elevator and central stairway would provide access to the homes on the second and third floors.

Vehicle access to the proposed development would be via a private, one-way driveway. Vehicles would enter the site from the north and exit at the south.

Council Introduction

The city council introduced the proposal on April 16, 2018. The council generally noted that the project was architecturally pleasing, but expressed some concern about the appearance of the single-family homes from Shady Oak Road, guest parking, and drainage along the slope. Since the introduction, the applicant has provided a more detailed landscaping exhibit illustrating screening along Shady Oak Road. In addition, the staff-drafted resolution includes a condition that the “rear” or east facade of the single-family homes must incorporate some of the architectural detail/features of the front of the homes. This may include inclusion of vertical siding, dormers, or other details/features. The staff report presented to the planning commission addresses parking and drainage.

Planning Commission Hearing

The planning commission considered the request on April 26, 2018. The commission report and associated plans are attached. Staff recommended approval of the proposal, finding:

1. The proposal was consistent with the site's medium-density residential land use designation.
2. The proposed site impacts are reasonable given the site’s medium-density land use designation.

3. The proposed buildings have been attractively designed. Some minor rear façade changes – such as the inclusion of vertical siding, dormers, or other details/features – would further enhance this design.

4. The proposal would result in a unique residential development, including a mix of owner-occupied, single-level living homes, which are desirable to the city.

At that meeting, a public hearing was opened to take comment but no one appeared to speak. Following the public hearing, the commission discussed and expressed general support for the proposal.

**Planning Commission Recommendation**

On a 4-0 vote, the commission recommended that the city council approve the proposal. Meeting minutes are attached.

**Since Planning Commission Hearing**

The applicant has requested various changes to the staff-drafted resolution. In staff’s opinion, some of the requests are reasonable and, as such, the resolution has been updated to reflect these. Changes are noted as “track changes” on the attached resolution.

The applicant has further requested that staff reconsider its position on a proposed dedication of property and waiver of an outstanding utility assessment. The applicant desires to dedicate 0.35-acres of land to the city in lieu of payment of park dedication fees and an outstanding utility assessment. The area proposed for dedication is the northwest portion of the site. It is far less steep and contains far fewer trees than the area to the east. While staff understands that this portion of property is topographically and visually different than the larger property, staff does not see that the dedication provides any benefit to the adjacent park or cemetery. Further, there is no nexus between the dedication of this property and the utility assessment. It is the applicant’s choice whether or not to dedicate the property. However, staff would not recommend waiving required park fees or utility assessment in exchange. This decision would be purview of the city council. The council has previously considered and denied waiver of this assessment. Staff’s position on these items has not changed.

**Staff Recommendation**

Staff recommends that the city council adopt the following, associated with the properties at 5740/5750 Shady Oak Road:

1) Ordinance repealing and replacing existing PUD and master development plan;

2) Resolution approving final site and building plans; and

3) Resolution approving preliminary and final plats.
Through:  Geralyn Barone, City Manager  
Julie Wischnack, AICP, Community Development Director  
Loren Gordon, AICP, City Planner

Originator:  Susan Thomas, AICP, Assistant City Planner
MINNETONKA PLANNING COMMISSION
April 26, 2018

Brief Description
Items concerning Solbekken Villas, a residential development at 5740 and 5750 Shady Oak Road.

1) Ordinance repealing and replacing existing PUD and master development plan;
2) Final site and building plan review; and
3) Preliminary and final plats.

Recommendation
Recommend the city council approve the requests.

Background
The combined properties at 5740 and 5750 Shady Oak Road are generally known as the Music Barn site. The site is currently zoned planned unit development (PUD) and guided medium-density residential. It contains two distinctive features: (1) the existing Music Barn building; and (2) a steep, wooded slope.

In 2015, the city approved a proposal to redevelop the site. As approved, Shelter Corporation would construct a three-story, 27-unit apartment building on the combined property. The existing barn would be used as community gathering space and incorporated into the new building. All of the apartments would meet the Metropolitan Council’s affordable housing guidelines. The city understood that the project, which would be financed in part through the sale of tax credits, would not begin until financing was available.

In 2017, Shelter Corporation notified the city that, due to significant devaluation of their housing tax credits, the affordable housing project was no longer financially feasible. The 2015 site and building plan approvals are now expired, but the rezoning and approved master development plan remain in place.

In February 2018, Great Oaks Development submitted a new concept plan for the combined properties. The plan contemplated removal of all of the existing buildings and construction of 15 new homes – three detached townhomes and twelve condominium units contained within three condo buildings. The planning commission reviewed the Solbekken Villas concept plan on Feb. 15. While expressing disappointment that the previously approved affordable housing project was not completed, the commission expressed general support for the Solbekken Villas concept. Commissioners specifically noted that the proposed home design was unique and exciting and single-level living was needed throughout the community. There were no neighboring residents present at the meeting. The city council reviewed the concept on Feb. 26. The council general concurred that the proposed housing type was exciting. However, questions were raised about drainage, guest parking, and the design/orientation of porches and decks. One councilmember noted that the site may include one too many homes.
Proposal

Great Oaks Development has now submitted formal plans to redevelop the combined site. The plan reflects the concept reviewed in February. The proposal requires approval of:

1) Ordinance repealing and replacing existing PUD and master development plan. In 2015, the council adopted an ordinance approving a rezoning to PUD and adopting a master development plan for the combined site. The ordinance was based on the specific plan presented at that time. The current proposal requires a “new” ordinance.

2) Final Site and Building Plans. By city code, site and building plan review is required in conjunction with PUD zoning.

3) Preliminary and Final Plats.

Proposal Summary

The following is intended to summarize the applicant’s proposal. Additional information associated with the proposal can be found in the “Supporting Information” section of this report.

• Existing Site Conditions.

The combined redevelopment is 2.29-acres in total area. The property contains five structures: a barn – which is currently occupied as both living and business space, a vacant farm home, a shed, and two smaller out buildings. Aside from the existing barn, the primary feature of the site is a wooded slope that runs its north/south length. The slope rises upward from Shady Oak Road to the southwest corner of the property; there is a 45-foot change in elevation over the property. Portions of the slope are classified as “steep” by city code definition. Mature trees on the slope include predominately oak and maple.

• Proposed Buildings.

The proposal includes six buildings containing a total of 15 housing units. Three buildings would be detached, single-level, single-family homes. These homes would be generally located on the eastern portion of the site, adjacent to Shady Oak Road. Three condominium buildings – each containing four single-level condo-style homes – would be located on the western portion of the site. The first floor of these condo buildings would be occupied by garage space, individual unit storage space, and lobby area. In each building, the lobby elevator and central stairway would provide access to the homes on the second and third floors.

• Proposed Access.

Vehicle access to the proposed development would be via a private, one-way driveway. Vehicles would enter the site from the north and exit at the south.
Primary Questions and Analysis

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

- **Is the proposed medium-density residential land use appropriate?**
  
  Yes. The subject properties – as well as other area properties along Shady Oak Road – are guided for medium-density residential development. Medium-density is defined as 4.1 to 12 units per aces. As proposed, Solbekken Villas would have a density of 6.5 units per acre.

- **Is the use of PUD zoning appropriate?**
  
  Yes. The PUD zoning adopted for the site in 2015 was based, in no small part, on the provision of affordable housing. Though the Solbekken Villas project would not include an affordable component, staff continues to believe PUD zoning is appropriate given the following:

  1. The development would include a mix of owner-occupied housing types;
  2. The development would supply single-level living options, which are desirable to the city.
  3. Due to the wooded slope on the site, and the city’s desire to protect this slope, it would be difficult to develop low-scale, medium-density housing without the setback flexibility provided by PUD zoning.

- **Are the proposed site impacts reasonable?**
  
  Generally, yes. The proposed site improvements would be situated at the base of the wooded slope. The location would result in little physical encroachment into the steepest portions of the slope. Staff believes that some refinements of the grading plan – along the back of the condo buildings and along the northwest side of the proposed drive – would further reduce impacts. Under the current plans 19 percent of the site’s high-priority trees would be lost or significantly impact by grading. With slight changes to the grading plan, this number may decrease. The staff-drafted resolution requires reevaluation of the grading plan.

- **Is the proposed building design reasonable?**
  
  Generally, yes. The condominium buildings – in both their internal layout and architecture – would bring a new and attractive housing option in the community. While still attractively designed, in staff’s opinion, the single-family homes require some additional attention.

  ✓ The “rear” or east side of the homes would be highly visible from Shady Oak Road. As such, the facades of these homes should incorporate some of the architectural detail/features of the front of the homes. This may include inclusion of vertical siding, dormers, or other details/features.
✓ The minimum setback from east property line must be minimum of 10 feet. This would require either a “pivot” or redesign of the northern most single-family home. The staff-drafted resolution includes this as a condition.

**Staff Recommendation**

Recommend that the city council approve the following, associated with the properties at 5740/5750 Shady Oak Road:

1) Ordinance repealing and replacing existing PUD and master development plan;

2) Resolution approving final site and building plans; and

3) Resolution approving preliminary and final plats.

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

**Surrounding Land Uses**

<table>
<thead>
<tr>
<th>Direction</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Shady Oak Cemetery; city-owned property</td>
</tr>
<tr>
<td>South</td>
<td>vacant property; zoned R-1</td>
</tr>
<tr>
<td>East</td>
<td>multi-family residential; zoned R-3, PURD</td>
</tr>
<tr>
<td>West</td>
<td>Lone Lake Park; city-owned property</td>
</tr>
</tbody>
</table>

**Planning**

Guide Plan designation: medium-density residential

Existing Zoning: PUD

**Units**

The proposed single-family homes would have a first floor living areas of roughly 2,050 square feet and three-car (tandem) garages. The units may also include basement space of roughly 1,600 square feet.

The condominium-style homes would have single-level living space of roughly 2,000 square feet. Each unit would have a two-stall garage, with adjacent storage and mechanical rooms.

The applicant is highly encouraged to install fire sprinkler systems in the three single-family homes in addition to those required in the condominium buildings.

**Parking**

Visitor parking stalls would be available in the driveways of the detached homes. The condo homes would not have individual driveways. Visitor parking for these homes would be provided at various locations in the development.

**Setbacks, Etc.**

The PUD ordinance contains no specific development standards relating to setbacks, lot coverage, etc. However, the following chart outlines these items for informational purposes:

<table>
<thead>
<tr>
<th>Measurement*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Setbacks</td>
</tr>
<tr>
<td>North property line</td>
</tr>
<tr>
<td>South property line</td>
</tr>
<tr>
<td>East property line**</td>
</tr>
<tr>
<td>West property line</td>
</tr>
<tr>
<td><strong>Miscellaneous</strong></td>
</tr>
<tr>
<td>Detached home height</td>
</tr>
<tr>
<td>20 ft as defined by code</td>
</tr>
<tr>
<td>Condo building height</td>
</tr>
<tr>
<td>43 ft as defined by code</td>
</tr>
<tr>
<td>Impervious Surface</td>
</tr>
</tbody>
</table>
**setback measurements rounded down to closest 5 ft**

**As a condition of approval, staff is recommending minimum setback from east property line/paved trail of 10 feet. This condition would require either a “pivot” of the northern most single-family home or a redesign of that home.

Natural Resources

Changes to the site would be necessary to accommodate the proposed redevelopment.

- **Steep Slope and Grading**

By city code, a steep slope is one that: (1) has an average grade of 20% or greater; (2) covers an area at least 100 feet in width; and (3) rises at least 25 feet. If a slope does not meet all three of these standards it is not considered "steep" for the purposes of development and construction regulation. The slope on the Music Barn site is considered steep by definition. The grade ranges from 21% to 30%. The proposed site improvements would generally be located at the base of this slope, with little encroachment into the steepest portions. However, as was noted earlier in this report, as a condition of approval, some areas of grading need to be reevaluated prior to issuance permits.

- **Trees**

Based on the proposed grading plan, the majority of high-priority and significant trees would be preserved.

<table>
<thead>
<tr>
<th></th>
<th>Existing</th>
<th>Removed</th>
<th>% Removed</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Priority</td>
<td>16</td>
<td>3</td>
<td>19%</td>
</tr>
<tr>
<td>Significant</td>
<td>77</td>
<td>41</td>
<td>53%</td>
</tr>
</tbody>
</table>

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

The proposed level of tree removal/impact would be permitted under the tree protection ordinance.

Stormwater

Engineering staff has reviewed the plans associated with the proposal and finds them to be generally acceptable. The plans would meet the standards of the city’s Water Resources Management Plan, incorporating rate control, volume control, and water quality treatment.

Stormwater runoff would be directed to several catch basins and outletted via pipe to an underground facility located within the driveway on the south side of the site. The facility would ultimately outlet to the city’s stormwater system.

Utilities

Public water, sewer, and storm sewer are available in Shady Oak Road. During a preliminary review of the plans, staff was of the
opinion that sewer and water lines proposed to be located within the new private drive would create future “public/private” issues. Intending to address this future issue, the formally submitted plans show the utilities along the east property line. However, in evaluating these plans, staff has determined that this location would cause even greater issues. As such, the city is willing to allow the utilities within the private drive. However, these utilities will be considered private and must be maintained as such.

**Land Dedication**

The applicant has indicated a desire to dedicate 0.35-acres of land to the city in lieu of an outstanding utility assessment. The area proposed for dedication is the northwest portion of the site. It is far less steep and contains far fewer trees than the area to the east. While staff understands that this portion of property is topographically and visually different than the larger property, staff does not see that the dedication provides any benefit to the adjacent park or cemetery. Further, there is no nexus between the dedication of this property and the utility assessment. It is the applicant’s choice whether or not to dedicate the property. However, staff would not recommend waiving required park fees or utility assessment in exchange. This decision would be purview of the city council. The council has previously considered and denied waiver of this assessment.

**SBP Standards**

The proposal would meet the site and building standards as outlined in City Code §300.27 Subd.5:

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

   **Finding:** The proposal would result in a medium-density residential development consistent with the site’s comprehensive guide plan designation. Further, the proposal has been reviewed by city planning, engineering, and natural resources staff and found to be generally consistent with the city’s development guides, include the water resources management plan.

2. Consistency with this ordinance.

   **Finding:** The proposal is consistent with the zoning ordinance.

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

   **Finding:** The proposed buildings and access drive would be appropriately situated at the base of the significant wooded slope on the site. There would be little encroachment into the steepest portions of the slope and, correspondingly, removal of just 19 of the site’s high-priority trees.
4. Creation of 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 proposal would result in a harmonious relationship of buildings and open space, as the site’s open space would be preserved.

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

- 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.
- the amount and location of open space and landscaping.
- materials, textures, colors and details of construction as an expression of the design concept and compatibly of the same with the adjacent and neighboring structures and uses.
- Vehicular and pedestrian circulation, including walkways, interior drivees and parking in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking.

**Finding:** The proposal would result in a unique and attractively-designed neighborhood.

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.

**Finding:** As new construction, the building code would require use of energy saving features.

7. Protection of adjacent and neighboring properties through reasonable provision for surface water drainage, sound and site 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 visually and physically alter the site and the immediate area. However, this would change would occur with any redevelopment of the site, which the city has long anticipated.
Pyramid of Discretion

Motion Options
The planning commission has three options:

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

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

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

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

Neighborhood Comments
The city sent notices to 372 property owners and has received one written comment to date.

Deadline for Action
July 21, 2018
Location Map

Project: Solbekken
Address: 5740 & 5750 Shady Oak Rd
Loren and Susan,

Thank you for your guidance in recent months as we developed a plan for redevelopment of the Music Barn site. Based on the design work reviewed during the Sketch Plan process, we are now applying to rezone the property for development of a 15-unit for-sale housing community to be called Solbekken. Enclosed with this letter are our completed city forms for (i) Master Development Plan, (ii) Site and Building Plan Review and (iii) a Preliminary Plat, along with a check for the amount of $2,600. Separately we have provided on the city’s ‘Liquid Files’ site a complete set of technical drawings which include architecture, civil engineering and landscape architecture.

We believe the project presented here represents an appropriate redevelopment of the old, unoccupied farmstead which now occupies the site. The fifteen new homes will be very compatible with the surrounding neighborhood. The adjacent Lone Lake Park will be an excellent amenity for the residents in the new community to be called Solbekken. The wooded hillside along the west portion of the site is largely undisturbed by the new development. Salient features of the proposed project include:

- A one-way driveway through the project which enters on the north, near the cemetery, and exits on the south.
- Fifteen homes comprised of three (3) detached town homes along Shady Oak Road and twelve (12) condominium units. The twelve condominium units will be in three separate buildings with four units
in each building. The three condominium buildings are aligned along the base of the forested hillside.

- The condominium homes each have two garage parking spaces, while the town homes are designed to have three garage spaces.
- The homes are expected to be priced in the range of $650,000-$725,000.
- There are 14 designated visitor parking spaces provided. Each town home can accommodate 2 visiting vehicles in its own driveway.
- The plan proposes dedication of a portion of the site to the City for parkland. The dedication can be in any form preferred by the City. The area of .35 acres is shown as Outlot A on the Preliminary Plat. As discussed in the Sketch Plan review, this portion of the site is most readily accessible from the existing park/cemetery area owned by the City of Minnetonka. From inside the park, this area seems naturally to be part of the parkland. After this dedication of land, the project’s density would still be less than 8 units per acre. In exchange for our dedication of Outlot A, we request that the City cancel an assessment on the property in the approximate current amount of $32,000 which was placed on the property in 1992.

We look forward to being on the Planning Commission agenda April 26 and the City Council agenda on May 14 for the public hearings related to this application. While not available at this time, a colored rendering of the buildings will be delivered in the near future. Please advise us of any additional information you may require and we will respond promptly.

If any member of the City staff wishes to meet and discuss any aspect of our submission, we would be pleased to meet with you and bring any technical consultant who may be appropriate for the issue being discussed. Thank you for your guidance to date.

Best regards,

N. Edward Briesemeister
For Solbekken, LLC—Maarten Kuik and N. Edward Briesemeister
neb@greatoaks.us.com
404 789 4447
This drawing is the property of the Architect and may not be reproduced or used without his written permission.

Dan Ionescu Architects & Planners

BUILDING PLANS
BUILDING #3-GARAGE PLAN

DATE: 3-28-18

A-4.1
UNIT A

HEATED AREA (GROSS) = 1,026 SQ.FT.
LOGgia (GROSS) = 116 SQ.FT.
TOTAL (GROSS) = 1,142 SQ.FT. (± 5%)

24'-0''
24'-0''
48'-0''

BEDROOM #2
13'-5''x12'-0''

DEN
10'-1''x12'-0''

MASTER BATH
15'-5''x4'-1''

MASTER BEDROOM
15'-5''x14'-0''

ENTRY
11'-1''x7'-1''

GALLERY
12'-6''x9'-7''

DINNINGS
12'-0''x20'-1''

LIVING ROOM
16'-10''x21'-1''

LOGgia
8'-0''x14'-0''
UNIT B

HEATED AREA (GROSS) = 1,973 SQ.FT.
LOGGIA (GROSS) = 176 SQ.FT.
TOTAL (GROSS) = 2,149 SQ.FT. (± 5%)
This drawing is the property of the Architect and may not be reproduced or used without his written permission.

Dan Ionescu Architects & Planners

3-28-18

Building 1 - Rear Elevation with Landscape
BUILDING 1

DRIVEWAY

BUILDING 1 - NORTH ELEVATION

สถาปัตยกรรม 1 - รูปภาพการขึ้นบันได
These images are intended to illustrate massing and do not include any landscape design or building colors.
These images are intended to illustrate massing and do not include any landscape design or building colors.
WARNING: THE CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING FOR LOCATIONS OF ALL EXISTING UTILITIES. THEY SHALL COOPERATE WITH ALL UTILITY COMPANIES IN MAINTAINING THEIR SERVICE AND / OR RELOCATION OF LINES. THE CONTRACTOR SHALL CONTACT GOPHER STATE ONE CALL AT 651-454-0002 AT LEAST 48 HOURS IN ADVANCE FOR THE LOCATIONS OF ALL UNDERGROUND WIRES, CABLES, CONDUITS, PIPES, MANHOLES, VALVES OR OTHER BURIED STRUCTURES BEFORE DIGGING. THE CONTRACTOR SHALL REPAIR OR REPLACE THE ABOVE WHEN DAMAGED DURING CONSTRUCTION AT NO COST TO THE OWNER.
GRADING, DRAINAGE & EROSION CONTROL NOTES

1. SEE REVISIONS DETAILED ON ADDITION TO SHEET OF ADDITIONAL SHEETS.

2. EROSION & DRAINAGE DETAILS SHOWN ARE RECOMMENDED BUT ARE NOT TO BE CONSIDERED AS A COMPLETE DESIGN OF PAVEMENT GRADING DESIGN WERE NOTED.

3. GRADES OF THE INFILTRATION AREAS SHALL BE ACCORDING TO LOW-IMPACT STREETS MUST BE CLEANED AND SWEPT WHENEVER TRACKING OF SEDIMENTS OCCURS AND BEFORE ALL DISTURBED UNPAVED AREAS ARE TO RECEIVE MINIMUM OF DURING CONSTRUCTION AT NO COST TO THE OWNER.

4. SEE REVISIONS DETAILED ON ADDITION TO SHEET OF ADDITIONAL SHEETS.

5. SEE REVISIONS DETAILED ON ADDITION TO SHEET OF ADDITIONAL SHEETS.

6. SEE REVISIONS DETAILED ON ADDITION TO SHEET OF ADDITIONAL SHEETS.

7. SEE REVISIONS DETAILED ON ADDITION TO SHEET OF ADDITIONAL SHEETS.

8. SEE REVISIONS DETAILED ON ADDITION TO SHEET OF ADDITIONAL SHEETS.

9. SEE REVISIONS DETAILED ON ADDITION TO SHEET OF ADDITIONAL SHEETS.

10. SEE REVISIONS DETAILED ON ADDITION TO SHEET OF ADDITIONAL SHEETS.

11. SEE SHEET PLAN FOR BOUNDARIES OF THREE LOCATIONS.

GRADING OF THE INFILTRATION AREAS SHALL BE ACCOMPLISHED USING LOW-IMPACT STREETS MUST BE CLEANED AND SWEPT WHENEVER TRACKING OF SEDIMENTS OCCURS AND BEFORE ALL DISTURBED UNPAVED AREAS ARE TO RECEIVE MINIMUM OF DURING CONSTRUCTION AT NO COST TO THE OWNER.
**PLANT SCHEDULE**

**Acer rubrum `Franksred` TM / Red Sunset Maple**
- **QTY**: 9
- **CODE**: 0
- **Note**: Enhance with aged and screened compost

**Amelanchier x grandiflora `Autumn Brilliance` / `Autumn Brilliance` Serviceberry**
- **QTY**: 7
- **CLUMP**: 7

**Juniperus chinensis `Hetzii Columnaris` / Hetzi Column Juniper**
- **QTY**: 7
- **BB**: 24

**Populus tremula `Erecta` / European Columnar Aspen**
- **QTY**: 8
- **CODE**: 0

**Matteuccia struthiopteris / Ostrich Fern**
- **QTY**: 36

**Taxus x media `Tauntonii` / Tauton Yew**
- **QTY**: 24
- **BB**: 24

**Hemerocallis x `Joan Senior` / Daylily**
- **QTY**: 132

**Parthenocissus quinquefolia / Virgina Creeper**
- **QTY**: 29

**Fescue Mix / Low Grow Fescue w/ Erosion Blanket**
- **QTY**: 7,466 sf

**LANDSCAPE EDGING SHALL BE 4" CLEAN LINE MILL FINISH ALUMINUM EDGING**

**DRESSER TRAP ROCK INSTALLED TO A 4" DEPTH ON NON-WOVEN GEO-TEXTILE FABRIC.**

**ENTRY MONUMENT**
- **QTY**: 2

**LANDSCAPE EDGING SHALL BE 2" CLAY-LIKE WAX FROM AUTUMN BRILLIANCE.**

**CROSS TRAP ROCK BASED TO A 4" DEPTH ON NON-WOVEN GEO-TEXTILE FABRIC.**

**REGRADE - PROVIDE IRRIGATION FOR 300 AREA AROUND THE PROJECT BOUNDARIES FOR 30 DAYS. DISPATCH OF LATERAL AND DRAINAGE MIGHT REQUIRE WATER TO DESIGN-BASED WATER TRAPS. REFER TO DESIGN BUILD IRRIGATION SPECIFICATION TO DESIGN-ACTUAL IRRIGATION MIGHT REQUIRE WATER TO DESIGN-BASED WATER TRAPS. REFER TO DESIGN BUILD IRRIGATION SPECIFICATION. PROVIDE SHOP DRAWING FOR IRRIGATION SYSTEM INCLUDING HEAD LAYOUT, SPACING, TYPE, BACKFLOW PREVENTER LOCATIONS, POINT OF CONNECTION, SLEEVES, CONTROLLER, VALVE BOX LOCATIONS, ZONE INDICATIONS AND MANUALS AND INFORMATION ON THE SYSTEM. SEE CIVIL."
NOTES:

1. CONTRACTOR IS RESPONSIBLE FOR MAINTAINING TREES IN A PLUMB POSITION THROUGHOUT THE GUARANTEE PERIOD.

2. SCARIFY BOTTOM AND SIDES OF HOLE PRIOR TO PLANTING.

3. LANDSCAPE EDGING SHALL BE 4" CLEAN LINE MILL FINISH ALUMINUM EDGING 1 AWAY FROM TRUNK.

4. POLYETHYLENE (40 MIL, WIRE, 2 SPACED EQUALLY)

1. HAND LOOSEN ROOTS OF CONTAINERIZED MATERIAL (TYPICAL).

2. SCARIFY BOTTOM AND SIDES OF HOLE PRIOR TO PLANTING.

3. SHRUBS TO SIT ON SUBGRADE.

4. APPLY PELLET WEED PREVENTER PRIOR TO MULCHING.

CUT ALL ROPES AND REMOVE SOIL NOTES

1. IF CONTAINER IS NON-ORGANIC, REMOVE COMPLETELY.

2. LOOSENED SUBSOIL shall be removed to a 4" depth on new plantings.

3. CONSIDERED Asters, Chrysanthemums, and Perennials.

4. SIZE SIXTEEN (16) 2 X 2 CONCRETE PAVERS.

5. SLIT ORGANIC CONTAINER, LOOSEN 1-1/2" WIDE STRAP.

6. SCARIFY BOTTOM AND SIDES OF HOLE PRIOR TO PLANTING.

7. METHOD OF TREE STAKING ARE ILLUSTRATED.

8. IT IS THE CONTRACTOR'S RESPONSIBILITY TO MAINTAIN TREES IN A PLUMB POSITION THROUGHOUT THE GUARANTEE PERIOD.

9. DO NOT PLANT TOO DEEP: EXPOSE TOP OF ROOT FLARE SHALL BE EXPOSED AND SET AT GRADE.

10. TOPSOIL, PER SPECIFICATION

11. MULCH (4" DEEP), REFER TO SPECIFICATION

12. LAWN (4" DEEP)

13. ALUMINUM EDGE

14. PAVERS (5)

15. PAVERS (6)

16. PAVERS (7)

IRRIGATION: PROVIDE IRRIGATION FOR SOD AREAS WITHIN THE PROJECT BOUNDARIES FOR 12" MIN.

IRRIGATION SPECIFICATION. PROVIDE SHOP DRAWING FOR IRRIGATION SYSTEM INCLUDING HEAD LAYOUT, SPACING, TYPE, BACKFLOW PREVENTER LOCATIONS, POINT OF CONNECTION, SLEEVES, CONTROLLER, VALVE BOX LOCATIONS, ZONE INDICATIONS AND PIPE SIZING. PROVIDE ON-SITE OPERATION TUTORIAL FOR OWNER AND INCLUDE ALL APPROVED SUBGRADE.

ROOT FLARE SHALL BE EXPOSED AND SET AT GRADE.

MULCH 4" DEPTH, REFER TO SPECIFICATION

4" DEEP, REFER TO SPECIFICATION

AGGREGATE

LAWN

GROUNDCOVER

PE

LAWN

PE

LAWN

AL

PE

PE

AL

LAWN

PROGRESSIVE

GROUND COVER

AGGREGATE

LEAF LEADER

IRRIGATION:

12" MIN.

SMALL WIRE, 2 SPACED EQUALLY.
Solbekken Villas materials palette

- Multi-stem autumn - Ailanthus altissima
- 2 1/2" trap rock
- 3/8" trap rock
- Swedish columnar aspen
- Obelisk serviceberry
- Salvaged cupola monument sign
- Russian sage
- Hetz columnar juniper
- Engleman ivy
- Red maple
Hello Ms. Thomas,

I am a homeowner of 5524 Dominick Drive in Minnetonka located about a mile from the Solbekken Villas Project.

I did not submit any comments on the previously approved Music Barn Apartment Complex as I didn’t have any concerns about that low-income housing project on such a large lot in close proximity to retail/service employers. I did, however, submit comments on the City Owned Chalet Pizza building as I believed (and still believe) it to be completely inappropriate for that neighborhood, lacks adequate parking, will cause traffic congestion and is too remote from retail/service employers (in fact it eliminates a few). But that’s apparently behind us and has likely, unintentionally, set precedent to approve projects such as this.

The Solbekken Villas Project appears to fit into the neighborhood without casting a shadow on any neighboring property. This section of Shady Oak appears to have sufficient capacity for these additional homes.

I cannot tell from the concept plan if turn lanes are being created or modified with this project. It would seem traffic safety merits rework of the Northbound turn lane and, possibly, integrating a Southbound turn lane for the entrance to this development.

The site plans appear to depict and entrance 100-120 feet past the center island, all but about 30 feet is to merge. The Northbound turn lane should be similar in length as the turn lane for Lone Lake Ridge that services around 25 garage stalls. It’s roughly 230 feet in length (after a 100 foot transition). Without lengthening the turn lane residents may tend to brake prior to and while transitioning from 45 MPH traffic on the main roadway.

The sidewalk and road have a lot of bike traffic which could cause congestion and potential for accidents in the right Southbound lane. The Southbound turn lane for Lone Lake is 150 feet in length (after a 50 foot transition). The Southbound turn lane for Bren Road is roughly 200 feet in length (after an 85 foot transition). However, since there’s no Southbound turn lane for Lone Lake Ridge, this may be unnecessary.

I support this redevelopment, though wanted to ensure traffic planning is not lost in the process.

Thanks
Tom Stockert
Susan Thomas & Bob Ellingson

This project proposal is far superior to the former City approved Music Barn Apartment Project. It reduces the number of vehicles in the neighborhood, it reduces the housing density on the property, provides improved snow storage and green space on the property, and it enhances the neighborhood.

The former project had between 52 -54 parking spaces, with combination of enclosed and exterior parking, for 27 housing units. With the SOLBEKKEN Project; each housing unit has two car garage, plus parking space for 2 cars in front of each detached unit along with 10-12 parking spaces through-out the property. So since the City had approved up to 54 parking space for 27 housing units, approving 40+ parking spaces for 15 housing units seems to be a huge improvement to the parking available.

It reduces the number of housing units from 27 to 15. The occupancy will be less dense on the property.

There is a greater amount of snow storage space and green space on the property.

The design of the structures are less overwhelming. It just seems to be a much better fit into the neighborhood. The Music Barn itself would have required a great deal of expense to re-fit the barn to become habitable. While it was a fixture in the neighborhood over the years, I believe it has become time for it to be removed.

Yes, there are always some negatives and questions on all projects. BUT, I’m sure the soil engineers and landscape architects can resolve the questions on the water and snow run-off from the hill in the back. I think the length of the drive slope reduces the concerns of vehicle traffic driving from the north to the south of the property. Another concern was the back of the detached homes were facing Shady Oak Road. Windows, landscape screening and exterior design enhancements can resolve that concern.

I am unable to attend the next two meetings, but I feel strongly about this being a MUCH better projects with minimal impact to the neighborhood.

Larry Rose
5651 Sanibel Drive
Minnetonka, MN  55343
Schack, Sewall, Hanson, and Kirk voted yes. O’Connell, Powers, and Knight were absent. Motion carried.

D. Items concerning Solbekken Villas, a residential development at 5740 and 5750 Shady Oak Road.

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

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

Ed Briesemeister, applicant, stated that the footprints of the buildings and roadways would cover 40 percent of the site. About 60 percent of the site would not be covered. The west portion would remain a wooded hillside. Fifty percent of the site would be preserved. Ten percent would have man-made landscaping. The market feedback has been very strong for horizontal townhomes.

Hanson liked the proposal. It is a great opportunity. He asked if there would be any disruption in traffic. Mr. Briesemeister stated that there would be no impact on traffic.

Schack asked if there would be an elevator. Mr. Briesemeister answered in the affirmative. It would be a very elegant design. At night, the curtain wall of glass would be lit.

In response to Chair Kirk’s question, Mr. Briesemeister stated that the price point would be around $700,000. The townhomes are all basically 2,000 square feet in size. The three detached houses would be 3,600 square feet with the basement finished.

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

Hanson appreciates the aesthetics. It would be unique. It would draw a ton of interest. He supports the proposal.

Schack thought the proposal may provide an opportunity for a Minnetonka empty nester to vacate a single-family house and move into a townhome.

Sewall agreed. It is refreshing to see medium density with a new look and concept.

Chair Kirk thought the proposal looks beautiful. He was excited to see it finished.

Thomas clarified that the east setback would be required to be 10 feet from the property line and the trail.

Sewall moved, second by Schack, to recommend that the city council approve the following associated with the properties at 5740 and 5750 Shady Oak Road with a modification to require the east setback to be 10 feet from the property line and trail:
1) An ordinance repealing and replacing the existing PUD and master development plan.

2) A resolution approving final site and building plans.

3) A resolution approving preliminary and final plats.

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

This item is scheduled to be reviewed by the city council at its meeting on May 14, 2018.

E. Items concerning Ridgedale Active Adult Apartments at 12421 Wayzata Blvd.

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

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

Chair Kirk thought the parkway would be brilliant. It would clean up the traffic and provide a safer thoroughfare.

Schack asked if a precedent would be set regarding FAR and setbacks. Gordon provided comparable projects in the staff report. The FAR in the ordinance does not yet reflect the current vision for the area. The ordinance was established 30 years ago.

Chair Kirk was not concerned with the FAR, but was concerned with the setback. He questioned if adjacent properties would be limited due to the site’s proposed setbacks. Gordon thought it would depend on the neighboring use.

Hanson asked if the material would be metal instead of stone. Gordon explained that the white panels would be metal. The darker features would be brick or metal panels. The grey and brown would be cement panels. The Island Apartments uses the same panels.

Mary Lucas, Trammel Crow Company, applicant, introduced herself and project architect Lucas Van Sistine of ESG Architects. She stated that they were available to answer questions. Mr. Van Sistine explained the change to the round about which opened up the building and made the park a little larger.

Sewall asked for the number of visitor parking stalls. Ms. Lucas stated that there would be 4 outside and 40 stalls inside for staff and visitors. Mr. Van Sistine stated that there would be a designated area for dogs “to go.”

In response to Chair Kirk’s question, Mr. Van Sistine explained the traffic pattern for moving trucks on the site.
THIS PAGE LEFT BLANK INTENTIONALLY
Mr. Loren Gordon, City Planner
Ms. Susan Thomas, Assistant City Planner
City of Minnetonka
14600 Minnetonka Blvd.
Minnetonka, Minnesota 55345

Re: Music Barn Property, 5740-5750 Shady Oak Road 2.29 acres
Application for Master Development Plan, Site and Building Plan Review
and Preliminary Plat Application
Comments in response to City Staff Report released April 20, 2018

Loren and Susan,

Thank you for your department’s careful review of our application and your assessment transmitted to the Planning Commission. We have reviewed your report and would like to offer these further comments—augmented by several attached exhibits—by way of explanation or clarification:

1) On pages 3 and 6 of your general remarks, you mention that the drafted resolution requires “reevaluation of the grading plan” prior to the issuance of permits. Please see the sketch attached with this memorandum for an illustration of the likely construction method used for the retaining wall. We are presently in negotiations with several prospective grading contractors, and the exact design of the retaining wall has not been resolved. For constructability, it appears that the retaining wall is likely to be 20’ from the west building wall rather than 13’ as initially designed by our engineers at Loucks. Once the discussions and evaluation of construction options have been completed with sitework contractors, Loucks will submit to the city a proposed final grading plan which includes the final design of the retaining wall along the west boundary of the site development area. NO COMMENT REQUIRED.

2) Also on page 3, the report states that the “east side of the homes would be highly visible from Shady Oak Road.” As illustrated on two landscape views attached here, there is effective screening planned along this area. Our landscape architect is tasked with providing (i) suitable privacy for the
detached homes with a combination of landscape planting and screen fence and (ii) an attractive view from Shady Oak Road. At the appropriate time, our landscape architect will meet with city staff to discuss the landscape plan and determine its final design features. If the city staff feels that more architectural features (such as dormers in the roofs) are desirable, then our home designer will meet with staff and discuss how to incorporate such additional details. **NO COMMENT REQUIRED.**

3) Also related to the landscape plan, in draft Resolution No. 2018-Resolution approving a final site and building plans for Solbekken Villas, on pages 5-6 in sub-section ‘e.’, there are specific landscape prescriptions. **We request that this section of the resolution be modified to delete the first four bullet points and substitute a provision that the landscape architect will meet with city staff and incorporate landscape plan revisions which satisfy the city’s objectives regarding the types and locations of plant materials and other landscape features.**

4) On page 4, the staff recommends that the project maintain a minimum 10’ setback from the property line and on page 6 clarifies the recommendation to be 10’ “from east property line/paved trail.” While maintaining a setback of 10’ or more is achieved generally, the trail and the property lines are oblique and not aligned and the trail encroaches substantially into the property. This condition affects only the three detached homes and prevents two of the homes from meeting the 10’ minimum described in the staff report. As a result, there are four points where a corner of a housing structure will be less than 10’ from the property line or trail:

- The most northern of the houses is where the trail encroachment occurs. At this location, a front corner of the home is 10.6’ from the property line but only 7.4 from the edge of the trail. A corner of the screened porch of this home is 8.4’ from the property line and 7.7’ from the edge of the trail at a point where the trail and property line nearly intersect. We intend to mitigate this close proximity to the trail with a screen fence as well as landscaping.

- The middle home is a place where the trail and property line begin to diverge, with the trail being located outside the property line. By this home, our setback from the property line at two corners of the home is 9.4’ with a 14.5’ distance to the edge of the trail and 8.3’ with a distance of 14.9’ to the edge of the trail.

- The southern home benefits from the divergence of the property line and the trail—with this home being 16.5’ at its closest to the property line but well over 20’ from the edge of the trail.
We request the City’s draft Resolution No. 2018-Resolution approving a final site and building plans for Solbekken Villas be modified to include specific approval of the applicant’s design for the development of lots 1 and 2 of the Preliminary plat as described above. This is shown in detail on one of the attachments with this memorandum.

5) On page 5, the applicant is encouraged to install fire sprinkler systems in the detached homes as well as in the condominium buildings. We will do this.

6) Under “Utilities” on pages 6-7 of staff comments, and on page 4 in a subsequent Resolution draft, the report describes altering our planned location for the water distribution. Our engineers will resolve the issue of utility locations after further discussions with the City Engineer. For example, we eliminated window wells between two homes which previously made the water line location there problematic.

7) On page 7 the staff is neutral on the value of the proposed land dedication and recommends denial of our proposed waiver of the 1992 utility connection fee which amounts to about $32,000 currently. Regarding the old unpaid assessment, we have learned in our sitework negotiations that it will cost in excess of $80,000 to bring suitable water capacity to the site from an existing water main located along the east side of Shady Oak Road. For this reason, we request favorable consideration of our request to waive the existing assessment. Regarding the proposed land dedication, we believe it provides the best permanent alignment of this property with the adjacent Lone Lake Park.

8) In draft Resolution No. 2018-Resolution approving a final site and building plans for Solbekken Villas, there is a requirement that the final site plan “include any turn lanes on Shady Oak Road as required by Hennepin County.” Our engineers at Loucks are in discussion with Hennepin County on this issue and we expect a reasonable outcome of those discussions.

9) In draft Resolution No. 2018-Resolution approving a final site and building plans for Solbekken Villas, on pages 7 and 8, there is a description of escrows to be established by the applicant. Item ‘e.’ on page 7 describes a substantial escrow account for grading and landscaping. To provide an escrow for 125% of the bid amount of the sitework (we expect $400,000-$500,000 for sitework) and 150% of our estimated landscape budget ($180,000 is our current landscape budget) could amount to a total of about $850,000 and seems excessive for a 15-unit development. The sitework will all be done in 2018, while the landscaping will be done during 2019, with some landscaping perhaps not completed until 2020. We propose that the City accept an amount equal to 125% of the sitework contract as the amount
of the escrow initially, and after releasing some funds related to completed sitework retain in the escrow (i) an amount reasonably sufficient to ensure adequate landscape installation during 2019-2020 and (ii) from that landscape escrow amount some reasonable portion would be held for one full growing season to ensure replacement of failed plantings.

10) In draft Resolution No. 2018-Resolution approving a final site and building plans for Solbekken Villas, on pages 7 there is a condition that no building permit can be issued until the retaining wall west of the condominium buildings has been constructed. We need this provision adjusted to fit the actual process necessary during construction. While this provision is generally consistent with the construction process anticipated for Solbekken, the retaining wall completion will be in steps that our engineers can best explain. For example, we need to have the condominium garage walls built before any soil can be backfilled on that elevation, and the final retaining wall can only be completed once the soil has been backfilled. We ask that this condition be modified to (i) exclude the single family homes which are not affected by the retaining wall and (ii) recognize the construction sequence that will be necessary.

The two colored renderings provided here convey the appearance of the buildings using siding as the predominant material, composition shingle roofs, with expansive windows as shown (especially at the condominium lobbies) and stone facing at the exposed garage level of all the condominium buildings. Generally, the colors we anticipate using will be drawn from the Benjamin Moore Historic Colors collection, selected to fit conventional tastes in the Twin Cities.

Thank you for your guidance over the past months to bring us to this point in the application process. We look forward to meeting with the Planning Commission this evening.

Best regards,

N. Edward Briesemeister
For Solbekken, LLC—Maarten Kuik and N. Edward Briesemeister
neb@greatoaks.us.com
404 789 4447
Exhibits attached here include:

Revised retaining wall sketch from Loucks April 25, 2018
Site plan detail for east boundary from Loucks April 25, 2018
Colored rendering of condominium buildings
Colored rendering of a detached home
Sketch-up views of Shady Oak Road landscape concepts (2)
May 9, 2018

To: Mayor Brad Wiersum, City of Minnetonka
    Members of the Minnetonka City Council—
    Deb Calvert
    Patty Acomb
    Bob Ellingson
    Tony Wagner
    Mike Happe
    Tim Bergstedt

From: Maarten Kuik and N. Edward Briesemeister

Re: Proposed Redevelopment Plan—Music Barn Site
    Solbekken—15 units of ‘for sale’ housing

Mayor Wiersum and members of the City Council,

On April 26th this project was reviewed by the Planning Commission and forwarded to the City Council with a unanimous recommendation for approval. In advance of our public hearing at the City Council on May 14th, we would like to discuss two economic issues in this memorandum which were not discussed with the Planning Commission.

As you may recall, this development site includes a relatively steep, wooded hillside that is adjacent to Lone Lake Park. Our land planners exercised care to preserve as much of the wooded area as possible. This can be seen on the site plan included here. During the Sketch Plan phase of this project, we made a proposal to dedicate a portion of the site to the City for inclusion with Lone Lake Park, with this rationale:

- About 36% of the site is comprised of a wooded slope that will be preserved and not developed.
- The western edge of the site (on top of the hill) has some rolling land which is not readily accessible to the residents, and naturally fits with the adjacent park area. This area is about 15,255 SF or .35 acres (16% of total
site). From within the park, the portion on top of the hill seems clearly to be park land.

- We believe it is in the best interest of the City and the Solbekken project to have this area incorporated into Lone Lake Park in order to establish a more logical boundary relationship and facilitate more effective land management in the future.

In exchange for the parkland dedication, we request that the City give our project credit for the $65,000 payment of park dedication fees which otherwise will be levied.

<table>
<thead>
<tr>
<th>Description</th>
<th>Size</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Site Area:</td>
<td>96,541 SF</td>
<td>2.22</td>
</tr>
<tr>
<td>Proposed Park Dedication:</td>
<td>15,255 SF</td>
<td>.35</td>
</tr>
<tr>
<td>Net Area after Park Dedication:</td>
<td>81,286 SF</td>
<td>1.87</td>
</tr>
<tr>
<td>Density before Park Dedication</td>
<td>6.76 units per acre</td>
<td></td>
</tr>
<tr>
<td>Density after Park Dedication</td>
<td>8 units per acre</td>
<td></td>
</tr>
</tbody>
</table>

The second economic issue involves an unpaid “utility hook up fee” assessed originally in 1992 which amounts to almost $32,000. For Solbekken’s water supply, the line serving the Music Barn is too small and we must spend approximately $75,000 to bring a suitable water line from the east side of Shady Oak Road. Given the extraordinary cost of the sitework for this project—approximately $850,000 in total—we request your favorable consideration of our request to waive the old utility assessment which currently burdens this property.

Once developed, Solbekken will become a vibrant residential enclave, a pleasant landmark on Shady Oak Road and represent about $11 million of tax base for the City of Minnetonka. The economic measures discussed here, we believe, would be equitable in the context of the proposed project.

Yours truly,

Ed Briesemeister

N. Edward Briesemeister
neb@greatoakss.us.com
404 789 4447

CC: Julie Wischnack
Loren Gordon
Susan Thomas
Ordinance No. 2018-

An ordinance repealing and replacing Ordinance No. 2015-12 for redevelopment of the properties at 5740 and 5750 Shady Oak Road

The City Of Minnetonka Ordains:

Section 1.

1.01 On May 18, 2015, the city council adopted Ordinance No. 2015-12. The ordinance rezoned the site generally referred to as the Music Barn properties to PUD, planned unit development, and adopted a master development plan.

1.02 The properties are located at 5740 and 5750 Shady Oak Road and are legally described on Exhibit A.

1.03 In 2017, the city was informed that the 2015 plan was no longer financially feasible.

Section 2.

2.01 To facilitate redevelopment of the site, this ordinance hereby repeals and replaces Ordinance No. 2015-12.

2.02 The properties at 5740 and 5750 Shady Oak Road are hereby rezoned to PUD.

2.03 This ordinance is based on the following findings:

1. The rezoning to PUD would result in the provision of a mix of housing types and single-level living options desirable to the city.

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.

2.04 This ordinance is subject to the following conditions:

1. The site must be developed and maintained in substantial conformance with the following plans:
• Site Plan, dated March 23, 2018
• Grading and Drainage Plan, dated March 23, 2018
• Sanitary and Watermain Plan, dated March 23, 2018
• Stormsewer Plan, dated March 23, 2018
• Landscaping Plan, dated March 23, 2018
• Architectural Plan Set, dated March 5, 2018

2. The development must further comply with all conditions outlined in City Council Resolution No. 2018-xx, adopted by the Minnetonka City Council on May 14, 2018.

Section 3. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on May 14, 2018.

Brad Wiersum, Mayor

Attest:

David E. Maeda, City Clerk

Action on this ordinance:

Date of introduction: April 16, 2018
Date of adoption: 
Motion for adoption: 
Seconded by: 
Voted in favor of: 
Voted against: 
Abstained: 
Absent: 
Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on May 14, 2018.

David E. Maeda, City Clerk
Exhibit A

Parcel 1:

That part of the East 30.00 acres of the Southeast Quarter of the Northeast Quarter of Section 35, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the Southwestern corner of said Northeast Quarter of the Northeast Quarter; thence on an assumed bearing of South 87 degrees 05 minutes 28 seconds West along the South line of said Southeast Quarter of the Northeast Quarter a distance of 672.85 feet; thence North 2 degrees 53 minutes 46 seconds West a distance of 446.09 feet, said line described line if extended would intersect the North line of said Southeast Quarter of the Northeast Quarter at a point 1626.05 feet West of the Northwest corner of said Southeast Quarter of the Northeast Quarter; thence North 87 degrees 05 minutes 28 seconds West a distance of 672.85 feet to the point of beginning; thence South 25 degrees 34 minutes 28 seconds East a distance of 160.00 feet; thence North 87 degrees 05 minutes 28 seconds East a distance of 266.29 feet to the Southeastern right-of-way line of County Road Number 61; thence Northwesterly along said right-of-way line to its intersection with a line bearing North 87 degrees 05 minutes 28 seconds East to the point of beginning; thence South 25 degrees 34 minutes 28 seconds West to the point of beginning.

Hennepin County, Minnesota
Abstract Property

Parcel 2:

That part of the East 30 acres of the Southeast Quarter of the Northeast Quarter of Section 30, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the East Quarter corner of Section 35, thence South 87 degrees 05 minutes 28 seconds West, assumed bearing, along the South line of said Southeast Quarter of the Northeast Quarter, 566.61 feet; thence North 1 degrees 59 minutes 29 seconds West 300.39 feet; thence North 86 degrees 20 minutes 14 seconds East 12.09 feet, which point is marked by a Judicial Landmark; thence South 2 degrees 53 minutes 46 seconds East, along the line described line, 483.39 feet; thence North 87 degrees 05 minutes 28 seconds East 672.28 feet; thence North 87 degrees 05 minutes 28 seconds East 14 feet to the Southeastern right-of-way line of County Road 61 (also known as Stacy Oak Road); thence North 34 degrees 35 minutes 25 seconds West, along said right-of-way, 240.72 feet; thence North 79 degrees 23 minutes 15 seconds West, along said right-of-way, 173.57 feet, to its intersection with a line which bears North 50 degrees 51 minutes 32 seconds East from the point of beginning; thence South 50 degrees 51 minutes 32 seconds West along said line, 42.22 feet to the point of beginning.

Hennepin County, Minnesota
Abstract Property
Resolution No. 2018-

Resolution approving a final site and building plans for Solbekken Villas, a residential development, at 5740 and 5750 Shady Oak Road

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

Section 1. Background.

1.01 Great Oaks Development has requested approval of final site and building plans for Solbekken Villas, a residential development at 5740 and 5750 Shady Oak Road.

1.02 The subject properties are legally described on Exhibit A of this resolution.

1.03 On April 26, 2018 the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended the city council approve the final site and building plans.

Section 2. Site and Building Plan Standards and Findings.

2.01 City Code §300.27, Subd.5 outlines several items that must be considered in evaluation of site and building plans. Those items are incorporated by reference into this resolution.

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

1. The proposal would result in a medium-density residential development consistent with the site’s comprehensive guide plan designation. Further, the proposal has been reviewed by city planning, engineering, and natural resources staff and found to be generally consistent with the city’s development guides, including the water resources management plan.

2. The proposal is consistent with the zoning ordinance.

3. The proposed buildings and access drive would be appropriately situated at the base of the significant wooded slope on the site. There would be little encroachment into the steepest portions of the slope and,
correspondingly, removal of just 19 percent of the site’s high-priority trees.

4. The proposal would result in a harmonious relationship of buildings and open space. Much of the site’s open space would be preserved.

5. The proposal would result in a unique and attractively-designed neighborhood.

6. As new construction, the building code would require use of energy saving features.

7. The proposal would visually and physically alter the site and the immediate area. However, this change would occur with any redevelopment of the site, which the city has long anticipated.


3.01 City Code §300.28, Subd. 20, outlines several standards for construction within code-defined steep slopes. Those standards are incorporated by reference into this resolution.

3.02 The proposal would meet the standards outlined in the City Code §300.28, Subd.20.

1. The property is physically suitable for the design and siting of the proposed development. The proposal would preserve significant natural features by minimizing disturbance to existing topographical forms.

   a) The proposal includes little grading outside of the building footprint and parking and driveway areas.

   b) Retaining walls would be used as an alternative to banks of cut-and-fill.

   c) The proposal would concentrate development on the least sensitive portion of the site to maximize the preservation of trees and natural features.

2. The development would not result in soil erosion, flooding, severe scarring, reduced water quality, inadequate drainage control, or other problems.

   a) Impervious surface would be minimized.

   b) Construction would occur at the base of the slope.
c) The proposal would avoid building on areas of the existing slope that has an average grade of 30 percent or more.

3. The proposed development provides adequate measures to protect public safety.

   a) The slope of the private driveway would be less than 10 percent.

Section 4. City Council Action.

4.01 The above described site and building plans are hereby approved based on the findings outlined in Sections 2 and 3 of this resolution. Approval is subject to the following conditions:

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

   - Site Plan, dated March 23, 2018
   - Grading and Drainage Plan, dated March 23, 2018
   - Sanitary and Watermain Plan, dated March 23, 2018
   - Stormsewer Plan, dated March 23, 2018
   - Landscaping Plan, dated March 23, 2018
   - Architectural Plan Set, dated March 5, 2018

2. Prior to demolition of any structures, the city must be allowed access to the site and buildings for photo and video documentation.

3. A grading permit is required. This permit will cover grading and installation of sewer, water, stormwater facilities and the retaining wall located west of the condominium buildings. Unless authorized by appropriate staff, no site work may begin until a complete grading permit application has been submitted, reviewed by staff, and approved.

   a) The following must be submitted for the grading permit to be considered complete.

      1) An electronic PDF copy of all required plans and specifications.

      2) Final site, grading, utility, stormwater management, landscape, and tree mitigation plans, and a stormwater pollution prevention plan (SWPPP) for staff approval.

         a. Final site plan must:

            - Include any turn lanes on Shady Oak Road as required by Hennepin County.
• Show buildings located outside of all easements.

• Show minimum structure setback of 10 feet setback from east property or trail.

• Include turning templates for fire truck along the one-way drive and for a standard vehicle from the drive into the condominium garages.

• Show an eastward shift at the northerly entrance drive in order to save four large oak trees directly to the west.

b. Final grading plan must be revised as follows:

• No grading or associated tree removal is allowed on the adjacent property to the south.

• No grading is allowed upland of the retaining wall located west of the condominium building.

• Consider extending the retaining wall located west of the condominium building to minimize grading impacts to maple trees in the southwest corner of the site.

• Tighten proposed grades north of the northernmost condominium building to save trees directly to the west.

c. Final utility plan must be revised as follows:

• Show private watermain located within the one-way drive aisle, with fire hydrants located on the site. Watermain as initially proposed along east side of property will not meet Hennepin County requirements and the side yard location would not be maintainable due to window wells.

• Indicate removal of unused water services back to the main and the corporation stop turned off.

• Indicate 6-inch north/south sewer runs serving the development. An 8-inch run between Shady Oak Road and the one-way drive aisle is permitted.
d. Final stormwater management plan is required for the entire site's impervious surface. The plan must demonstrate conformance with the following criteria:

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

- **Volume.** Provide for onsite retention of 1-inch of runoff from the entire site's impervious surface.

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

In addition:

- In areas where storm pipe is currently shown to be removed to the edge of the existing trail, indicate either: (1) pipe removed all the way to the structure; or (2) pipe removed to the edge of trail and filled with grout to the structure. In either case, a bulkhead opening is required in the structure.

- The storm sewer alignment must be adjusted such that easements do not intersect structures.

- Underground infiltration system elevations as shown appear to conflict with proposed stormsewer connection. This must be evaluated.

- Provide evidence that the underground system will be able to support 83,000 pounds and 10,800 pounds per square foot outrigger load.

- The underground system must be inspected by a qualified third party during installation and that party must verify that the pressure requirements are adequately met.

e. Final landscaping plan be revised.
1. The applicant must meet with city staff and revise the plan to satisfy city objectives regarding the type and locations of plant materials and other landscape features. These revisions may include:

   - Substitute some of the columnar junipers and aspen with one or two more columnar species.

   - Substitute half of the gro-low suman with another species.

   - Substitute half of the red sunset maple with another genus.

2. All deciduous plant material must be placed at least 15 feet behind the curb and 10 feet behind the edge of the sidewalk. Evergreen trees must be at least 20 feet behind the curb and 15 feet behind the edge of the sidewalk. Natural resources staff may allow slightly less setbacks for columnar species.

3. Include notation demonstrating the value of the proposed landscaping will meet code requirements.

   3) A Utility Exhibit. The exhibit must show only property lines, buildings, sewer, water, stormsewer and underground chamber. The exhibit must clearly note that all utilities are private.

b) Prior to issuance of a grading permit:

   1) This resolution must be recorded at Hennepin County.

   2) Any outstanding assessments or fees must be paid.

   3) Submit the following:

      a. A development agreement in a city approved format for review and approval of city staff.

      b. A legal document outlining that the drive, utilities, and hydrant on site will be privately constructed and maintained. The document, which must be reviewed
and approved by the city attorney, must be recorded against the properties.

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

d. 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. Financial guarantees in the amount of 125% of a bid cost or 150% of an estimated cost to comply with grading permit and landscaping requirements and to restore the site. Staff is authorized to negotiate the manner in which site work and landscaping guarantees will be provided. The city will not fully release guarantee until: (1) as-built drawings have been submitted; (2) a letter certifying that the underground facility has been completed according to the plans approved by the city; (3) vegetated ground cover has been established; and (4) required landscaping or vegetation has survived one full growing season.

f. 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.

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

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

c) Prior to issuance of any building permit:

1) The retaining wall located west of the condominium buildings must be constructed or a construction phasing plan must be submitted for staff review and approval. In either case, staff must meet with the contractor on site prior to wall construction.

2) Submit the following documents:

a. A snow removal and salting application rate plan.

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

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

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

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

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

4. The “rear” or east facade of the single-family homes must incorporate some of the architectural detail/features of the front of the homes. This may include inclusion of vertical siding, dormers, or other details/features.
5. The property owner is responsible for replacing any required landscaping that dies.

6. Construction must begin by December 31, 2019, unless the planning commission grants a time extension.

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 14, 2018.

Brad Wiersum, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held May 14, 2018.

David E. Maeda, City Clerk

SEAL
EXHIBIT A

Parcel 1:
That part of the East 30.06 acres of the Southeast Quarter of the Northeast Quarter of Section 36, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the Southeast corner of said Northeast Quarter of the Northeast Quarter, thence on an assumed bearing of South 87 degrees 06 minutes 26 seconds West along the South line of said Northeast Quarter of the Northeast Quarter a distance of 973.40 feet; thence North 0 degrees 53 minutes 46 seconds West, a distance of 648.62 feet, said last described line if extended would intersect the North line of said Southeast Quarter of the Northeast Quarter at a point 1908.65 feet West of the Northeast corner of said Southeast Quarter of the Northeast Quarter, thence North 07 degrees 06 minutes 26 seconds East a distance of 973.40 feet to the point of beginning of the land to be described; thence South 86 degrees 24 minutes 36 seconds East a distance of 1020.20 feet; thence North 60 degrees 59 minutes 31 seconds East a distance of 225.10 feet to the Southwesterly right of way line of County Road Number 61; thence Northwesterly along said right of way line to its intersection with a line bearing North 63 degrees 25 minutes 51 seconds East to the point of beginning; thence South 63 degrees 25 minutes 51 seconds West to the point of beginning.

Hennepin County, Minnesota
Abstract Property

Parcel 2:
That part of the East 30 acres of the Southeast Quarter of the Northeast Quarter of Section 36, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the East Quarter corner of Section 36, thence South 67 degrees 06 minutes 26 seconds West, an assumed bearing, along the South line of said Southeast Quarter of the Northeast Quarter, 556.94 feet; thence North 1 degree 19 minutes 39 seconds West 369.46 feet; thence North 45 degrees 29 minutes 14 seconds East 12.30 feet, which point is marked by a Judicial Landmark; thence South 2 degrees 53 minutes 46 seconds West, along the last described line, 400.23 feet; thence North 67 degrees 06 minutes 26 seconds East 975.76 feet; thence North 60 degrees 59 minutes 31 seconds East 1020.20 feet to the Southwesterly right of way line of County Road K; (also known as Hardy Oak Road); thence North 32 degrees 58 minutes 25 seconds West, along said right of way, 249.72 feet; thence North 39 degrees 23 minutes 15 seconds West, along said right of way, 170.87 feet, to its intersection with a line which bears North 60 degrees 05 minutes 52 seconds East from the point of beginning; thence South 50 degrees 05 minutes 52 seconds West, along said line, 42.72 feet to the point of beginning.

Hennepin County, Minnesota
Abstract Property
Resolution No. 2018-

Resolution approving the preliminary and final plats of SOLBEKKEN VILLAS at 5740 and 5750 Shady Oak Road

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

Section 1. Background.

1.01 Great Oaks Development has requested preliminary and final plat approval of SOLBEKKEN VILLAS.

1.02 The site is located at 5740 and 5750 Shady Oak Road. It is legally described on EXHIBIT A of this resolution.

1.03 On April 26, 2018, 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 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 preliminary and final plat would meet the design standards as outlined in City Code §400.030.


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

1. 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 $65,000. This number equates to $5,000 per unit minus $10,000 for two existing lots.
   4) 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. Unless the city council approves a time extension, the final plat must be recorded by May 14, 2019.

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 14, 2018.

Brad Wiersum, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on May 18, 2018.

David E. Maeda, City Clerk
EXHIBIT A

Parcel 1:

That part of the East 30.08 acres of the Southeast Quarter of the Northeast Quarter of Section 35, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the Southeast corner of said Southeast Quarter of the Northeast Quarter; thence on an assumed bearing of South 87 degrees 06 minutes 28 seconds West along the South line of said Southeast Quarter of the Northeast Quarter a distance of 392.00 feet; thence North 2 degrees 55 minutes 46 seconds West a distance of 448.00 feet, said last described line if extended would intersect the North line of said Southeast Quarter of the Northeast Quarter at a point 1998.66 feet West of the Northeast corner of said Southeast Quarter of the Northeast Quarter; thence North 07 degrees 06 minutes 26 seconds East a distance of 97.00 feet to the point of beginning of the land to be described; thence South 25 degrees 34 minutes 03 seconds East a distance of 162.90 feet; thence North 60 degrees 25 minutes 51 seconds East a distance of 504.69 feet to the South boundary right-of-way line of County Road Number 61; thence West paralleling said right-of-way line to its intersection with a line bearing North 60 degrees 25 minutes 51 seconds East to the point of beginning; thence South 63 degrees 25 minutes 51 seconds West to the point of beginning.

Hennepin County, Minnesota
Abstract Property

Parcel 2:

That part of the East 30 acres of the Southeast Quarter of the Northeast Quarter of Section 35, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the Northeast corner of Section 35; thence South 07 degrees 05 minutes 25 seconds West, an assumed bearing, along the South line of said Northeast Quarter a distance of 556.51 feet; thence North 2 degrees 56 minutes 25 seconds West 456.27 feet to the point of beginning of the land to be described; thence South 2 degrees 56 minutes 25 seconds West, an assumed bearing, along the South line of said Northeast Quarter a distance of 456.27 feet; thence North 25 degrees 34 minutes 03 seconds East, along said assumed line, 1998.66 feet to the South boundary right-of-way line of County Road 61; thence North 60 degrees 25 minutes 51 seconds East 504.69 feet; thence North 60 degrees 25 minutes 51 seconds East 181.72 feet to the South boundary right-of-way line of County Road 61 (also known as Shady Oak Road); thence North 3 degrees 25 minutes 51 seconds East 366.14 feet to its intersection with a line which bears North 30 degrees 03 minutes 52 seconds West from the point of beginning; thence South 30 degrees 03 minutes 52 seconds West, along said line, 427.22 feet to the point of beginning.

Hennepin County, Minnesota
Abstract Property
City Council Agenda Item #14C  
Meeting of May 14, 2018

**Brief Description**  
Conditional use permit for a religious institution at 2333 and 2339 Hopkins Crossroad and 11170 Mill Run

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

**Background**

In February 2018, Chabad Center for Jewish Life presented a concept plan for planning commission review. The plan contemplated construction of a religious institution on the combined properties at 2339 Hopkins Crossroad and 11170 Mill Run. The concept plan suggested the building would be roughly 15,000 square feet in size, just over 41 feet in height as measured to the highest point of the building, with a finished façade of brick, stucco, and medium-density overlay (MDO) board, which is sometimes referred to as signboard. The concept plan indicated that the building would be served by a 40 stall parking lot with driveway access to both Hopkins Crossroad and Mill Run.

Several area residents addressed the commission during the concept plan review. The residents generally expressed concern about the size and design of the proposed building, the possible intensity of the proposed use, and off-site impacts of traffic and parking. The commission expressed similar concerns. (See attached plans and meeting minutes.)

**Formal Application**

In April 2018, Chabad Center for Jewish Life submitted a conditional use permit (CUP) application for a religious facility on the combined properties at 2333 and 2339 Hopkins Crossroad and 11170 Mill Run. As under the concept plan, the formally submitted development plans suggest construction of a 15,000 square foot religious building. However, there are also several noticeable differences between the concept and formal plans.

<table>
<thead>
<tr>
<th></th>
<th>Concept Plan</th>
<th>Current Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Properties to be Combined</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Size of Combined Property</td>
<td>1.37 acres</td>
<td>1.96 acres</td>
</tr>
<tr>
<td>Number of Proposed Buildings</td>
<td>1</td>
<td>2*</td>
</tr>
<tr>
<td>Square footage of buildings</td>
<td>15,000 sq.ft.</td>
<td>17,950*</td>
</tr>
<tr>
<td>Floor Area Ratio</td>
<td>0.25</td>
<td>0.21*</td>
</tr>
<tr>
<td>Building Height**</td>
<td>41 ft 3 in</td>
<td>29 ft</td>
</tr>
<tr>
<td>Building Façade Material</td>
<td>Glass, brick, stucco, MDO board</td>
<td>Glass, Kasota stone, terracotta rain screen</td>
</tr>
<tr>
<td>Striped Parking Stalls</td>
<td>40 stalls</td>
<td>50 stalls^</td>
</tr>
</tbody>
</table>
Planning Commission Hearing

The planning commission considered the formal conditional use permit request on April 26, 2018. The commission report and associated plans are attached. Staff recommended approval of the CUP, finding:

- The proposed religious use of the site is generally appropriate. By city code, religious institutions are conditionally-permitted uses in residential areas.
- The proposed religious institution would meet the conditional use permit standards.
- The traffic and parking demand generated by the use could be accommodated by the existing roadways and proposed parking lot.

At that meeting, a public hearing was opened. Nineteen people addressed the commission. Those opposed to the proposal suggested:

- The proposed building would not be harmonious with the surrounding residential area.
- Additional parking would be required to accommodate potential overflow seating from the proposed sanctuary into the proposed social hall space.
- The number of vehicles already using Hopkins Crossroad makes it difficult and dangerous to turn on to and off of the county road. The proposal would exacerbate this situation.

Those who spoke in favor of the proposal suggested:

- Religious institutions are appropriate uses in neighborhoods.
- The proposal would “clean up” the property.
- The traffic generated by the proposal would be insignificant relative to existing traffic on Hopkins Crossroads.

Following the public hearing, the commission discussed the proposal and noted that they appreciated the traffic concerns raised during the hearing. While acknowledging that the proposed building would be large, the majority of commissioners concurred with staff’s opinion that the proposal met the conditional use permit standards.

Planning Commission Recommendation

On a 3-1 vote, the commission recommended that the city council approve the proposal.
Since Planning Commission Hearing

Following the planning commission hearing on the item, city staff and the applicant have continued to evaluate the questions and concerns raised at the planning commission meeting.

- **Building Arrangement and Height.** The applicant has submitted a revised footprint and building elevation for the proposed Chabad Center. The intent of the revisions is to break up the mass of the proposed structure as well as lowering the height of various segments of the building. The east elevation changes are illustrated below for reference. All of the revised plans are attached.

  ![Presented at Planning Commission](image1.png)

  ![Revised Since Planning Commission](image2.png)

While the square footage of the building has not changed, a portion of the footprint shifted slightly to the south, resulting in loss of one parking stall. The proposed façade materials have not changed. The staff-drafted resolution has been updated to reflect these revised plans.

- **Traffic.** In specific response to comments received, staff requested SRF to conduct additional analysis of the Hopkins Crossroad/Hillside Lane intersection. Staff asked that existing and anticipated conditions – with build out of the proposed Chabad Center – be evaluated. Traffic counts were taken between Thursday, May 3 and Saturday, May 5. The study concluded that there would be minimal overall change in the area traffic operations resulting from the proposed Chabad Center.

- **Access.** Hopkins Crossroad is a county roadway. While the county does not have land use or zoning authority over properties adjacent to its roadways, it does have the authority to regulate access or changes in access to its roads. During review of the Chabad Center application, county staff indicated that they would prefer that all access
to the proposed center be via Mill Run. Given the information provided by the traffic study and its addendum, city and county staff have had several conversations about goals and standards. In the spirit of collaboration, city staff is willing to participate in further conversations. Nevertheless, the staff-drafted resolution continues to include a condition that, prior to issuance of a building permit, the applicant must “obtain permits from the county for access and work within county right-of-way.” The city generally includes this condition for any development proposal on county roadway.

- **Parking.** By city code religious institutions must provide one parking space for each 2.5 seats based on the design capacity of the main sanctuary or assembly space. In addition, the code notes that the city may require additional spaces for offices, classrooms, day care centers or other uses operated on the site. The city does not generally require “additional” parking for offices/classrooms/daycare centers, as the highest parking demand for a religious institution usually occurs during religious services, when the offices/classrooms/daycares centers are not in use.

The applicant has indicated that, on a typical day, the proposed sanctuary would contain 33 tables with three chairs at each; this is a design capacity of 99 seats. Forty parking stalls would be required by code. The applicant has also indicated an aspirational attendance of 125 persons. If the building were to be configured with seats for 125 people, 50 parking stalls would be required. As proposed under the revised plan, 50 striped parking stalls would be provided. Additional proof-of-parking would be available in a paved courtyard south of the proposed building.

<table>
<thead>
<tr>
<th>SEATS</th>
<th>REQUIRED PARKING</th>
</tr>
</thead>
<tbody>
<tr>
<td>99 under typical set up</td>
<td>40 stalls</td>
</tr>
<tr>
<td>125 seats</td>
<td>50 stalls</td>
</tr>
</tbody>
</table>

It has been suggested – during and after the commission’s hearing – that staff’s parking calculation is incorrect. The suggestion was that required parking should be based on either: (1) the seating capacity for the combined sanctuary and social hall; or (2) building-code defined design occupancy loads. In staff’s opinion, calculations under either of these options would be unreasonable.

(1) The city has not previously included social halls – or potential overflow seating areas – in the calculation of parking requirements for religious institutions. Staff acknowledges that the celebration of certain holidays or life events may result in seating outside of sanctuaries. However, it has historically been the city’s practice to require parking for the “typical” not for the “exception.”

(2) The city’s building official has confirmed the design occupancy load of an assembly area is used specifically to determine egress requirements for a particular area. In other words, this a calculation for establishing life/safety features of a building, not for calculating parking.

- **Pedestrians.** Pedestrian safety has been raised during public meetings associated with the proposed Chabad Center. Under the Religious Land Use and Institutionalized Persons Act (RLUIPA), the city cannot consider the religious practices of any particular group when making land use decisions. Staff notes that there are currently no dedicated pedestrian/bike facilities on Hopkins Crossroad. Nevertheless, pedestrians and bicyclists
have been observed using the shoulder of the county road. Although the shoulder is not constructed to an optimal width to accommodate pedestrian/bike traffic, the county does not preclude that activity. Dedicated facilities are part of the city’s five-year Capital Improvement Plan. Staff has added a condition of approval requiring that grading associated with this project include grading to accommodate the future trail location.

Summary Comments

Staff continues to acknowledge that the proposed Chabad Center for Jewish Life would visually alter the Hopkins Crossroad/Mill Run area. Further, the proposal would result in a different level of activity than was historically observed while the site contained occupied single-family homes. However, staff recommends approval of the request, as: (1) religious use of the site is contemplated by the zoning ordinance; (2) the proposal would meet CUP requirements; (3) similar uses exist in residential areas throughout the community; and (4) no significant operational impacts to Hopkins Crossroad are expected as a result of the proposed development.

Staff Recommendation

Staff recommends the city council adopt the resolution approving a religious institution at 2333 and 2339 Hopkins Crossroad and 11170 Mill Run.

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

Originator: Susan Thomas, AICP, Assistant City Planner
MINNETONKA PLANNING COMMISSION
April 26, 2018

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

Recommendation
Recommend the city council adopt the resolution approving the conditional use permit

Introduction
Chabad Center for Jewish Life is requesting a conditional use permit (CUP) to operate a religious institution from the combined site and 2333 and 2339 Hopkins Crossroad and 11170 Mill Run. As proposed, the three properties would be combined, all but one of the several existing buildings removed, and a new religious building with associated parking lot would be constructed.

Proposal Summary
The following is intended to summarize the applicant’s proposal. Additional information associated with the proposal can be found in the “Supporting Information” section of this report.

- **Existing Site Conditions.** The combined site has a total area of 1.95 acres. It contains two houses, three detached garage structures and one large shed. The houses are situated at the highest points of the larger site; grade falls in all directions from these points. There is a roughly 20 foot change in elevation over the entirety of the property. Mature trees are located throughout the site, including several pine, spruce, maple and oak.

- **Proposed Buildings.** As proposed, an existing single-family home located adjacent to Mill Run would be remodeled. The building, which would be accessed via a residential driveway to Mill Run, would continue to be used as a home. A new religious institution building would be constructed at the center of the combined site. The building would have a footprint of roughly 11,000 square feet and total floor area of roughly 15,000 square feet. The building would contain a worship space, social hall, kitchen, offices, classrooms, library, and ritual bath area. The exterior of the building would be comprised of a variety of materials, including glass, limestone, natural wood and terracotta clay. The building would have a code-defined height of 31 feet; in the case of flat roof, height is measured from grade to the highest point of the roof.

- **Proposed Site Design.** As proposed, vehicular access to the religious site would be via a new driveway onto Hopkins Crossroad; the driveway would be located 135 feet north of Mill Run. The primary parking lot for the site – containing 44 striped stalls – would be located north of the building. A smaller parking area – containing 7 striped stalls and unstriped area that could accommodate additional cars – would be located between the new building and the existing home. The plans do not include any vehicular connection between the proposed parking lots and Mill Run; such connection would be limited by the location of the existing home, as well as existing site grades. As proposed, the site
would continue to accommodate a private driveway accessing the private property to the north.

- **General Building and Site Use.** Like other religious institutions in the community, Chabad Center for Jewish Life is intended as a facility for worship, prayer, study, and the celebration of life events. It is anticipated that the building would typically be used as follows.

<table>
<thead>
<tr>
<th>Day</th>
<th>Activity</th>
<th>Attendees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday thru Friday</td>
<td>Morning services</td>
<td>10 to 15 people</td>
</tr>
<tr>
<td></td>
<td>Daytime classes</td>
<td>5 to 15 people</td>
</tr>
<tr>
<td></td>
<td>Regular evening classes</td>
<td>5 to 15 people</td>
</tr>
<tr>
<td></td>
<td>Occasional evening classes</td>
<td>30 to 50 people</td>
</tr>
<tr>
<td>Friday</td>
<td>One special service per month</td>
<td>75 to 125 people</td>
</tr>
<tr>
<td>Saturday</td>
<td>Midday service</td>
<td>50 to 100 people</td>
</tr>
<tr>
<td>Sunday</td>
<td>Early morning service</td>
<td>10 to 15 people</td>
</tr>
<tr>
<td></td>
<td>Later morning service</td>
<td>35 to 50 people</td>
</tr>
</tbody>
</table>

**Primary Questions and Analysis**

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

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

  Yes. The site is zoned R-1, low-density residential. By city code, religious institutions are conditionally-permitted uses in residential zoning districts. A conditionally-permitted use is one that is allowed if the conditions outlined in code are met.

- **Would the proposed use meet conditional permit standards?**

  Yes. City code outlines several conditions for religious facilities. It is staff’s opinion that the proposed Chabad Center for Jewish Life meets the ordinance standards. Some of the CUP standards are objective and compliance with these standards can be specifically measured. Other standards are subjective and require the reasonable exercise of discretion by the commission, based on the facts presented in the record. The following highlights some of the CUP standards. All of the standards are outlined in the “Supporting Information” section of this report.

**Objective Standards.** The objective standards of the code reference access to a collector or arterial roadway, building and parking setbacks, parking numbers, and the percentage of the site covered by hard surfaces. The proposal meets all of these objective measurements.
Meeting of April 26, 2018
Subject: Chabad Center for Jewish Life

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Setback</td>
<td>Minimum 50 ft</td>
<td>50 ft</td>
</tr>
<tr>
<td>Parking Setback</td>
<td>Minimum 20 ft</td>
<td>20 ft</td>
</tr>
<tr>
<td>Parking Stalls</td>
<td>Minimum 40 stalls per city code*</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Minimum 55 per ITE**</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>51 striped</td>
</tr>
<tr>
<td>Impervious Surface</td>
<td>Maximum 70%</td>
<td>66%</td>
</tr>
</tbody>
</table>

* based on sanctuary seating for 99 persons, as per city code
**based on Institute of Transpiration Engineers (ITE) rate of 2.25 persons per vehicle and 125 attendees

**Subjective Standards.** Some of the subjective standards of the ordinance require limiting site disturbance to the greatest extent practicable, details of construction being compatible with neighboring and adjacent structures, and protection of neighboring properties. It is important to evaluate compliance with these subjective standards with the understanding that the ordinance contemplates construction of a religious institution on a residentially zoned-property.

- **Site Disturbance.** The proposal would result in alteration of a majority of the site, including changes to grade and tree removal/impact. The subjective standard does not prohibit such alteration, but requires that it be limited to the *extent practicable*. This means that the grading plan, and resulting tree removal/impact, must relate to the building and required parking that is proposed. With some minor modifications to the grading plan – which are included in the staff-drafted resolution as conditions of approval – it is staff’s opinion that site disturbance would be limited to the extent practicable, given construction of a building and parking lot.

- **Design Compatibility.** Generally, staff does not interpret compatibility to mean that a religious institution located in a residential zoning district be designed to “look like” or be “sized like” a residence. Minnetonka does not have design criteria for single-family homes. Given this, and given that that homes in the area of the proposed Chabad Center were built over several decades, there is no clear design pattern in the area surrounding the subject property. Further, in staff’s opinion, it would be inappropriate to suggest that a building intended for the public assembly of people be of a size similar to a single-family home. There are currently 21 religious institutions in Minnetonka that are located on properties zoned R-1, low-density residential. Staff finds that none of these existing institutions “look like” or are “sized like” a single-family home. Instead, staff interprets design compatibility to mean some level of complementary design features. The façade of the proposed Chabad Center for Jewish Life would be of a neutral color palate and would include natural materials, which are residential in character. Additionally, at a proposed height of 31 feet, the facility would be shorter than the 35 feet permitted for single-family homes. (See attached photos.)

- **Protection of Neighboring Properties.** Generally, any change to the use of a property will bring with it changes to drainage patterns, sounds, and site lines. The objective standards – building setbacks, parking setbacks – as well as conformance with the
stormwater management rules and nuisance regulations regarding lighting and “quiet hours,” are intended to minimize or mitigate for these changes.

The conditional use permit standards for religious institutions are the same standards that are applied to any public building; for instance, city hall or a library. The consistency between these standards is intentional. By federal law, local ordinances must treat religious facilities in the same manner as any place of public assembly. Federal law is discussed in greater detail in the “Support Information” section of this report.

- **Can anticipated traffic and parking be accommodated?**

Yes. The city commissioned a traffic and parking study for this conditional use permit request. The purpose of any traffic study is to understand: (1) the existing traffic volume and operations; (2) the impact of the proposal on existing traffic volume and operations; and (3) if the proposal impact would be negative, how those impacts could be mitigated. The purpose of a parking study is to determine if anticipated parking demands can be accommodated by the proposed parking supply.

The traffic study conducted for the proposed Chabad Center included trip data collection for the center’s anticipated “peak hours,” which are associated with anticipated service times: weekday a.m. from 7:15 to 8:15, Friday p.m. from 5:00 to 6:00, and Saturday midday from 12:30 to 1:30. The traffic study concluded:

- Hopkins Crossroad experiences approximately 14,500 daily vehicle trips. The theoretical capacity of the roadway with its current configuration is 17,000 vehicles trips per day.

- Based on general activity hours, the proposal would add 36 vehicle trips to Hopkins Crossroad during the weekday a.m. peak hour, 60 vehicle trips in the Friday p.m. peak hour, and 50 trips in the Saturday midday peak hour.

- The proposal is anticipated to increase the delay at the Mill Run/Hopkins Crossroad by approximately two to three seconds during the a.m. and p.m. peak hours.

The parking study concluded:

- The proposed 51 parking stalls is expected to be sufficient to meet parking demand.

- 13 additional proof-of-parking stalls would be available in the proposed south court.

Area residents have noted that the study does not specifically look at the Hillside Lane intersection to the north nor take into account the activities occurring at Hopkins school campus. This traffic study was intended to review if the proposed use would negatively impact volume on Hopkins Crossroad and or decrease levels of service in the specific area in which is located, based on current traffic data. On a Friday, the anticipated busiest day at the proposed institution, the proposal would add 96 vehicle trips to Hopkins Crossroad. This would amount to a 0.7% increase in daily traffic.
Is the proposed access consistent with city code?

Yes. By city code, religious institutions must have direct access on a collector or arterial roadway as identified in the comprehensive plan or the access must be located such that it does not conduct significant traffic on local residential streets. The intent of this requirement is to ensure these uses – which generate more traffic than single-family homes – are located on roadways that can accommodate higher traffic volumes. Collector and arterial roadways can see traffic volumes of up to 30,000 vehicle trips per day. Local streets generally experience volumes of less than 1,000 trips per day.

The subject site has frontage on both Hopkins Crossroad and Mill Run, an arterial roadway and local street respectively. Hopkins Crossroad sees an average of 14,500 vehicle trips per day, while Mill Run experiences an average of 100 trips per day. City staff supports the proposed access onto the arterial roadway, as such access is consistent with both the letter and intent of the city code requirement.

The county has informed city staff that it would prefer that the site plan be redesigned to direct all vehicle access to Mill Run and that a variety of turn lanes be added to the county road. The county has driveway permitting authority and has control of the design of Hopkins Crossroad. As with any driveway change on a county road, the applicant would have to obtain a driveway permit from the county. This has been included as a condition of approval.

Summary Comments

Staff acknowledges that the proposed Chabad Center for Jewish Life would visually alter the Hopkins Crossroad/Mill Run area. Further, the proposal would result in a different level of activity than was historically observed while the site contained occupied single-family homes. However, staff recommends approval of the request, as: (1) religious use of the site is contemplated by the zoning ordinance; (2) the proposal would meet CUP requirements; and (3) similar uses exist in residential areas throughout the community.

Staff Recommendation

Recommend the city council adopt the resolution approving a conditional use permit for a religious institution at 2333 and 2339 Hopkins Crossroad and 11170 Mill Run.

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

**Surrounding Land Uses**
The site is surrounded by single-family residential homes.

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

**Concept Plan Review**
In February 2018, the planning commission reviewed a concept plan for a religious facility on the properties at 2339 Hopkins Crossroad and 11170 Mill Run. At that meeting, several area residents addressed the commission. The residents generally expressed concern about the size and design of the proposed building, the possible intensity of the proposed use, and off-site impacts of traffic and parking. The commission expressed similar concerns. (Meeting minutes are attached.)

The formal application includes three noticeable difference from the concept plan.

- Additional property has been incorporated into the redevelopment site.
- The maximum visual height of the building, from grade to highest point of the roof structure has been reduced from 40 feet to 31 feet.
- The home at 11170 Mill Run is proposed to remain.
- No vehicle access to/from the new building to Mill Run is proposed.

**Other Facilities**
There are 21 religious institutions in Minnetonka located on properties zoned R-1, low-density residential. The facilities are located on county roads and local streets and on lots ranging from 1.9 acres to 25.7 acres in size. The variety in lot size is also reflected in the variety of building size, which ranges from 12,900 square feet to 72,000 square feet. (See attached chart for more information.)

**Site and Building Information**
The following data is for informational purposes. The ordinance does not have minimum or maximum limits for these.

<table>
<thead>
<tr>
<th></th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Lot Area</strong></td>
<td>85,145 sq.ft.</td>
</tr>
<tr>
<td><strong>Total Floor Area</strong></td>
<td>15,000 sq.ft. (proposed building)</td>
</tr>
<tr>
<td></td>
<td>2,950 sq.ft. (existing home)</td>
</tr>
<tr>
<td><strong>Floor Area Ratio</strong></td>
<td>0.18 (proposed building)</td>
</tr>
<tr>
<td></td>
<td>0.21 (proposed building and home)</td>
</tr>
</tbody>
</table>
Grading

Grading would be necessary to accommodate construction of the proposed facility and associated parking lots. Generally, the area north of the home would be graded flat. Approximately three to ten feet of soil would be removed from the central portion of the site. Roughly, two to four feet of soil would be added near the northwest corner of the site. In this same area, to accommodate an existing private and new parking lot, a retaining wall would be constructed. The wall would range in height from two feet to seven feet.

As a condition of approval some areas of the grading plan must be revised. In particular, along the east property line and south of the existing home. The easterly portion of the site must be graded to direct runoff to the underground storage facility. This may be done via overland flow or piping. Additionally, grading proposed south and southwest of the existing home must be reduced to better protect existing trees.

Trees

The following tree removal/impact is anticipated based on the proposed grading plan. With some modifications to the plan, removal/impact may be slightly lowered. These modifications, noted in the preceding paragraph have been included as conditions of approval in the staff-drafted resolution.

<table>
<thead>
<tr>
<th></th>
<th>Existing</th>
<th>Removed</th>
<th>% Removed</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Priority</td>
<td>36</td>
<td>14</td>
<td>39%</td>
</tr>
<tr>
<td>Significant</td>
<td>45</td>
<td>40</td>
<td>89%</td>
</tr>
</tbody>
</table>

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

The proposal is for redevelopment of existing, developed lots. As such, the tree ordinance does not establish a maximum threshold for tree removal/impact. The ordinance does require mitigation for removal of trees located outside of proposed building footprints and driveways, and 20 foot and 10 foot perimeters of these respective areas.

Stormwater

The proposal triggers the city’s stormwater management requirements. These requirements include: (1) on-site retention of 1-inch for runoff from the site’s impervious surfaces; (2) limiting peak runoff rate flow to those of the existing condition; and (3) treatment of all runoff for removal of 60 percent of phosphorus and 90 percent of suspended solids.

The applicant proposes construction of an underground stormwater facility to meet these stormwater requirements. As proposed, runoff from the site would be captured through several catch basins and directed to the underground chambers via stormwater pipe. Final plans and soil borings must be submitted for staff review and approval as part of a grading permit application.
Buffering

The applicant proposes to plant 78 arborvitae along the north and east property line to provide a visual buffer to the adjacent single-family homes. As a condition of approval, the plan must be revised to substitute half of these plants with another species to avoid planting a monoculture.

Legal Considerations

The city’s evaluation of the proposed Chabad Center for Jewish Life is subject to both local and federal law. The local law is the conditional use permit standards the city has established in the zoning ordinance. Generally, an applicant is legally entitled to a conditional use permit if the city finds that the request meets the standards of the ordinance. The federal law is the Religious Land Uses and Institutionalized Persons Act (RLUIPA). Generally, RLUIPA requires that religious institutions not be subject to standards that are more restrictive than would be required for any other type of assembly land use, such as a school or community center.

The city attorney has provided an advisory memo regarding RLUIPA. (See attached.)

CUP Standards

The proposed religious facility would be consistent with the general CUP standards as outlined in City Code §300.16 Subd.2:

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

Finding: Religious institutions are specifically listed as conditionally-permitted uses in the single-family residential zoning district.

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

Finding: The goals, policies, and objectives of the comprehensive plan are generally the city’s effort to create a vibrant and resilient community. Religious institutions are a component of such communities.

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

Finding: The proposal has been reviewed by members of the city’s community development, engineering, public works, fire, and legal departments. Staff does not find that the proposed religious institution would have an adverse impact on the provision of government services or infrastructure.

4. The use does not have an undue adverse impact on the public health, safety or welfare.
Finding: The proposed institution would visually alter the Hopkins Crossroad/Mill Run and result in a different level of activity than was historically observed while the site contained occupied single-family homes. Though noticeable, these changes would not be detrimental to the health, safety, or welfare of the community.

The proposal would meet the specific conditional use permit standards for religious facilities as outlined in City Code §300.16 Subd.3(b):

1. Direct access limited to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

Finding: The proposed facility would have access to Hopkins Crossroad, which is defined as an arterial (minor reliever) roadway in the comprehensive plan.

2. Buildings must be set back 50 feet from all property lines;

Finding: The new facility would meet this setback from east and west property lines and it exceeds it from the north and south.

3. Parking spaces and parking setbacks subject to section 300.28 of this ordinance;

Finding: By ordinance, 1 parking space is required for every 2.5 seats within the main sanctuary of a religious facility. As proposed the sanctuary would regularly have seating for 99 people, requiring 40 parking stalls. 51 parking stalls would be striped on the site. Staff notes additional areas would be available as "proof-of-parking."

4. No more than 70 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped; and

Finding: Staff calculates impervious surface would cover 66 percent of the site.

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

Finding: See the “SBP” section of this report.

SBP Standards

The proposal would meet the site and building standards as outlined in City Code §300.27 Subd.5:
1. Consistency with the elements and objectives of the city’s development guides, including the comprehensive plan and water resources management plan.

**Finding:** The proposal has been reviewed by city planning, engineering, and natural resources staff and found to be generally consistent with the city’s development guides, including the water resources management plan.

2. Consistency with this ordinance.

**Finding:** Religious institutions are specifically listed as conditionally-permitted uses in the single-family residential zoning district.

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

**Finding:** The proposal would result in significant alteration of the site, including changes to grade and tree removal/impact. However, with some minor modifications to the grading plan – which are included in the staff-drafted resolution as conditions of approval – site disturbance would be limited to the extent practicable, given construction of a building and parking lot.

4. Creation of 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 proposal would appropriately locate constructed features – new building and parking lots – at the center of the site, maintain green space and the opportunity for new plantings at its perimeter.

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

- 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.

- the amount and location of open space and landscaping.

- materials, textures, colors and details of construction as an expression of the design concept and compatibly of the same with the adjacent and neighboring structures and uses.

- vehicular and pedestrian circulation, including walkways, interior drivees 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 location of buildings relative to open space and paved areas is appropriate. The façade of the proposed center would be of a neutral color palate and would include natural materials, which are residential in character. Additionally, at a proposed height of 31 feet, the facility would be shorter than the 35 feet permitted for single-family homes. Vehicular and pedestrian circulation patterns would be intuitive.

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.

**Finding:** As new construction, the building code requires use of energy saving features.

7. Protection of adjacent and neighboring properties through reasonable provision for surface water drainage, sound and site 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:** Generally, any change to the use of a property will bring with it changes to drainage patterns, sounds, and site lines. The objective standards – building setbacks, parking setbacks – as well as conformance with the stormwater management rules and conformance with nuisance regulations regarding lighting and “quiet hours” are intended minimize or mitigate for these changes.

**County Review**

As the site is located on a county road, the county has permitting authority related to driveways. The county further has authority regarding the configuration of Hopkins Crossroad – number of lanes, turn lanes, etc. As a condition of approval, the applicant must receive all necessary permits from the county prior to issuance of a grading permit.

**Private Driveway**

There is an existing private driveway located on the northwest corner of the subject site. The driveway provides access to the adjacent residence to the north. As proposed, this driveway would be slightly reconfigured. As conditions of approval, a private driveway easement must be recorded to accommodate the reconfigured drive.
Pyramid of Discretion

Motion Options

The planning commission has three options:

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

2. Disagree with staff's recommendation. In this case, a motion should be made recommending the city council deny the request. This motion must include a statement as to how the CUP standards are not met.

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

Voting Requirement

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

Neighborhood Comments

The city sent notices to 78 property owners. Several comments were received during the concept plan review and several more following submittal of the formal application. All of the comments are attached.

Deadline for Action

July 9, 2018
Location Map

Project: Chabad Center for Jewish Life
Address: 2339 Hopkins Xrd
Chabad Center for Jewish Life

The Chabad Center for Jewish Life requires a permit for the allowable conditional use as a religious institution for a facility of approximately 15,000 gross square feet to be constructed at the above captioned address. The center will share the property with a renovated existing residential structure which is planned for use as the rabbi’s family home.

There will be two wings to the new building:

The East Wing will be a two story structure, with elevator, containing:
Ground Floor: Chabad offices, library/study/daily services, mikveh (ritual bath); Second Floor: Classrooms, mechanical/storage

The West Wing will be a one story structure containing a large assembly space with a moveable partition separating the social hall from sanctuary/presentation/study room. These spaces will be accessible from a pre-function space and will be connected via service hall to storage, kitchen/pantry and loading dock. There will be a small porch west and north of the social hall accessible from three pairs of french doors on the north facade.

BUILDING ACCESS

There will be two entrances to the facility between the East and West Wings - the main entrance from the north and a second entrance from the south side of the building which will also provide secure access to the men’s mikveh and the vessel mikveh. There is a covered, dedicated entrance to the women's mikveh on the east side of the building (by appointment only) accessible through a secure garden.

HOURS OF OPERATION AND OCCUPANCY LOAD

Monday - Friday
Services in the morning 10-15 people
Some classes throughout the day 5-15 people
Evening classes and lectures. Regular 5-15, 3 courses x 6 up to 30-50 people at any given time

Friday night once a month 75 - 125 people
**Shabbos** 10am - 2 pm 50 -100 people

**Sunday** 8am 10-15 people, 9:45am -12pm 35-50 people

**Mikveh** approximately four people per week by appointment only.

**Holidays:** 75 - 150 people 5-10 times

NOTE: On Friday evening and Saturday (Shabbos) and holidays, some of the attendees will arrive on foot so there will be reduced parking demand from what one would typically calculate.

---

**LIGHTING**

Site lighting will be guided by two factors:

1) to provide for safety, security and visibility for visitors to the Chabad Center.

2) To limit light spill and glare off site - horizontally, towards neighboring land and vertically, light pollution to the sky. We follow the dictates of the International Dark Sky Association [www.darksky.org](http://www.darksky.org)

3) Interior lighting will be designed to effectively place light where it is needed for safety and visibility and affect and to limit lighting and energy use where and when not efficacious.

**PARKING**

The property will have fifty-one (51) parking stalls including two HC accessible stalls. Forty-four (44) stalls are arrayed in the main lot along the north property setback; five (5) and two (2) stalls will be located on the southwest and southeast sides of the south entrance, respectively.

There is room on the property for twelve (12) additional vehicles: five (5) in the South Court; two (2) along the west drive; five (5) along the east verge of the north lot. This additional capacity would bring the total to sixty-three (63) vehicles with site access from Hopkins Crossroads.

There is also capacity for five (5) vehicles in the residential driveway (3) and 2-car garage accessible off Mill Run.
SITE ACCESS

The existing curb cut on Hopkins Crossroads must be widened to 26’ to accommodate fire equipment access and the centerline of that drive will be moved approximately fifteen feet (15’) south. This will provide the only vehicular access to the Chabad Center (except for mountain bikes).

The residence on the south portion of the lot will use the existing curb cut off Mill Run to provide vehicular access to the residence.

SITE ORGANIZATION

The Chabad Center building will be located near the center of the property. The existing residence at 11170 Mill Run will be renovated and serve as a residence for the rabbi’s family. The Mill Run house and the dense existing and proposed plantings on the south verge of the site will effectively screen the Chabad Center from view from Mill Run. Between the Chabad Center and the Mill Run house, at an elevation of approximately +956, will be a paved landscaped court enclosed by the facades of the two buildings. The main floor elevation of the new facility will be approximately +957’ above MHW. [NOTE: For reference, the southeast corner of the property on the Mill Run frontage is at El. +972; the main floor elevation of the Mill Run house is +967.5.]

An entry plaza on the north of the Chabad Center connects the north parking lot with the main entrance to the Chabad Center.

LANDSCAPING & GRADING

Existing trees along the perimeter and other trees undisturbed by the construction of the facility will be preserved to the extent possible. The grove on the southwest corner will be tended, restored and limbed up to provide a permeable screened view to motorists traveling north. It is anticipated that the access drive in the north portion of the Hopkins Crossroads frontage will continue to provide access to the property to the subject property’s immediate north. A retaining wall will be required between that drive and the north parking lot. The arborvitae hedge along the west property line will be tended and mended to provide a partial screening from Hopkins Crossroads. Additional plantings will be set judiciously to provide both screening and visual access.

The landscape plan has not been finalized. New plantings will be installed along the north and east property line to screen light and view from residences to the north and east. Species may be a mix of evergreens and, possibly, deciduous plantings with high twig density.
All precipitation falling on the site will be managed on site.

**Trees:**

All Trees in the area of the addition (and parking area)

Trees to be preserved: at least 20 (not including trees to remain south of the north face of the existing Mill Run house).

Trees to be removed: 28

New trees - 134 conifers as screening around the perimeter of the property.

New trees: Deciduous trees: approximately 10 trees.

Additional deciduous trees will be added as appropriate to site plan as the design progresses.

**MATERIALS**

**East Wing**

Exterior walls: Fibre Cement Board (by Equitone or Approved Equal)

Roof: Standing seam metal roof

Fence at mikvah garden: wood

**West Wing - Pre-function Space:**

Walls: Fibre Cement Board (by Equitone or Approved Equal) and Kasota Stone as shown on drawings.

Windowall: Glass set into structural wood frame with exterior sunscreen of medium-density overlay (MDO) laser-cut board

Roof: EPDM

**West Wing - Service Wing:**

Walls: Kasota Stone

Mechanical yard (on roof): Kasota Stone with Medium-density overlay (MDO) laser-cut board screening mechanical equipment on roof.

**West Wing - Social Hall:**

Exterior walls: Fibre Cement Board (by Equitone or Approved Equal)

Roof: Standing seam metal roof

**West Wing - Sanctuary/study room:**
Exterior walls: Kasota Stone
Windows: Clerestory windows on north, south and west. Indirect, deep-cavity windows in thick wall on east facade.
Roof: EPDM

Fibre Cement Board color on East Wing, Pre-Function Space, and Social Hall will vary from one another.
GENERAL NOTES:

1. The subsurface utility location information in this plan is utility quality level D. This utility quality level was determined according to the guidelines of CI/ASCE 38-02, titled "Standard Guidelines for the Collection and Depiction of Existing Subsurface Utility Data." Engineer does not guarantee the accuracy of utility locations or that all existing utilities are shown; Contractor is responsible for locating utilities prior to digging.

2. Protect all existing utilities, signs, trees, etc., not marked for removal. Relocation of any private utilities not directed on these plans shall be coordinated with the utility owner. If drain tile is encountered, Engineer shall be notified immediately; reconnection or rerouting will be required.

3. Damaged items or property shall be repaired or replaced at Contractor's expense.

4. See architectural drawings for exact building dimensions.

5. Contractor shall not encroach on private property.

6.Contours shown to finished grade.

7. Spot elevations shown at flow line, unless noted otherwise.

8. See architectural drawings for pavement and curb dimensions and specifications.

9. EXISTING ROAD SURFACE

10. EXISTING STORM

11. B. ELEV/PROFILE

12. B. ELEV/CONTOUR

13. PROPOSED GRADE

14. PROPOSED GRADE

15. LEGEND:

- EX CMP STM

- EX 12" STM

- EX 18" WMN

- EX 8" SAN

- 955

- 954

- 946

- 947

- 948

- 949

- 950

- 951

- 952

- 953

- 954

- 955

- 956

- 957

- 958

- 959

- 960

- 961

- 962

- 963

- 964

- 965

- 966
GENERAL NOTES:

1. The subsurface utility location information in this plan is utility quality level D. This utility quality level was determined according to the guidelines of CHSCE-38 Co., titled "Standard Guidelines for the Collection and Depiction of Existing Subsurface Utility Data." Engineer does not guarantee the accuracy of utility locations or that all existing utilities are shown; Contractor is responsible for locating utilities prior to digging.

2. Contractor shall coordinate utility connections and street disturbance with City; traffic control requirements as directed by City.

3. Protect light poles and other existing utilities, signs, trees, etc. Relocation of any private utilities not directed on these plans shall be coordinated with the utility owner.

4. Damaged items or property shall be repaired or replaced at Contractor's expense.

5. Watermain pipe shall have a minimum of 7.5' cover; maintain 18" separation (min.) at crossings.

6. Pipes shall be extended to within 5.0' of building; coordinate exact location and connection with building mechanical drawings / contractor.

7. Encase sanitary saddle connection in concrete.

8. All castings to be set 0.05' below final pavement grade.

9. Dual-wall HDPE drainage pipe (N12 or equal) may be substituted for RCP.

10. Contractor to coordinate installation of other private utilities with utility companies as necessary.

11. Verify EX. SIZE, LOC & ELEV.

12. Connect to EXIST 8" W/ 8" x 6" FERNCO SADDLE, FIELD VERIFY LOC. & ELEV.

13. Connect to EXIST 18" W/ WET TAP, INSTALL 6" VALVE & BOX.

14. See site survey or grading plan.
EROSION CONTROL NOTES:
1. See SWPPP sheet for additional information.
2. Install construction entrance and perimeter controls prior to beginning grading operations.
3. Topsoil and erosion control items shall conform to Mn/DOT 2574-2575.
4. A minimum of 6" of topsoil shall be placed in all green space.
5. Inlet sediment control shall be in place during all phases of construction and until site is seeded and mulched.
6. Sod or seed areas to be mowed/maintained with low-maintenance turf, Mn/DOT Mix 25-131 (3876).
7. See Landscape Plan for additional landscaping detail.
8. Erosion control blanket, Mn/DOT Cat. 3 (3885), shall be installed on basin side slopes, swale bottoms, and side slopes at 3:1 or greater.
9. All other green space shall be plantings, sod, or seed with hydraulic mulch matrix (3884.B2), blanket (Cat. 0), or straw mulch, Type 1.
10. Sediment control logs shall be minimum 6" diameter and installed as indicated. Logs may be straw, wood, or fiber (no compost) (3897).
11. Random crushed riprap per Mn/DOT 3601 shall be of class and quantity as indicated, and shall include geotextile fabric (3733).
12. Erosion discovered during construction shall be repaired immediately by the Contractor.
13. Contractor is responsible for preventing sediment transport from site; sediment tracked onto adjacent streets will be swept immediately upon discovery (incidental).

LEGEND:
- EXISTING CONTOUR
- PROPOSED CONTOUR
- STORM SEWER
- SEDIMENT CONTROL LOG
- SILT FENCE, MS
- STABILIZED CONSTRUCTION ENTRANCE
- DETAIL CALLOUT: NO / SHEET
- FEET
- BENCHMARK
- SEE GRADING PLAN OR SURVEY DOCUMENTATION
- CY RIPRAP, CL 2" W/ FABRIC TYPE
- EROSION CONTROL BLANKET, CAT. 3

CHABAD CENTER FOR JEWISH LIFE
MINNETONKA, MN
233 Hopkins Crossroad, Minnetonka, MN

OWNER:
TITLE:
SHEET NO:
DATE / REVISION:
C03

CIVIL METHODS, INC.
1551 Livingston Avenue, Suite 104
West St. Paul, MN 55118

DESIGNED:
LIC. NO.:
DATE:
DRAWN:
CHECKED:
I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

FILE LOC:
C:\CM\Civil Methods, Inc\CMI - Documents\7. Projects\0370_Chabad Center for Jewish Life\08_DRAWINGS AND SPECIFICATIONS\C3D\0370180320_ERO.dwg

PRINT DATE:
3/23/2018 9:44 AM

NOT FOR CONSTRUCTION

EROSION & SEDIMENT CONTROL
CHABAD CENTER FOR JEWISH LIFE
233 Hopkins Crossroad, Minnetonka, MN

DMP
DAVID M POGGI
KEB
44573
03-23-2018
3 CY RIPRAP, CL 2 W/ FABRIC TYPE
SEDIMENT CONTROL LOG (TYP.)
INLET PROTECTION (TYP.)
SILT FENCE (TYP.)
STAFF DRAFT EXHIBITS
WEST FACADE

CONCEPT PLAN REVIEW

FORMAL APPLICATION REVIEW, original submittal

FORMAL APPLICATION REVIEW, revised and current submittal
EAST FACADE

CONCEPT PLAN REVIEW

FORMAL APPLICATION REVIEW, original submittal

FORMAL APPLICATION REVIEW, revised and current submittal
<table>
<thead>
<tr>
<th>Institution</th>
<th>Address Number</th>
<th>Street</th>
<th>Street Design.</th>
<th>Building Area*</th>
<th>Lot Area*</th>
<th>Acres</th>
<th>FAR</th>
<th>Zoning</th>
<th>Adajcent Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adath Jeshurun</td>
<td>10500</td>
<td>Hillside La W</td>
<td>Collector</td>
<td>72,000</td>
<td>1,119,541</td>
<td>25.70</td>
<td>0.06</td>
<td>R1</td>
<td>R1</td>
</tr>
<tr>
<td>All Saints Lutheran</td>
<td>15915</td>
<td>Excelsior Blvd</td>
<td>Arterial</td>
<td>12,864</td>
<td>243,065</td>
<td>5.58</td>
<td>0.05</td>
<td>R1</td>
<td>R1</td>
</tr>
<tr>
<td>Bet Shalom</td>
<td>13613</td>
<td>Orchard Rd</td>
<td>Collector</td>
<td>23,438</td>
<td>363,241</td>
<td>8.34</td>
<td>0.06</td>
<td>R1</td>
<td>R1</td>
</tr>
<tr>
<td>Bethlehem Lutheran</td>
<td>5633</td>
<td>Eden Prairie Rd</td>
<td>Arterial</td>
<td>19,174</td>
<td>104,108</td>
<td>2.39</td>
<td>0.18</td>
<td>R1</td>
<td>R1</td>
</tr>
<tr>
<td>Cross of Glory</td>
<td>4600</td>
<td>Shady Oak Rd</td>
<td>Arterial</td>
<td>21,103</td>
<td>173,369</td>
<td>3.98</td>
<td>0.12</td>
<td>R1</td>
<td>R1</td>
</tr>
<tr>
<td>Fairview Evangelical Lutheran</td>
<td>4215</td>
<td>Fairview Ave</td>
<td>Local</td>
<td>16,380</td>
<td>85,440</td>
<td>1.96</td>
<td>0.19</td>
<td>R1</td>
<td>R1</td>
</tr>
<tr>
<td>Faith Presbyterian</td>
<td>12007</td>
<td>Excelsior Blvd</td>
<td>Collector</td>
<td>34,430</td>
<td>311,316</td>
<td>7.15</td>
<td>0.11</td>
<td>R1</td>
<td>R1</td>
</tr>
<tr>
<td>Good Shepherd</td>
<td>15321</td>
<td>Wayzata Blvd</td>
<td>Collector</td>
<td>14,017</td>
<td>104,108</td>
<td>2.39</td>
<td>0.13</td>
<td>R1</td>
<td>R1</td>
</tr>
<tr>
<td>Immaculate Heart of Mary</td>
<td>13505</td>
<td>Excelsior Blvd</td>
<td>Arterial</td>
<td>66,753</td>
<td>417,110</td>
<td>9.58</td>
<td>0.16</td>
<td>R1</td>
<td>R1</td>
</tr>
<tr>
<td>Jehovah Witness</td>
<td>13001</td>
<td>Lake St Extension</td>
<td>Collector</td>
<td>13,228</td>
<td>171,581</td>
<td>3.94</td>
<td>0.08</td>
<td>R1</td>
<td>R1</td>
</tr>
<tr>
<td>Mills Church</td>
<td>13215</td>
<td>Minnetonka Dr</td>
<td>Local</td>
<td>12,288</td>
<td>187,308</td>
<td>4.30</td>
<td>0.07</td>
<td>R1</td>
<td>R1</td>
</tr>
<tr>
<td>Minnetonka Lutheran</td>
<td>16023</td>
<td>Minnetonka Blvd</td>
<td>Arterial</td>
<td>33,592</td>
<td>203,861</td>
<td>4.68</td>
<td>0.16</td>
<td>R1</td>
<td>R1</td>
</tr>
<tr>
<td>Minnetonka Methodist</td>
<td>17611</td>
<td>Lake St Extension</td>
<td>Arterial</td>
<td>18,861</td>
<td>212,236</td>
<td>4.87</td>
<td>0.09</td>
<td>R1</td>
<td>R1</td>
</tr>
<tr>
<td>Mzizi Church</td>
<td>13207</td>
<td>Lake St Extension</td>
<td>Arterial</td>
<td>11,584</td>
<td>90,092</td>
<td>2.07</td>
<td>0.13</td>
<td>R1</td>
<td>R2</td>
</tr>
<tr>
<td>Old Apostolic Lutheran</td>
<td>5617</td>
<td>Rowland Rd</td>
<td>Collector</td>
<td>23,978</td>
<td>298,492</td>
<td>6.85</td>
<td>0.08</td>
<td>R1</td>
<td>PUD and R2</td>
</tr>
<tr>
<td>Ridgewood Church</td>
<td>4420</td>
<td>Co Rd No 101</td>
<td>Arterial</td>
<td>27,858</td>
<td>371,233</td>
<td>8.52</td>
<td>0.08</td>
<td>R1</td>
<td>PUD and R1</td>
</tr>
<tr>
<td>Slavic Baptist Church</td>
<td>16625</td>
<td>Excelsior Blvd</td>
<td>Arterial</td>
<td>17,191</td>
<td>115,183</td>
<td>2.64</td>
<td>0.15</td>
<td>R1</td>
<td>R1</td>
</tr>
<tr>
<td>St. David's Episcopal</td>
<td>13000</td>
<td>St Davids Rd</td>
<td>Local</td>
<td>14,800</td>
<td>155,116</td>
<td>3.56</td>
<td>0.10</td>
<td>R1</td>
<td>R1</td>
</tr>
<tr>
<td>St. Luke's Presb.</td>
<td>3121</td>
<td>Groveland School Rd</td>
<td>Local</td>
<td>11,605</td>
<td>188,495</td>
<td>4.33</td>
<td>0.06</td>
<td>R1</td>
<td>R1</td>
</tr>
<tr>
<td>West Oaks Community Church</td>
<td>11901</td>
<td>Excelsior Blvd</td>
<td>Arterial</td>
<td>6,622</td>
<td>140,471</td>
<td>3.22</td>
<td>0.05</td>
<td>R1</td>
<td>R1</td>
</tr>
<tr>
<td>Woodland Hills Bible</td>
<td>16205</td>
<td>State Hwy No 7</td>
<td>Local</td>
<td>17,091</td>
<td>180,310</td>
<td>4.14</td>
<td>0.09</td>
<td>R1</td>
<td>R1 and R2</td>
</tr>
<tr>
<td><strong>PROPOSED</strong></td>
<td></td>
<td>Arterial</td>
<td>Building Area*</td>
<td>15,000</td>
<td>85,160</td>
<td>1.96</td>
<td>0.18</td>
<td>R1</td>
<td>R1</td>
</tr>
</tbody>
</table>

* sq.ft. of religious institution building
EXISTING RELIGIOUS INSTITUTIONS ON R-1 PROPERTY

ADATH JESHURUN
ALL SAINTS LUTHERAN
BET SHALOM
BETHLEHEM LUTHERAN
CROSS OF GLORY BAPTIST
FAIRVIEW EVANGELICAL
FAITH PRESBYTERIAN
GOOD SHEPHERD PRESBY.
IMMACULATE HEART OF MARY
JEHOVAH WITNESS
MILLS CHURCH
MINNETONKA LUTHERAN
EXISTING RELIGIOUS INSTITUTIONS ON R-1 PROPERTY

MINNETONKA METHODIST

MZIZI CHURCH

OLD APOSTOLIC LUTHERAN

RIDGEWOOD

SLAVIC BAPTIST

ST. DAVID’S EPISCOPAL

ST. LUKE’S PRESBYTERIAN

WEST OAKS COMMUNITY

WOODLAND HILLS
EXAMPLES OF EXISTING SINGLE FAMILY HOMES IN NOTICE AREA

ARCHERS LANE

ARCHERS LANE

FETTERLY ROAD W

FETTERLY ROAD W

HOPKINS CROSSROAD

HOPKINS CROSSROAD

MILL RUN

MILL RUN

VERNON CIRCLE

VERNON CIRCLE
To: Planning Commission Members

From: Corrine Heine, City Attorney

Date: April 20, 2018

Subject: Religious Land Uses and Institutionalized Persons Act of 2000 (RLUIPA)

The Chabad Center for Jewish Life has submitted an application for a conditional use permit to construct a religious institution or facility within an R-1 zoning district. The application is scheduled for a public hearing before the planning commission on April 26, 2018. This memo provides general legal guidance to assist the commission in its review of the application. The intent of the memo is to point out the legal parameters within which the commission must exercise its discretion, not to dictate how that discretion should be exercised.

Members of the planning commission are familiar with the laws related to conditional use permits. To summarize those general requirements:

- If an applicant meets the requirements set forth in the zoning code for the issuance of a conditional use permit (CUP), the applicant is legally entitled to have the CUP approved.
- If the proposed use creates adverse impacts that could cause the CUP to fail to meet a requirement of the ordinance, but the applicant offers to accept a condition that would mitigate that adverse impact, it is arbitrary to refuse to consider the proposed mitigation. However, the city is not required to accept the proposed condition if it is insufficient to mitigate the harm. (For example, assume an application for a gas station CUP, and the evidence shows that lighting and headlights could have adverse impacts on neighboring properties. If the applicant offers to accept conditions that restrict the hours of operation and require fencing around the property, the city must consider whether the conditions will mitigate any adverse impact. The city may reject the condition if it reasonably determines that the harm will still occur, even with the fencing and restricted hours.)

The general laws related to conditional use permits apply to the proposed CUP. In addition to those general requirements, because this application involves a religious institution, the provisions of the federal Religious Land Uses and Institutionalized Persons Act of 2000 ("RLUIPA") also apply. This purpose of this memo is to provide a general overview of RLUIPA as it relates to land use approvals.

Congress enacted RLUIPA to address concerns that local zoning authorities sometimes discriminated against religious institutions by placing excessive or unreasonable burdens on the ability of congregations and individuals to exercise their faith. RLUIPA provides the following protections for religious freedom of persons, places of worship, religious schools, and other religious assemblies and institutions:
• **Protection against substantial burdens on religious exercise.** RLUIPA prohibits any land use regulation that imposes a “substantial burden” on the religious exercise of a person or institution except where justified by a “compelling governmental interest” that the government pursues in the least restrictive way possible.
  o Courts determine whether a zoning restriction constitutes a “substantial burden” on a case-by-case basis. Whether there is a substantial burden depends upon the context, including the size and resources of the burdened institution, the actual religious needs of the institution, space constraints, whether alternative properties are reasonably available, past efforts to locate within a community, and other factors.
  o Any of the following could constitute a substantial burden: effectively barring the use of a particular property for religious activity; imposing a significantly great restriction on religious use of a property, or creating significant delay, uncertainty or expense in constructing a religious facility.
  o Examples where courts have found a substantial burden: onerous off-street parking requirements; denial of expansion plans for a religious school.
  o Examples of no substantial burden: church was denied the amount of off-street parking it preferred because reasonable parking alternatives were available; church was denied ability to demolish a landmarked building for expansion when there was other suitable space on the church property.

• **Protection against unequal treatment for religious assemblies and institutions:** RLUIPA requires that religious assemblies and institutions must be treated at least as well as nonreligious assemblies and institutions.
  o When reviewing this application, planning commission members must not treat the use any differently than a non-religious place of assembly, such as a school, places of assembly or community center.

• **Protection against religious or denominational discrimination.** RLUIPA prohibits discrimination against any assembly or institution on the basis of religion or religious denomination.
  o It is important for the planning commission to ensure a fair and unbiased hearing. If, for example, a member of the public comments on the religious practices of the applicant’s religious group, the chair should rule such comments out of order and direct planning commissioners to consider only the land use and land use impacts and not the specific religious practices of the applicant.

• **Protection against total exclusion of religious assemblies:** Governments may not totally exclude religious assemblies from a jurisdiction.
  o The city does not exclude religious assemblies. They are allowed by conditional use permit in residential zones.

• **Protection against unreasonable limitation of religious assemblies:** Government may not unreasonably limit “religious assemblies, institutions or structures within a jurisdiction.”

While the sheer length of RLUIPA’s title can sound intimidating, compliance with RLUIPA is not complicated. The application must be evaluated based upon the contents of the application, and the requirements of the city’s ordinance. The commission must look at land use impacts, not
specific religious practices. Lastly, the applicant’s proposed use cannot be subjected to standards that are any more restrictive than would be required for any other type of assembly, such as a school or a community center.
Memorandum

To: Susan Thomas, Assistant City Planner  
   City of Minnetonka

From: Matt Pacyna, PE, Principal  
       Tom Sachi, PE, Senior Engineer

Date: April 20, 2018

Subject: Chabad Center for Jewish Life Traffic and Parking Study

Introduction

SRF has completed a traffic and parking study for the Chabad Center for Jewish Life development in Minnetonka, Minnesota (see Figure 1: Project Location). The project site is generally located east of Hopkins Crossroad (County Road (CR) 73) between Mill Run and Hillside Lane. The main objectives of this study are to quantify existing operations, identify traffic and parking impacts associated with the proposed development, and recommend any necessary improvements to ensure safe and efficient operations. The following provides the assumptions, analysis, and study findings offered for consideration.

Existing Conditions

The existing conditions were reviewed to establish a baseline for comparison and to determine potential impacts associated with construction of the proposed Chabad Center development. The evaluation of existing conditions includes various data collection efforts and an intersection capacity analysis.

Data Collection

A vehicular turning movement count was collected by SRF during typical weekday a.m. (7:15 to 8:15), Friday p.m. (5:00 to 6:00), and Saturday midday (12:30 to 1:30) peak hours between April 6, 2018 and April 10, 2018. The timeframes collected correspond to the expected service times for the proposed development. Note that the weekday data collection occurred while area Hopkins Schools were in session, including Tanglen Elementary School (8:58 a.m. start), Hopkins North Junior High (7:47 a.m. start), and Hopkins High School (7:50 a.m. start).

The data collected focused on the Hopkins Crossroad (CR 73) and Fetterly Road/Mill Run intersection, which is the closest intersection to the driveway of the proposed development. Existing average daily traffic volumes along Hopkins Crossroad (CR 73) are approximately 14,500 vehicles per day (vpd) within the study area. Note that historically since 1998, average daily traffic volumes along Hopkins Crossroad (CR 73) within the study area have ranged from 11,400 to 15,200 vehicles per day.
Field observations were also completed to identify roadway characteristics within the study area (i.e. roadway geometry, posted speed limits, and traffic controls). Hopkins Crossroad (CR 73) is a Hennepin County facility and is primarily a two-lane undivided urban minor arterial roadway with a 40 mile per hour (mph) posted speed limit within the study area. There are bypass lanes along Hopkins Crossroad (CR 73) at the Fetterly Road/Mill Run intersection. Note that since Hopkins Crossroad (CR 73) is under Hennepin County jurisdiction, the County has permitting controls along the roadway. Fetterly Road and Mill Run are city-owned, two-lane roadways. The Hopkins Crossroad (CR 73) and Fetterly Road/Mill Run intersection is unsignalized with side-street stop control. Existing traffic volumes, roadway geometry, and traffic controls within the study area are shown in Figure 2.

**Intersection Capacity Analysis**

A detailed intersection capacity analysis was conducted for peak conditions to establish a baseline condition to which future operations can be compared. The study intersection was analyzed using Synchro/SimTraffic software (Version 9).

Intersection capacity analysis results identify a Level of Service (LOS) which indicates how well an intersection is operating. Intersections are ranked from LOS A through LOS F. The LOS results are based on average delay per vehicle, which correspond to the delay threshold values shown in Table 1. LOS A indicates the best traffic operation and LOS F indicates an intersection where demand exceeds capacity. Overall intersection LOS A through LOS D is generally considered acceptable in the Twin Cities Metropolitan area.

**Table 1. Level of Service Criteria for Signalized and Unsignalized Intersections**

<table>
<thead>
<tr>
<th>LOS Designation</th>
<th>Signalized Intersection Average Delay/Vehicle (seconds)</th>
<th>Unsignalized Intersection Average Delay/Vehicle (seconds)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>≤ 10</td>
<td>≤ 10</td>
</tr>
<tr>
<td>B</td>
<td>&gt; 10 – 20</td>
<td>&gt; 10 – 15</td>
</tr>
<tr>
<td>C</td>
<td>&gt; 20 – 35</td>
<td>&gt; 15 – 25</td>
</tr>
<tr>
<td>D</td>
<td>&gt; 35 – 55</td>
<td>&gt; 25 – 35</td>
</tr>
<tr>
<td>E</td>
<td>&gt; 55 – 80</td>
<td>&gt; 35 – 50</td>
</tr>
<tr>
<td>F</td>
<td>&gt; 80</td>
<td>&gt; 50</td>
</tr>
</tbody>
</table>

For side-street stop controlled intersections, special emphasis is given to providing an estimate for the level of service of the minor approaches. Traffic operations at an unsignalized intersection with side-street stop control can be described in two ways. First, consideration is given to the overall intersection level of service. This takes into account the total number of vehicles entering the intersection and the capability of the intersection to support these volumes. Second, it is important to consider the delay on the minor approach. Since the mainline does not have to stop, the majority of delay is attributed to the minor approaches. It is typical of intersections with higher mainline traffic volumes to experience increased levels of delay (i.e. poor levels of service) on the side-street approaches, but an acceptable overall intersection level of service during peak hour conditions.
Figure 2

Legend:

- XX - Weekday A.M. Peak Hour Volume
- [XX] - Friday P.M. Peak Hour Volume
- (XX) - Saturday Midday Peak Hour Volume
- X.XXX - Existing Average Daily Traffic Volume
- Side-Street Stop Control

Existing Conditions
Chabad Center of Jewish Life Traffic and Parking Study
City of Minnetonka

April 2018
Results of the existing peak hour capacity analysis, shown in Table 2, indicate that the Hopkins Crossroad (CR 73) and Fetterly Road/Mill Run intersection operates at an acceptable overall LOS A during the peak hours reviewed with the existing geometric layout and traffic control. Average side-street delays from Mill Run and Fetterly Road during both the weekday a.m. and Friday p.m. peak hours are approximately 30 seconds per vehicle. The average number of vehicles waiting to turn from Mill Run and/or Fetterly Road onto Hopkins Crossroad (CR 73) was observed to be approximately one (1) vehicle during the peak hours.

Table 2. Existing Peak Hour Intersection Capacity Analysis

<table>
<thead>
<tr>
<th>Hopkins Crossroad (CR 73) Intersection</th>
<th>Peak Hour Level of Service (Delay)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Weekday A.M.</td>
</tr>
<tr>
<td></td>
<td>Overall</td>
</tr>
<tr>
<td>Mill Run / Fetterly Road</td>
<td>A (1 sec)</td>
</tr>
</tbody>
</table>

### Proposed Development

The proposed mixed-use development includes the construction of a 15,000 square foot Jewish Life Center, as shown in Figure 3. The proposed development is expected to contain sanctuary space for services, classrooms, and a social hall. There is expected to be 51 parking stalls on site, three (3) of which are handicapped stalls. Access to the proposed development would be located on Hopkins Crossroad (CR 73) approximately 165 feet north of Fetterly Road/Mill Run.

### Year 2020 Build Conditions

The proposed development was assumed to be completed by the year 2019. Therefore, traffic forecasts were developed for year 2020 conditions (i.e. approximately one year after opening). Year 2020 build condition traffic forecasts were developed and include both general area traffic growth and trips generated by the proposed development. The following information provides a summary of the year 2020 build conditions.

#### Background Traffic Growth

To account for general background traffic growth in the area, a review of historical ADT volumes was completed. Based on this review, area traffic volumes have grown by approximately one (1) percent per year since 2006, although average daily traffic volumes along Hopkins Crossroad (CR 73) have ranged from 11,400 to 15,200 vehicles per day since 1998. Therefore, existing traffic volumes collected were grown at one (1) percent annually to reflect year 2020 background traffic volumes.

#### Trip Generation

To account for traffic impacts associated with the proposed development, trip generation estimates for the study peak hours were developed. The trip generation estimates were developed using information provided by the Chabad Center and include a comparison with the *Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition*. The following service attendance information was provided by the Chabad Center and utilized as a base in determining trip generation.
Site Plan Improvements
Chabad Center of Jewish Life Traffic and Parking Study
City of Minnetonka

Figure 3
1) Weekday Morning Service Attendance: 10 to 18 guests
2) Friday Evening Sundown Service (Typical Week) Attendance: 10 to 15 guests
3) Friday Evening Sundown Service (Once per Month) Attendance: 75 to 125 guests
4) Saturday Midday (Shabbos) Service Attendance: 50 to 100 guests

Note that other services and classes are expected to occur throughout the day. However, these additional events are expected to have fewer attendees or occur outside of the peak traffic periods along Hopkins Crossroad (CR 73). To help determine the expected trip generation, the average vehicle occupancy for the weekday morning service was assumed to be one (1) attendee per vehicle. During the Friday evening and Saturday midday services, the average vehicle occupancy was assumed to be approximately 2.25 attendees per vehicle. The difference in vehicle occupancy relates to the type of attendees, where the Friday and Saturday services are expected to have more families, which correlates to higher vehicle occupancy. The trip generation estimate, shown in Table 3, includes both the expected vehicle trips using these assumptions, as well as the ITE Trip Generation Manual.

Table 3. Trip Generation Estimates

<table>
<thead>
<tr>
<th>Approach Land Use (ITE Code)</th>
<th>Size</th>
<th>Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Weekday A.M.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>In</td>
</tr>
<tr>
<td>Attendance Approach</td>
<td>15,000 sf</td>
<td>18</td>
</tr>
<tr>
<td>ITE Approach</td>
<td>Synagogue (561)</td>
<td>23</td>
</tr>
</tbody>
</table>

(1) The Friday p.m. peak hour exiting trips represent an earlier sundown time and the entering trips represent a later sundown time. These trips are not expected to occur on the same day, however, they are presented for comparison.

Results of the trip generation estimate shown in Table 3 indicate that the proposed development is expected to generate a total of approximately 36 weekday a.m., 60 Friday p.m. (see footnote 1), and 50 Saturday midday peak hour trips using the attendance assumptions previously discussed. However, using the ITE approach for a Synagogue land use results in relatively similar or less overall peak hour trips than the attendance approach and is only based on one (1) study. Therefore, to provide a conservative estimate, the attendance approach was utilized for the future intersection capacity analysis forecasts. Note that the Friday p.m. peak hour trips shown in Table 3 are not expected to occur on a weekly basis, rather the trips shown coincide with the Friday evening sundown service during the peak monthly service, which varies by time of day and is based on the actual sundown timeframe.

The new trips generated by the proposed development were distributed to the study area based on the directional distribution shown in Figure 4. The distribution was developed based on the existing travel patterns in the area and engineering judgement. Traffic forecasts for year 2020 build conditions, which includes historical background growth and trips generated by the proposed development are shown in Figure 5.
Directional Distribution
Chabad Center of Jewish Life Traffic and Parking Study
City of Minnetonka

Figure 4


**Intersection Capacity Analysis**

To determine impacts associated with the proposed development, year 2020 build conditions were analyzed. Once again, a detailed intersection capacity analysis was completed using Synchro/SimTraffic (Version 9). The Friday p.m. peak hour was analyzed under both late sundown (arrival trips) and early sundown (departure trips) conditions.

Results of the year 2020 build capacity analysis shown in Table 4 indicate that the study intersection and proposed access location are expected to operate at an overall LOS A during the peak hours with the current geometric layout and traffic control. Average delays along Mill Run and Fetterly Road are expected to increase by approximately two (2) to three (3) seconds during the weekday a.m. and Friday p.m. peak hours, as shown in the side-street comparison section of Table 4.

<table>
<thead>
<tr>
<th>Hopkins Crossroad (CR 73) Intersection</th>
<th>Peak Hour Level of Service (Delay)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Weekday A.M.</td>
</tr>
<tr>
<td></td>
<td>Overall</td>
</tr>
<tr>
<td>Mill Run / Fetterly Road</td>
<td>A (1 sec)</td>
</tr>
<tr>
<td>Chabad Center Access</td>
<td>A (1 sec)</td>
</tr>
</tbody>
</table>

The Mill Run and Fetterly Road approaches are expected to remain similar to existing conditions during the peak hours. The 95th percentile queues at the proposed development driveway are expected to range from one (1) to two (2) vehicles during the Friday p.m. departure peak hour. Note that since departure times will vary throughout the year based on the sundown timeframe, the peak departure period is expected to coincide with the peak period of the adjacent roadway only approximately 25 percent of the year. For the majority of the year, the Friday p.m. arrival and departure services are expected to occur later than the p.m. peak hour of traffic along Hopkins Crossroad (CR 73) due to the varying sundown times.

During the Friday p.m. arrival peak hour, the southbound 95th percentile queues along Hopkins Crossroad (CR 73) are expected to extend approximately 75 feet, which equate to three (3) to four (4) vehicles. No queuing issues during the weekday a.m. peak hour are expected. Therefore based on this analysis, there is minimal overall change in area traffic operations that result from the proposed development and no mitigation is necessary from an intersection capacity perspective. Note that mitigation may become necessary if southbound vehicular queues along Hopkins Crossroad (CR 73) impact traffic operations and safety. However, since Hopkins Crossroad (CR 73) is a Hennepin County facility, any changes to Hopkins Crossroad (CR 73) have to be approved by the county.
Sensitivity Analysis

A sensitivity analysis was conducted to determine the traffic volume threshold along Hopkins Crossroad (CR 73) in which delays along Mill Run and Fetterly Road would reach LOS F operations. Based on the sensitivity test, an additional 250 to 300 peak hour vehicles would need to be traveling along Hopkins Crossroad (CR 73) for the Mill Run and/or Fetterly Road approaches to operate at LOS F. Note that LOS F operations on the side-streets is often common during the peak periods at similar locations and may not warrant any mitigation.

From a daily traffic volume perspective, the projected future 2020 build condition average daily traffic volume along Hopkins Crossroad (CR 73) is approximately 15,000 vehicles per day. The theoretical capacity of Hopkins Crossroad (CR 73) with the current configuration is up to approximately 17,000 vehicles per day. Therefore, average daily traffic volumes along Hopkins Crossroad (CR 73) would need to increase by approximately 2,000 vehicles per day to reach the theoretical capacity of the roadway. Note that since 1998, average daily traffic volumes along Hopkins Crossroad (CR 73) have ranged from 11,400 to 15,200 vehicles per day.

Other Considerations

Based on the intersection capacity analysis, no significant operational issues are expected. However, the 95th percentile queues along southbound Hopkins Crossroad (CR 73) at the proposed development access extend near where the existing southbound bypass lane begins. Therefore, to reduce potential conflicts in this location, restriping should be considered to begin the southbound bypass lane approximately 75 feet north of the current location. However, since Hopkins Crossroad (CR 73) is under Hennepin County jurisdiction, further discussion with the county is needed.

Parking

As noted previously, the proposed development is expected to have 51 off-street parking spaces. The city of Minnetonka code requires religious institutions to provided one (1) parking space for each 2.5 seats based on the design capacity of the main sanctuary or assembly space. Additionally, the city may require additional spaces for offices, classrooms, day care centers or other uses operated on the grounds. The proposed capacity of building is expected to be 125 guests, which would equate to a required parking minimum of 50 spaces. Therefore, the proposed development is expected to meet code requirements with a one (1) space surplus.

In addition, the parking demand for the proposed development was reviewed using both the expected attendance (and vehicle occupancy) used for the trip generation, as well as the ITE Parking Generation Manual, 4th Edition. The peak attendance for a Friday evening service with dinner is expected to be approximately 125 guests. Therefore, this timeframe was reviewed for the peak parking demand, which are presented in Table 5.
Table 5: Parking Demand

<table>
<thead>
<tr>
<th>Parking Information</th>
<th>Chabad Center Information</th>
<th>ITE Parking Manual</th>
</tr>
</thead>
<tbody>
<tr>
<td>Friday Evening Service</td>
<td>125 Guests</td>
<td>125 Guests</td>
</tr>
<tr>
<td>Vehicle Occupancy/Rate</td>
<td>2.25 guests per vehicle</td>
<td>0.41 vehicles per guest</td>
</tr>
<tr>
<td>Total Demand</td>
<td>56</td>
<td>52</td>
</tr>
<tr>
<td>Stalls Provided</td>
<td>51</td>
<td>51</td>
</tr>
<tr>
<td>Surplus/(Deficit)</td>
<td>(-5)</td>
<td>(-1)</td>
</tr>
</tbody>
</table>

Based on a review of the parking demand information presented in Table 5, there is expected to be a minor deficit between one (1) and five (5) spaces on site. However, based on observations at other Chabad Centers within the Twin Cities area, during an Orthodox Jewish service, it is typical for approximately 10 to 15 percent of guests at the Friday and Saturday services to not park on-site due to particular religious customs. Thus, if 10 percent of guests voluntarily park off-site or arrive by other modes of transportation (i.e. walk) due to religious reasons, the site parking demand would be reduced by approximately five (5) vehicles. Therefore, the proposed 51 off-street parking spaces is expected to be sufficient.

Note that parking is not allowed along Hopkins Crossroad and that Fetterly Road and Hillside Lane are not expected to have sufficient roadway width to allow parking. Additionally, there are no dedicated pedestrian facilities along Hopkins Crossroad. Therefore, if any on-street parking from the proposed development were to occur, Mill Run would be the most likely roadway utilized for on-street parking, which based on observations, has sufficient parking supply. The city may consider installing no parking signs along Hopkins Crossroad and neighborhood roadways if requested.

Site Plan Review

A review of the site plan was completed in regard to parking and circulation for vehicles and pedestrians. Results of the review indicate that appropriate traffic control and signage/striping for the internal driveway aisle should be considered, as shown in Figure 6. This could include signing and striping indicating the one-way configuration shown in the north parking lot. Additionally, there is potential for up to 13 “proof of parking” spaces that could be incorporated into the site plan to accommodate on-site parking during holiday events. This would include two (2) additional spaces in the north parking lot in place of the existing passenger drop-off area and a net of 11 spaces in the south court area. With the south court area configuration, a one-way circulation pattern would be necessary, which would eliminate the first of the five (5) stalls located already in the southern parking lot. This would yield a total of 64 parking spaces on-site, which could accommodate approximately 144 guests.
A preliminary review of sight distance for the proposed access indicates that for a 40 mph roadway, a minimum required sight distance of 305 feet would be necessary based on intersection stopping sight distance. A cursory review of the proposed access sight distance indicates that vehicles utilizing the proposed sight access would have sufficient sight distance of 400 feet or more in both the north and south directions. Therefore, there is not expected to be a sight distance issue at the proposed access location. Landscaping within area should be maintained to allow for adequate sight distance.

**Conclusions and Recommendations**

The following study conclusions and recommendations are offered for consideration:

1. Hopkins Crossroad (CR 73) is a two-lane roadway with bypass lanes under Hennepin County jurisdiction, which has authority over roadway decisions and permitting along the roadway.

2. The existing average daily traffic volume along Hopkins Crossroad (CR 73) is 14,500 vehicles per day. Historically since 1998, average daily traffic volumes along Hopkins Crossroad (CR 73) have ranged from 11,400 to 15,200 vehicles per day.

3. The Hopkins Crossroad (CR 73) and Fetterly Road/Mill Run intersection currently operate at an acceptable overall LOS A during the peak hours reviewed with the existing geometric layout and traffic control.

4. The proposed mixed-use development includes the construction of a 15,000 square foot Chabad Center for Jewish Life.
   a. Access to the proposed development is located along Hopkins Crossroad between Mill Run and Hillside Lane, approximately 165 feet north of Mill Run.

5. Results of the trip generation estimate indicate that the proposed development is expected to generate a total of approximately 36 weekday a.m., 60 Friday p.m., and 50 Saturday midday peak hour trips using the attendance assumptions previously discussed.

6. Under year 2020 build conditions, average daily traffic volumes along Hopkins Crossroad (CR 73) are expected to be approximately 15,150 vehicles per day. Average daily traffic volumes along Hopkins Crossroad (CR 73) would need to increase by approximately 2,000 vehicles per day to reach the theoretical capacity of the roadway.

7. Results of the year 2020 build operations analysis indicate that all study intersections are expected to continue to operate an overall LOS A during the reviewed peak hours.
   a. No significant operational impacts are expected as a result of the proposed development.

8. Further discussions with Hennepin County should occur to determine appropriate modifications to Hopkins Crossroad (CR 73), if any.

9. The proposed development is expected to meet the city code requirement for the minimum amount of parking provided.
10. Based on a review of the parking demand there is expected to be a minor deficit between one (1) and five (5) spaces on site.
   a. Observations at other Chabad Centers within the Twin Cities area during an Orthodox Jewish service, approximately 10 to 15 percent of guests at the Friday and Saturday services to not park on-site due to particular religious customs.
   b. If 10 percent of guests voluntarily park off-site or arrive by other modes of transportation (i.e. walk), the site parking demand would be reduced by approximately five (5) vehicles and the proposed 51 off-street parking spaces would be sufficient.

11. A review of the site plan includes the following considerations:
   a. Incorporate signing and striping in the north parking lot to identify the one-way circulation pattern.
   b. There is potential for up to 13 “proof of parking” spaces that could be incorporated into the site plan to accommodate on-site parking during holiday events. This would include two (2) additional spaces in the north parking lot in place of the existing passenger drop-off area and a net of 11 spaces in the south court are; yielding a total of 64 parking spaces on-site which could accommodate approximately 144 guests.
   c. The sight distance at the proposed access is expected to meet the required sight distance of 305 feet. However, landscaping should be maintained to ensure adequate sight distance is provided.
Recommended signing and striping improvements

Potential Proof of Parking and signing and striping improvements
NEIGHBORHOOD COMMENTS
Dear Susan:

In reviewing the scope of the traffic study I am concerned that it may be deficient in a number of areas:

1. I was unable to find reference to Monday-Thursday rush hour traffic counts though we know that Chabad evening prayer services will roughly coincide with rush hour during the fall and winter months.

2. It does not appear that the traffic study accounts for afternoon sporting and cultural events at the high school.

3. I was unable to tell from the language in the letter whether the scope of the study measures the correlation of turns between Mill Run, Fetterly, Hillside, Live Oak, Runnymede and the impact the new development would have on the existing ingress/egress points along that stretch of the road. Please clarify.

4. The narrative submitted by the applicant is incomplete in two areas that will impact the traffic study and parking: a) Holiday gatherings; and b) Life cycle events.

   a) In the Jewish calendar, all holidays actually commence at sundown the day before the date on the calendar. In the fall and winter months, that will impact rush hour traffic because of services at the synagogue. Secondly many holidays span multiple days and almost all holidays involve multiple services/events at the synagogue. For example, Rosh Ha Shanah is a two day holiday. There will be as many as six services at the site over these days. All will involve traffic, turns, pedestrians, parking, congestion and safety issues. Yom Kippur is a one day holiday, but there will be five or six different services throughout the twenty four hour period. Succot is a two day holiday with multiple services. Simchat Torah is a two day holiday with multiple services. Passover has four days when people will gather at the synagogue. Shavuot is a two day holiday when people will gather at the synagogue multiple times. I am attaching the link to the Chabad web site that lists the holiday schedule for the next few years for your review. In my opinion, the section of the narrative that stated there will be 5-10 holiday gatherings a year was incomplete. The Chabad calendar suggests that a more likely scenario is 15-20 days a year where holidays are observed, and many holidays have multiple events per day.

   https://www.chabad.org/holidays/default_cdo/jewish/holidays.htm

   b) Life Cycle Events: I did not see a reference to life cycle events in the narrative. However, the building has the space to accommodate life cycle events and I think it’s reasonable to suggest that life cycle events will be an important part of the fabric of this proposed center. These events should be addressed from traffic, parking, congestion and neighborhood harmony perspectives. Jewish life cycle events include circumcision ceremonies, baby naming, bar mitzvahs, bat mitzvahs, weddings, funerals. Other life cycle events might include birthday and anniversary celebrations. I think a reasonable initial estimate is ten life cycle events for the first year of the
new building with subsequent growth. Some of these events could take place during the evening rush hour, which impacts the traffic study, and all will impact parking.

All of the aforementioned, as well as the events listed in the narrative, have the potential of creating spillover parking in Mill Run that is well beyond the neighboring precedent of Adath Jeshurun, which has historically been two to three times a year. The spillover parking will come from excess event attendance or people choosing to park in Mill Run because it’s easier than dealing with the parking lot.

5. Because this is a unique development and situation, I am not sure how ITE Trip Generation Manual can accurately project traffic and usage patterns at the development. The lack of specificity in the narrative regarding usage submitted with the application suggests that a careful review with the applicant of daily, weekly and monthly usage and its impact on turn volume and overflow parking is necessary. At this point there is not enough information in the narrative to properly assess how site usage will impact traffic, road capacity, safety, parking and congruity with the neighborhood. It is a 15,000 square foot structure, approximately two and a half times the size of any neighboring structure, that has the capacity to house hundreds of people. That should be examined closely.

I will have more comments at a later time on neighborhood parking impact, the potential use of Mill Run as ingress/egress even under the revised application and turn volume on Hopkins Crossroad.

Thank you for taking the time to review this email and for your work on this project.

Best Regards,

Jim Moscowitz
11120 Mill Run
Minnetonka, MN 55305
Dear Loren:

I reside at 11141 Mill Run. I am one of the closest neighbors to the proposed Chabad center. My property is among the parties most affected by this project. I support the project and the granting of a conditional use permit.

I do not represent Chabad in any capacity. I am fully aware of the nature of the Chabad functions and I am certain that their presence on Mill Run will be an asset to the neighborhood and to the community. I have considered all of the objections that I have heard (and, as an immediate neighbor, I believe I have heard all of them) and I do not share any of the concerns that have been raised.

I am aware of a similar zoning application that was made a number of years ago in another city by another Chabad organization where the objections raised were very similar to the objections here—traffic, lighting, compatibility with the neighborhood. That neighborhood was similar in character to Mill Run and the other site was also at the intersection of a neighborhood residential street and an arterial street. I learned from observing that application process that there are many misconceptions about Chabad's function and those misconceptions are often magnified in the context of zoning applications. There, the council granted the application (which included variances) over the same objections that are being raised here. Twenty years have passed and none—not one—of the problems that the neighbors anticipated has been realized.

Chabad is an outstanding institutional citizen of Minnetonka. Their building on Hopkins Crossroad and Mill Run should be welcomed.

Dan Rosen
Dear Susan,  

We live at 11295 Overlook Drive (you were at our home for the neighborhood meeting) and support the Chabad Center at 2339 Hopkins Crossroad. Having driven Hopkins Crossroad for the last 15 years we look forward to the improvement of the property. We are aware of neighbors concerns but do not share those concerns. The benefits clearly outweigh the concerns. Thank you again,  

Francie and Barry Ross
Dear Mr. Wagner, Ms. Thomas, Ms. Cauley, Ms. Wischnack, and City of Minnetonka Planning Commissioners,

I am writing today to express my strong concerns pertaining to the Chabad Center for Jewish Life application for a Conditional Use Permit. I regret I will be unable to attend the Planning Commission meeting on April 26 to present these to you in person.

My concerns are as follows:

1. Per Section 300.16 Subdivision 2 a), use of the property as applied for is not consistent with intent the ordinance.
2. Per Section 300.27 Subdivision 1 b), allowing a nonprofit to acquire multiple properties does not maintain and improve the city's tax base.
3. There is uncertainty over future use of the property based on the application.
4. The impact on the 2030 Comprehensive Plan is not known.
5. There is failure to comply with at least one other ordinance.
Concern 1. Use of property is not consistent with the intent of the ordinance.

For reference:
Section 300.16. Conditional Use Permit Standards For Residential Districts
Subdivision 1: Purpose:
   It is the intent of the city in establishing general and specific criteria for conditional uses that such uses be subject to careful evaluation to ensure that their location, size and design are consistent with the standards, purposes and procedures of this ordinance and the comprehensive plan. The planning commission may recommend and the city council may impose conditions on such uses in order to effect the purpose of this ordinance.
Subdivision 2: General Standards:
   No conditional use permit shall be granted unless the city council determines that all of the following standards will be met:
   a) the use is consistent with the intent of this ordinance;
   b) the use is consistent with the goals, policies and objectives of the comprehensive plan;
   c) the use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and
   d) the use does not have an undue adverse impact on the public health, safety or welfare.

Per b) above, the ordinance was written to review the use of a single property for determining if a conditional use permit should be issued. In this case the applicant has acquired multiple adjacent properties specifically to satisfy conditions that were intended to be applied to a single property. If this this permit is reviewed to see if all conditions are met when applied to multiple properties, the intent will not be satisfied. It would set a dangerous precedent that whenever an applicant wanted to receive a conditional use permit that meets the requirements of the section (including 50 ft. setbacks, sufficient parking, percentage of property covered with impervious surface), all they need do is purchase up adjacent lots until they have sufficient property to meet the requirements that were intended to apply to a single property. That goes counter to the intent of the section that was written to ensure the permit complies with Subdivision 2: paragraphs b) through d).

Any application involving multiple properties, when developed as a multi-property location, grouped together to achieve adherence to the standards, is inconsistent with the surrounding residential neighborhood for which the application is made.

Further, per d) above, use of this location as a community center would have an undue adverse impact on the public health, safety or welfare due to the dangerous conditions the additional vehicular traffic would cause to existing vehicular, bicycle and pedestrian traffic. Per my prior email to you:

   Undue adverse impact on additional traffic created at the intersection of Mill Run and Hopkins Crossroad
   • With the present heavy traffic flow on Hopkins Crossroad during morning and evening hours, it is already difficult to turn from Mill Run on to Hopkins Crossroad (either direction). With limited visibility to northbound traffic due to the crest in the hill just south of the intersection, a left turn from Mill Run on to Hopkins Crossroad is already difficult. Attracting additional traffic to the intersection will compound the difficulty of successfully completing the turn, potentially causing drivers to turn with less than safe space between their vehicle and oncoming traffic.

   Undue adverse impact on bicycle and pedestrian safety
   • Our family enjoys recreational bicycling. Presently our challenge is navigating the traffic on Hopkins Crossroad. With the Center’s ingress/egress as planned, their Saturday (what they refer to as Shabbos) and Sunday programs will result in between 35 and 100 visitors during the times we like to bike to the trails, and we will have unsafe conditions for navigating through their traffic. In addition, given they may attract a large demographic, we have the additional concern of certain drivers who may not be situationally aware of bicyclists in their vicinity.
   • As the Chabad congregation advises that for religious reasons some of their congregants will choose to walk to their site, and given that Hopkins Crossroad has no sidewalks, there will be an increase in pedestrians on
an already busy, narrow roadway with limited visibility due to the crest. Pedestrians may also walk in the same direction as traffic to avoid having to cross this busy roadway, creating additional unsafe conditions. Visitors from the west side of Hopkins Crossroad will be crossing under all types of conditions, though especially in the dark, and all throughout the year, including in slippery road conditions.

- There is no provision for additional pedestrian traffic by appropriate separation, even on the site that is causing the additional pedestrian traffic.
- The extensive delays resulting from the increased traffic will likely result in visitors to the Center parking where exiting will be easier, and the natural location is Fetterly Road W. This will result in more additional pedestrian traffic crossing Hopkins Crossroad. With the crest, vehicles traveling north would have very limited time to react in the event pedestrian crosses, in a hurry to make use of limited opportunities due to heavy morning rush hour traffic and slips on the icy conditions due to a recent storm. Under these conditions stopping distance would also be negatively impacted, and compounding the concern is that the hill is at a downward slope.

**Concern 2. Approval of this permit would erode the city’s tax base**

For reference:
Section 300.27. Site And Building Plan Review.
Subdivision 1: Purpose:
- It is the intent of this section to serve the public interest by promoting a high standard of development within the city. Through a comprehensive review of both functional and aesthetic aspects of new or intensified development, the city seeks to accomplish the following:
  a) implement the comprehensive plan;
  b) maintain and improve the city's tax base to a reasonable extent;
  c) mitigate to the extent feasible adverse impacts of one land use upon another;
  d) promote the orderly and safe flow of vehicular and pedestrian traffic; and
  e) preserve and enhance the natural and built environment.

Per b) above, by approving the conditional use permit for the three properties in the application, **the city would lose property tax on two additional tax lots.**

**Concern 3. Uncertainty over future use of the property based on the application.**

As the application includes a playground, and the Chabad Minneapolis Facebook page shows photos of a Hebrew School, will there be a school at the proposed location? If there’s a school, won’t that impact the hours of operation with increased traffic in the morning and afternoon, and for special school events? If so, **these impacts are not listed on the conditional use permit application.**

In addition, regarding the limited parking available on the site, per Section 300.28, **the city may require additional spaces for offices, classrooms, day care centers, or other uses operated on the grounds.** I encourage you to consider the minimum necessary number of parking spaces including the operating of a school.

**Concern 4. Impact on the 2030 Comprehensive Plan.**

Since the application is for multiple parcels on which the zoning is contrary to the land use designation in the 2030 Comprehensive Plan Guide (Low Density Residential), **has an application for an amendment to the comprehensive plan been made and approved?**

**Concern 5. Failure to comply with other ordinances.**

The application fails to comply with other ordinances, for example, 300.27 Subdivision 16: Interior Parking Lot Landscaping.
For reference:

b) Parking lot landscape areas, including landscape islands, shall be reasonably distributed throughout the parking lot area so as to break up expanses of paved areas. Parking lot landscape areas shall be provided with deciduous shade trees, ornamental or evergreen trees, plus ground cover, mulch and shrubbery as determined appropriate by the planning commission. Parking lot landscape trees shall be provided at the rate of one tree for each 15 surface parking spaces provided, or major fraction thereof. Parking lot landscaping shall be contained in planting beds bordered by a raised concrete curb or equivalent approved by the planning commission.

Compliance will further reduce the number of parking spaces, likely resulting in overflow parking on neighboring streets not designed for that purpose. If adequately addressing requirements for on-site parking, a very significant concern raised by a number of neighbors and extensively addressed at the February 15, 2018 Planning Commission meeting has been ignored by the applicant, what else has been ignored, or will be, if this project is approved?

I am not opposed to the project in its entirety. I am concerned about the precedent it would set where a nonconforming applicant could simply buy up additional residences to meet conditional use permit guidelines, which is counter to the intent of the ordinance that was enacted to retain the feel and integrity of the neighborhood. I am also concerned about the numerous other adverse impacts that would result from the project as proposed.

Thank you.

Sincerely,
Stu Silberman
To whom this may concern
As residents of Tanglen Woods, we are concerned with the Chabad proposal. The revised proposal only showed minor improvements in terms of parking spaces and aesthetics. We continue to have the following concerns in terms of standards for conditional use permits.

1. The size and institutional appearance does not provide protection of neighboring properties in terms of sight buffers, privacy, preservation of views, and light. Because security will be important to Chabad, it is a concern if it will be possible to provide sufficient site buffers.
   Chabad has not provided a landscaping or lighting plan. We believe that this development will be an eyesore to our neighborhood.

2. We continue to have concerns with vehicular and pedestrian circulation on County Rd 73, both in terms of traffic and safety. We question the number of congregants and frequency of use sited by Chabad. Although these numbers may reflect current use, it is felt that the expectation would be for the frequency of use and number of congregants would grow with the proposed building. We understand that a traffic study is being done.

Thank you.

Judy and Reid Sandler
2363 Vernon Circle
Minnetonka Mn 55305

Sent from my iPad
April 18, 2018

Minnetonka Planning Commission
14600 Minnetonka Boulevard
Minnetonka MN 55345

Dear Planning Commission members:

I understand that the Chabad Center for Jewish Life is seeking a CUP in my neighborhood and I would like to offer some comments for the Planning Commission’s consideration.

As an avid cyclist, I frequently ride on Hopkins Crossroads. My house is in the Fetterly Woods neighborhood so I have often biked north from my home to the Park and Ride on Co. Rd. 73 where I put my bike on the bus and commute into the city. I choose to use my bike for both recreation and transportation, which means I ride on bike trails as well as city streets. Hopkins Crossroads offers challenges to me as a cyclist and I fear that the addition of Chabad’s driveway and traffic directly onto Hopkins Crossroads will make that worse.

Currently, I no longer even attempt to turn left from Hopkins Crossroads onto Fetterly. Too many cars come too quickly up the hill and the sight lines are not good for drivers to anticipate a bicycle in the lane. But even if I choose to ride on the side of the road, there are places where there is no shoulder or only a right turn lane. What will happen when bicyclists are heading south on Hopkins Crossroads and a vehicle wants to turn left into Chabad’s driveway? Will the cars behind swerve to the right to go around and put bicyclists in danger? Going north on Hopkins Crossroads, can I hope that cars coming from the north and south who want to enter the Chabad lot will yield to me as I begin a downhill descent? Will the vehicles leaving the Chabad Center even see me approaching?

I ask that you keep in mind the safety of bicyclists as your consider a CUP for this project. Adding traffic to this portion of Hopkins Crossroads poses serious issues on a stretch of road that is neither pedestrian- or bicycle-friendly now.

Sincerely,

Sheri Brenden
2317 Archers Lane
Minnetonka, MN 55305
Subject: Chabad Project,

Dear Councilman, Tony Wagner and Project Planner, Susan Thomas,

My wife Cheryl and I live at 11171 Mill Run directly across the street from Chabad's proposed development. Please seriously consider our concerns to follow;

Though Chabad Community Center in their current proposal has submitted that they intend to retain the residential home/dwelling directly across Mill Run from our property. And that this will make for a more palatable view out of our front windows. It leaves no guarantee that it will remain so in the near term or future should they change their mind. (And we believe once occupying the property, the odds of them transitioning it into an intensified use will only increase exponentially.)

Just as we had assumed we would be living in an established quiet residential neighborhood when we bought and moved into our home on Mill Run, we dare not assume the property across from us will remain a residence as it may change based on their whim as to it's use at any time once they are in.

This neighborhood that we thought would be peaceful, may now be transformed into what will be to us more like a commercial area due to the highly intensified use that Chabad's occupancy will create. This due to considerable disturbances in the surrounding area which in turn will diminish the character we've experienced and wish to maintain here.

This development will create an increase in visual activities, voice and vehicular noise levels and frequency, light intensities, and no doubt odors from food preparation as they predict at having up to 300 people at times for celebrations. (this they stated in their initial proposal.)

As few if any of Chabad's attendees live in the neighborhood, this will be fostered upon us by those who will come from elsewhere leaving behind only their affects of their visit as they go home to their own quiet homes and neighborhoods.

Should this development come to fruition, the intensifications of use and disturbance to the peace and character of our neighborhood, (as objectionable as they are,) are the lessor part of our concerns with this project.

Our first and foremost concern revolves around the affects this will have with traffic on Hopkins Crossroads, particularly with regard to intersections of the side access roads of Feterly, Mill Run, Overlook, and Hillside Ln W.

As I read the proposal from SRF, for a traffic study in conjunction with Chabad's proposal, as approved by Susan Thomas, under it's "Scope of Services" it speaks to collecting data around the intersection of "Hopkins Crossroad and Mill Run."

Perhaps erroneously, but we find this disconcerting as this development will drastically affect the accessability of the other intersections mentioned in close proximity to this development, as well, not to mention traffic far beyond the immediate area due to the added use and delays created which will be inherent to this project once it's functionally complete.

As I appeared and previously stated before the Planning Commission, we find this development and the affects of it's intensified use of area very intrusive. We further believe it will prove highly detrimental to the character of our neighborhood!

It would be our sincerest request that City Staff would prevent the Chabad development from going forward in our neighborhood.

Further that City Staff would assist Chabad in locating an alternative property that is better suited to the intensified use they have proposed. Please share this with your peers. Thank you for your consideration.

Respectfully submitted,

David and Cheryl Carlson
Mr. Wagner and Ms. Thomas

I would like to submit some comments with regard to the proposed Chabad development on Hopkins Crossroad.

Pedestrian Safety - It is true that Chabad welcomes those who are less observant of the Sabbath than the rabbi's family but the fact remains that folks will be walking to and from the new synagogue. The fact also remains that there are no sidewalks along Hopkins Crossroad nor are there any easements/rights of way on public property that allow folks to gain access from the back of Mill Run. I have noticed how hard it is to see folks dressed in black when they are walking up Hopkins Crossroad.

Vehicular Safety - No one can doubt that Hopkins Crossroad is not designed to meet the current and planned vehicle load. There are no stop signs between Wayzata Boulevard and Cedar Lake road and entering traffic at high volume times is very difficult, at best. Additional high volume parking entry and exit will only make matters worse with regard to traffic density and we have yet to see the results of the traffic study.

Public Safety - It is difficult to imagine emergency vehicles maneuvering in the parking lot as shown in the proposed drawings and one wonders if there are too many parking spaces for to allow such movement.

Property Safety - The following image is taken from the Minneapolis Star Tribune web site. It shows the incidence of Bias Incidents targeting Jews in Minnesota from 2009 - 2016. This does not include all the phone in bomb threats from last year. Please note that this chart does not include the anti-Islam/Muslin data. That was on a separate image.
My point here really has to do with lighting and sight lines. Neighbors of this property are rightfully concerned about lighting coming into their windows at night. Chabad's proposed use of buffer trees is contrary to schools of thought that advise to limit areas of shadow in which people will hide and increase sight lines to the building. It is my understanding that Chabad has not responded with questions about lighting with any specific information.

Usage Data - The Applicant's Narrative states the following: "Holidays: 75 - 150 people 5-10 times" The following spread sheet contains a list of holidays observed among the Orthodox community across a calendar year. This was taken from the Chabad web site https://www.chabad.org/holidays/default_cdo/year/2019/jewish/holidays-2019.htm. Holidays start at sundown of the day before the holiday in Jewish tradition. Evening services to observed these holidays (as well as Friday night Sabbath Services) are expected. Some holidays last for 24 hours. Some last for 8 days. Those that last 8 days have services each day though those on the first two days (and evenings) and the last two days and evenings often see more congregational participation. So the 5 - 10 times suggested in the submittal expands to 31 evenings and 33 day time services in addition to daily Services (morning and evening) weekly Saturday morning services, and monthly Friday evening services that one would guess will include dinner afterwards. Please keep in mind that on Rosh Hashana and Yom Kippur days the building will be in relatively heavy from 8:00 or 9:00 am through to deep twilight (services do not end until 3 stars may be seen in the sky). It must certainly be Chabad's goal, as it would reasonably be for any organization building such a large community center, to have nearly full utilization nearly every day of the week. Chabad currently teaches some classes at Hopkins High School and one wonders if there is any intention to move those over to the new facility at a different time.
Building Size - A major concern was that of the mass of the building. One wonders if the neighborhood concerns about the height of the roof line might be addressed simply by digging down rather than building up. Why not put the lower floor below grade. This might reduce building height by as many as 10 feet. One must ask also, if the feel of the building fits the neighborhood. As I will not be looking at it all day the way the closer neighbors will, that is more for them to address than for me.

Thank you for your consideration in this matter.

I may be reached at this email address or at my office phone of 952-513-0116

David Abrams
11501 Fetterly Road West
Dear Ms. Thomas and Mr. Wagner,

I am writing to express the concerns of myself and my husband over the revised proposal by the Chabad Center which is scheduled for a hearing before the Planning Commission on April 26.

Our concerns are centered predominantly in two areas: traffic and parking and size and scope of the project. As background, my husband and I reside at 11155 Mill Run. We have owned our home since 2002 when we moved to Minnesota. At that time we looked in many areas of the Twin Cities and chose our home in Minnetonka both for the proximity to the University of Minnesota where we were both employed (my husband retired a few years ago; I still work full time) and for the quality of the neighborhood. Our home was built in 1922 and is the original house in the Mill Run neighborhood. It fronts on Hopkins Crossroad but sits on about 2 acres and is separated by a fence, trees and a very large front yard from that busy highway. Our property is heavily wooded with well over 100 trees and we have enjoyed the fact that all the houses on Mill Run are surrounded by trees and seem to fit well into the wooded settings. We enjoy the birds and wildlife that this neighborhood attracts, even the deer, and have red foxes and other small animals frequently in our yard. We have had a great horned owl family a few years ago which was a delight and owls still are on our property each year. So we have loved our home and the neighborhood where we live.

As to our concerns, first traffic and parking. We have observed how the traffic on Hopkins Crossroad has increased considerably in the 15 years we have lived on Mill Run. There is now often considerable delays in getting into and out of Mill Run, particularly on weekdays but even on the weekends. It is almost impossible to make a left hand turn up the hill from Mill Run so often we resort to turning right and then going to Hillside and trying to get either back on Hopkins Crossroad or take the long way around to get south of our neighborhood. The situation in the morning is made worse by school buses and more traffic out of Fetterly when we find ourselves in competition with our neighbors. It used to be that when I left for work at 6 or 6:30 am that traffic was lighter but that is often no longer the case. We are concerned not only by the increased traffic the Chabad Center will cause but particularly by the turning traffic into the Center from Hopkins Crossroad at a point just below Mill Run where there are no turn lanes and where the road is narrow. We are also worried because increased pedestrian traffic will only compound these problems due to the lack of sidewalks or bicycle lanes on Hopkins Crossroad. We believe that the project has underestimated the numbers of people who will attend the Center on holidays and festivals – a project of this scope and size is obviously being built with the aim of increasing participation and there are not enough parking spaces in the plans for the property. Furthermore the revised plans which call for the single family home on the Mill Run side of the property to remain as a home for the rabbi, note that there will be a few parking spaces as well as handicapped spaces adjacent to the driveway of the home which exits onto Mill Run. So we believe that there will be increased traffic onto Mill Run to access those spaces and that this situation will also lead to increased parking on Mill Run particularly during holiday and festival events. We now seldom have parking on Mill Run. When we do or when service vehicles park there, it makes entrance into our driveway (which is close to the entrance of Mill Run onto Hopkins Crossroad) extremely difficult.

Our second concern is the scope and size of the proposed Center. The building proposed is very large and also very tall and being situated on an elevated piece of land it will tower over the neighborhood. The proposal states that 28 trees will be cut down to make room for the building and parking. The plans look like an industrial facility, very out of keeping with the surrounding homes of this residential area. There are many details which are not clear from the plans such as lighting and signage. At 15,000 square feet, the size seems very large for the property. Our home is long and low and a little over 5000 sq ft on a property which is a little larger in size than that proposed for the Chabad Center. It is difficult for me to even conceive the size of this facility in the proposed area. It will certainly be very different than the synagogue which is to the north on Hopkins Crossroad on the west side of the street, which fits so well and so unobtrusively into the surroundings.
We believe that the revised proposal is still too large and will be singularly non-harmonious with the surrounding setting as designed.
Thank you for permitting us to express our concerns for the project.

Deborah and Ralph Powell

Deborah E. Powell, MD
Dean Emerita and Professor of Laboratory Medicine and Pathology
University of Minnesota Medical School
Dear Council Members, Planning Commission and City Planners;

This letter is in response to the Concept Plan Review submitted to the City of Minnetonka Planning Commission by Chabad Lubavitch of Minneapolis to build a Chabad Center for Jewish Life at 2339 Hopkins Crossroads. We own an adjacent property to the proposed Center and we are very concerned with the submitted project. The following are our reasons why we feel this is the wrong location for the proposed project:

**1. Building design**
- The proposed Center does not fit the character of the neighborhood and does not have a harmonious relationship relative to the neighborhood
- **Mass/Size:**
  - The proposed 15,000 sq. ft. Chabad Center, together with the existing 11170 Mill Run residential building is not a reasonable use of the property lot, pushing it to the maximum limits. It is too big for the lot and in comparison to surrounding neighbors.
  - The table below shows the size of the proposed Center, in comparison to neighboring houses
  - The proximity of a building this size to neighboring homes is too close, making the 50’ setback inadequate
  - It has been indicated that the level of usage was supposed to be small. Planning practice is not to build a parking lot to capacity for the after Thanksgiving sale. The same reasoning would apply to not building a facility to high usage capacity
  - Moving from the current 2,000 sq. ft. (guesstimate) location into a 15,000 sq. ft. location does not make sense for the stated level of activity
  - The east side of the complex would have approximately 110 ft. of 29 ft. high walls facing our property and our neighbor’s making it feel like a huge wall in our backyard
  - The project needs to be a much smaller one-level Center, with a bigger buffer/setback space between building and neighboring homes

<table>
<thead>
<tr>
<th>Address</th>
<th>Building Size (sq ft)</th>
<th>Proposed Center compared to this house</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Center</td>
<td>15,000</td>
<td></td>
</tr>
<tr>
<td>Current 11170 Mill Run Building</td>
<td>2,576</td>
<td></td>
</tr>
<tr>
<td>2333 Hopkins Crossroad</td>
<td>1,959</td>
<td>7.6 times larger</td>
</tr>
<tr>
<td>2324 Hopkins Crossroad</td>
<td>2,649</td>
<td>5.7 times larger</td>
</tr>
<tr>
<td>2309 Archers Lane</td>
<td>1,972</td>
<td>7.6 times larger</td>
</tr>
<tr>
<td>2317 Archers Lane</td>
<td>1,936</td>
<td>7.7 times larger</td>
</tr>
<tr>
<td>11201 Fetterly Road W</td>
<td>2,628</td>
<td>5.7 times larger</td>
</tr>
<tr>
<td>2390 Vernon Circle</td>
<td>3,500</td>
<td>4.3 times larger</td>
</tr>
<tr>
<td>2391 Vernon Circle</td>
<td>3,625</td>
<td>4.1 times larger</td>
</tr>
<tr>
<td>11171 Mill Run</td>
<td>4,404</td>
<td>3.4 times larger</td>
</tr>
</tbody>
</table>
The table below shows that the proposed Center has a building size relative to its property lot ratio that is 2 to 3 times larger than neighboring houses, and 2 to 5 times larger than other houses of worship in Minnetonka!

<table>
<thead>
<tr>
<th>Address</th>
<th>Building Size (sq ft)</th>
<th>Property Lot Size (sq ft)</th>
<th>Ratio (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Center</td>
<td>15,000</td>
<td>85,146</td>
<td>17.62%</td>
</tr>
<tr>
<td>Current 11170 Mill Run Building</td>
<td>2,576</td>
<td>34,326</td>
<td>7.50%</td>
</tr>
<tr>
<td>Proposed Center with 11170 Mill Run (est)</td>
<td>17,576</td>
<td>85,146</td>
<td>20.64%</td>
</tr>
<tr>
<td>2333 Hopkins Crossroad</td>
<td>1,959</td>
<td>25,410</td>
<td>7.71%</td>
</tr>
<tr>
<td>2324 Hopkins Crossroad</td>
<td>2,649</td>
<td>23,381</td>
<td>11.33%</td>
</tr>
<tr>
<td>2309 Archers Lane</td>
<td>1,972</td>
<td>23,111</td>
<td>8.53%</td>
</tr>
<tr>
<td>2317 Archers Lane</td>
<td>1,936</td>
<td>24,031</td>
<td>8.06%</td>
</tr>
<tr>
<td>11201 Fetterly Road W</td>
<td>2,628</td>
<td>21,265</td>
<td>12.36%</td>
</tr>
<tr>
<td>2390 Vernon Circle</td>
<td>3,500</td>
<td>32,242</td>
<td>10.86%</td>
</tr>
<tr>
<td>2391 Vernon Circle</td>
<td>3,625</td>
<td>22,000</td>
<td>16.48%</td>
</tr>
<tr>
<td>11171 Mill Run</td>
<td>4,404</td>
<td>31,256</td>
<td>14.09%</td>
</tr>
<tr>
<td>Minnetonka Seventh-day Adventist Church</td>
<td>40,000</td>
<td>861,717</td>
<td>4.64%</td>
</tr>
<tr>
<td>Unitarian Universalist Church of Minnetonka</td>
<td>11,000</td>
<td>170,354</td>
<td>6.46%</td>
</tr>
<tr>
<td>Wooddale Baptist</td>
<td>97,600</td>
<td>1,343,927</td>
<td>7.26%</td>
</tr>
<tr>
<td>Adath Jesherun</td>
<td>72,000</td>
<td>1,119,376</td>
<td>6.43%</td>
</tr>
<tr>
<td>Bet Shalom</td>
<td>43,000</td>
<td>362,018</td>
<td>11.88%</td>
</tr>
</tbody>
</table>

- **Windows**
  - The existing house currently has 3 windows facing our house. The proposed building will have 24 windows facing our house. Evening classes and lectures with 30-50 people nightly will be in these rooms, and able to look out these windows into our house.
  - Daily activities begin from at least 6.00 am for the first scheduled activity at 6.30 am to around 9.00 pm or later. There will no longer be privacy for our home.
  - There will be light pollution from these windows.
2. Activities

- This Center is designed to be a large community center, one that is more appropriately located at Minnetonka Villages. The City should not approve a community center of this size on this lot. A community center means classes, events, weddings, lectures, etc. that would include visitors that are not members to the institution.
- The stated classes and lectures ensure constant activities throughout the day. Celebrations and lifecycle and other special events were not mentioned. The level of increased activity is very concerning and is not suitable for this site

3. Buffering space and screening

- With the level of increased activity for a 150 or more capacity building, there will be a lot more light and noise pollution from cars, security lighting and general activity, beginning from at least 6.00 am for the first scheduled activity at 6.30 am to around 9.00 pm or later.
- With windows at least 24 ft. high above main level, none of these trees would be able to provide proper screening for the building and its associated activities
  - Arbor Vitae: Mature height: 14 ft.
  - Spruce: Height: 60 – 200 ft. tall. Grows 6-11 inches per year. If you were to plant a 12 ft. tall spruce, it’ll take 12 years to start screening the 2nd floor windows

4. Water runoff and environmental

- This property lot will become roughly 70% or more hardscape (roofs, asphalt and concrete) compared with less than 20% hardscape presently. This change in hardscape will cause substantial run off
- Chabad is also planning on removing 28 trees, reducing shade and increasing heat absorbing asphalt. The 53 parking lots, south and north courtyard would be a huge heat sink, increasing heat retention and could increase the local temperature by 4°F to 6°F

2 http://www.purdue.edu/uns/x/2007b/070911PijanowskiParking.html
• Pollution due to parking lot run off (pollutants such as salt, oil, grease, heavy metals and sediment – that cannot be absorbed by the impervious surface) is a concern. The risk of these pollutants entering the soil and into our backyard is unacceptable.
• The plan does not show mitigation strategies for water runoff and how it will be managed on site. The plan also does not show how sewage be handled.

5. Traffic & Safety
• Chabad’s Mission Statement is: “To strengthen and enhance Jewish life through Torah education, quality programs in the areas of Jewish religion and spirituality, social services and community events. To serve individuals and families with a joyful, accepting and personalized Jewish experience. To be a home away from home for every man, women and child who walks through our doors, regardless of background, philosophy or level of commitment.”
• The Center is designed for a lot more activity than stated in the application. As stated in Chabad’s mission statement, the Center will cater to more people than its registered members. And these visitors, be it for weddings, lectures, social services or other community events, will mean more disruptive activities and increase the parking requirements.
• The plan states “On Friday evening and Saturday (Shabbos) and holidays, some of the attendees will arrive on foot so there will be reduced parking demand from what one would typically calculate”
  o What would be the route of the pedestrian traffic?
  o How are overflow parking handled?
  o Where would attendees of events (wedding, lectures, etc.) park their vehicles?
  o Where would event service vehicles and event employees park their vehicles?
• There are currently no controlled turn lanes, and there’s no room to add any on Hopkins Crossroads.
• Pedestrian access is challenging, with no sidewalks for pedestrian safety, and with no room to add any on Hopkins Crossroads.

• The garden fence will extend out and be just 20 ft. away from property boundary. The garden would have activities with a revolving door of strangers, just steps away from our home.

7. Questions to Applicant
• Where is the 3D modeling for the east side where neighbors would be looking at the Center all the time?
• What is the maximum capacity/total potential use of the proposed building?
• What is the operating budget for maintenance? What kind of protection does the neighborhood have to ensure the property is well maintained?
• How will snow be removed and what’s the plan for melting snow?
• Special events and number of people were not stated. What kind of events would the Center accommodate?
• What are the considerations for increase in activities as the organization grows?
• Would the building serve as temporary housing, per Chabad’s mission “To be a home away from home for every man, women and child who walks through our doors”
8. Minnetonka Standards for Review of Conditional Use Permit

a) City Code 300.16, Conditional Use Permit Standards for Residential Districts

2. General Standards
No conditional use permit shall be granted unless the city council determines that all of the following standards will be met:

a) the use is consistent with the intent of this ordinance
b) the use is consistent with the goals, policies and objectives of the comprehensive plan
c) the use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and
d) the use does not have an undue adverse impact on the public health, safety or welfare.
(Plan does not meet: traffic & pedestrian safety, as well as neighborhood safety due to drastically reduced sight lines)

3. Specific Standards
b) Religious institutions and facilities:
   1. direct access limited to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets; (Plan does not meet: Increase in significant traffic safety concerns)
   2. buildings set back 50 feet from all property lines; (For a building this size, a 50 feet set back is not enough)
   3. parking spaces and parking setbacks subject to section 300.28 of this ordinance; (City needs to carefully study this plan to ensure that this is met)
   4. no more than 70 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped; and (The plan looks like it will exceed the 70 percent threshold)
   5. site and building plan subject to review pursuant to section 300.27 of this ordinance.

b) City Code 300.27 Subd. 1. Purpose
It is the intent of this section to serve the public interest by promoting a high standard of development within the city. Through a comprehensive review of both functional and aesthetic aspects of new or intensified development, the city seeks to accomplish the following:

a) implement the comprehensive plan;
b) maintain and improve the city's tax base to a reasonable extent;
c) mitigate to the extent feasible adverse impacts of one land use upon another;
d) promote the orderly and safe flow of vehicular and pedestrian traffic; and
e) preserve and enhance the natural and built environment.
(Plan does not meet (300.27 Subd. 1. (c), (d), (e))

c) City Code 300.27 Subd. 5. Standards
Section 300.27 states that “no conditional use permit shall be granted unless the city council determines that all of the specific standards contained in this subdivision will be met.”
The proposed Center is not consistent with the standards for religious institutions and facilities City Code requirements as highlighted in bold text.

1. Consistency with the elements and objectives of the city's development guides, including the comprehensive plan and water resources management plan;
2. Consistency with this ordinance; (Plan is not consistent with this ordinance)
3. Preservation of the site in its natural state to the extent practicable by minimizing tree and soil removal and designing grade changes to be in keeping with the general appearance of neighboring developed or developing areas; (Plan does not meet: It was indicated at the neighborhood meeting that 28 trees will be removed. There will be excavation done to the site, and there could be hazardous material (i.e. motor oil), due to the previous land usage as a garage. The proposed building does not keep with the general appearance and character of the neighborhood)
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; (Plan does not meet: The proposed building creates a hostile environment and relationship with neighboring buildings. The plan also removes a lot of green spaces, replacing it with a large building footprint, courtyard and parking lot)
5. Creation of a functional and harmonious design for structures and site features, with special attention to the following: (Plan does not meet several - highlighted)
   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. (Plan does not meet)

Sincerely,

Jo Soo - 2391 Vernon Circle
A. Appendix

Adath Jesherun:
1. Plenty of green space
2. No traffic safety issues
3. No pedestrian safety issues
4. Much more buffer with neighbors
   1. Runnymede Lane
   2. Trees
5. Ample parking
6. 72,000 sq ft (in 1,119,376 sq ft/25.7 acres). Ratio = 6.43%

Bat Shalom:
1. Plenty of green space
2. No traffic safety issues
3. No pedestrian safety issues
4. Much more buffer with neighbors
   1. Orchard Road
   2. Interstate 494
   3. Lots of trees
5. Ample parking
6. Height is 27 feet
7. 43,000 sq ft (in 362,018 sq ft/8.31 acres). Ratio = 11.87%
8. Neighbors were favorable
9. 41% hard surface cover
Sharei Chesed:
1. Plenty of green space
2. Access to four lane County 73, though still heavily trafficked
3. Access to sidewalk
4. Much more buffer with neighbors
   1. County 73
   2. Lots of trees
5. Ample parking

Chabad Shul of St Louis Park:
1. Access to four lane Minnetonka Blvd, though still heavily trafficked
2. Access to alleyway
3. Access to sidewalk
4. Much more buffer with neighbors
   1. Alleyway—physical barrier
   2. Lots of trees
5. Enough parking
6. Structure is inline with surrounding structures
**Chabad - Lubavitch of Greater St. Paul:**
1. Plenty of green space
2. Access to Stratford Road
3. Much more buffer with neighbors
   1. Lots of trees
4. Structure is inline with surrounding structures

**Chabad - Lubavitch of Mikvah:**
1. Plenty of green space
2. Access to Stratford Road
3. Much more buffer with neighbors
   1. Lots of trees
4. Structure is inline with surrounding structures

**Chabad – U of M – The Rohr Center:**
1. In dense 47,364 student University campus area
2. Structure is inline with surrounding structures
First of all I would like to say I have lived on Cedar Hills Drive, south of this project, for 18 years. Many of the concerns I mention below are issues that have been building exponentially in recent years.

Are there any plans for accommodating the extra traffic? Does the county plan to widen the road? I live at Cedar Hills Drive one block south on Hopkins Crossroads. It is already difficult enough to make a left turn on to my street with the existing traffic. Also, when I am heading south on Hopkins Crossroads, trying to make a left turn on to my street people pass me on the shoulder because there is no left turn lane and I am occupying the entire south bound lane. There is a bus stop near the end of Cedar Hills Drive/Crossroads. More than once I have seen people on the shoulder too close to people waiting for the bus.

It is already difficult for me to turn left (south) or right (north) on to Hopkins Crossroads from Cedar Hills Drive. Numerous cross streets have the same issue with people speeding on Crossroads. A building with 63 parking spots, used multiple days a week will add that many more people turning left or right onto Hopkins Crossroads. Has there been any study done to determine how this will affect the traffic flow? Or better yet - will Minnetonka police the speed at rush hours?

The safety of foot traffic on Hopkins Crossroads has been an issue for the 18 years I have lived on Cedar Hills Drive. In spring 2017 I turned on to Cedar Hills Drive just as the HS girl’s running team was running up the hill. I asked them if they thought it was safe to run on Hopkins Crossroads with so many people speeding and passing on the shoulder.

At certain times of the day there are numerous school busses in the area. The double line down the center of Hopkins Crossroads does not keep people from going around a school bus. Will Minnetonka police these issues? Will Chabad have a school that will add busses to the area?

Will 63 parking spots be enough for Chabad on the Jewish Holidays? Or will we have the same problem with people parking on Hopkins Crossroads that we do with the synagogue that currently occupies the Shelter Corporation building (1600 Hopkins Crossroads)? Winter High Holidays, snow pushing cars over the line on the shoulder and occupants walking from the road to the synagogue. A pedestrian waiting to be hit.

The plan states the home at 11170 Mill Run will remain a single family home. The rendering photos show the building bordering Mill Run and no single family home. The rendering does show two driveways to Chabad on Hopkins Crossroads. Also, will there be an entrance on Mill Road?

Respectfully,
Teresa Maki
2533 Cedar Hills Drive
Minnetonka, MN 55305

--
Teresa

--
Teresa
April 19, 2018

Council Members, Planning Commission and City Planners
City of Minnetonka

Regarding: Planning Commission Public Hearing
Chabad Center for Jewish Life
2333, 2339 Hopkins Crossroad
11170 Mill Run

This letter is in response to the Concept Plan Review submitted to the City of Minnetonka Planning Commission by Chabad Lubavitch of Minneapolis to build a Chabad Center for Jewish Life at 2333, 2339 Hopkins Crossroad and 11170 Mill Run. We own an adjacent property to the proposed Center and are very concerned with the submitted project. The following are our reasons why we feel this is the wrong location for the proposed project:

**Building Design**
The proposed Center does not fit the character of the neighborhood and does not have a harmonious relationship relative to the neighborhood.

- **Mass and Size**
  - The proposed 15,000 sq. ft. Chabad Center, together with the existing 11170 Mill Run residential building is not a reasonable use of the property, pushing it to the maximum limits. It is too big for the lot and in comparison, to surrounding neighbors. The table below shows the size of the proposed Center, in comparison to neighboring houses.
  - The proximity of a building this size to neighboring homes is too close, making the 50’ setback inadequate.
  - It has been indicated that the level of usage was supposed to be small. City Planning practice is not to build a parking lot to full capacity like the “after-Thanksgiving sale”. The same reasoning should apply to building a facility to its highest usage capacity.
  - Moving from the current 2,000 sq. ft. (guesstimate) location into a 15,000 sq. ft. location does not make sense for the stated level of activity (Chabad proposal) and suggests that there are longer term plans that have not been shared with the neighbors and city.
  - The east side of the complex would have approximately 110 ft. of 29 ft. high walls facing our property and our neighbor’s that will make it feel like a huge barrier in our backyards.
  - The project needs to be a much smaller one-level Center, with a bigger buffer/setback space between building and neighboring homes.

<table>
<thead>
<tr>
<th>Address</th>
<th>Building Size (sq. ft)</th>
<th>Proposed Center compared to this house</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Center</td>
<td>15,000</td>
<td></td>
</tr>
<tr>
<td>Current 11170 Mill Run Building</td>
<td>2,576</td>
<td></td>
</tr>
<tr>
<td>2333 Hopkins Crossroad</td>
<td>1,959</td>
<td>7.6 times larger</td>
</tr>
<tr>
<td>2324 Hopkins Crossroad</td>
<td>2,649</td>
<td>5.7 times larger</td>
</tr>
<tr>
<td>2309 Archers Lane</td>
<td>1,972</td>
<td>7.6 times larger</td>
</tr>
<tr>
<td>2317 Archers Lane</td>
<td>1,936</td>
<td>7.7 times larger</td>
</tr>
</tbody>
</table>
The table below shows the proposed Centers building size relative to its property lot size. The ratio is 2 to 3 times larger than neighboring houses, and 2 to 5 times larger than other houses of worship in Minnetonka.

<table>
<thead>
<tr>
<th>Address</th>
<th>Building Size (sq. ft)</th>
<th>Property Lot Size (sq. ft)</th>
<th>Ratio (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Center</td>
<td>15,000</td>
<td>85,146</td>
<td>17.62%</td>
</tr>
<tr>
<td>Current 11170 Mill Run Building</td>
<td>2,576</td>
<td>34,326</td>
<td>7.50%</td>
</tr>
<tr>
<td>Proposed Center with 11170 Mill Run (Est)</td>
<td>17,576</td>
<td>85,146</td>
<td>20.64%</td>
</tr>
<tr>
<td>2333 Hopkins Crossroad</td>
<td>1,959</td>
<td>25,410</td>
<td>7.71%</td>
</tr>
<tr>
<td>2324 Hopkins Crossroad</td>
<td>2,649</td>
<td>23,381</td>
<td>11.33%</td>
</tr>
<tr>
<td>2309 Archers Lane</td>
<td>1,972</td>
<td>23,111</td>
<td>8.53%</td>
</tr>
<tr>
<td>2317 Archers Lane</td>
<td>1,936</td>
<td>24,031</td>
<td>8.06%</td>
</tr>
<tr>
<td>11201 Fetterly Road W</td>
<td>2,628</td>
<td>21,265</td>
<td>12.36%</td>
</tr>
<tr>
<td>2390 Vernon Circle</td>
<td>3,500</td>
<td>32,242</td>
<td>10.86%</td>
</tr>
<tr>
<td>2391 Vernon Circle</td>
<td>3,625</td>
<td>22,000</td>
<td>16.48%</td>
</tr>
<tr>
<td>11171 Mill Run</td>
<td>4,404</td>
<td>31,256</td>
<td>14.09%</td>
</tr>
<tr>
<td>Minnetonka Seventh-day Adventist Church</td>
<td>40,000</td>
<td>861,717</td>
<td>4.64%</td>
</tr>
<tr>
<td>Unitarian Universalist Church of Minnetonka</td>
<td>11,000</td>
<td>170,354</td>
<td>6.46%</td>
</tr>
<tr>
<td>Wooddale Baptist</td>
<td>97,600</td>
<td>1,343,927</td>
<td>7.26%</td>
</tr>
<tr>
<td>Adath Jesherun</td>
<td>72,000</td>
<td>1,119,376</td>
<td>6.43%</td>
</tr>
<tr>
<td>Bet Shalom</td>
<td>43,000</td>
<td>362,018</td>
<td>11.88%</td>
</tr>
</tbody>
</table>
• **Windows**
  - The existing house currently has 3 windows facing our house and is set much farther from the property line. The proposed building will have 24 windows facing our house. Evening classes and lectures with 30-50 people nightly will be in these rooms, and able to look out these windows into our home and yard
  - Daily activities begin from at least 6:00 am for the first scheduled activity at 6:30 am to around 9:00 pm or later. There will no longer be privacy for our home
  - There will be light pollution from these windows
  - There is no proper transition between the proposed Center and neighboring homes
  - The building needs to be much lower in height to fit into the neighborhood

**Activities**
- This Center is designed as a large community center, one that is more appropriately located at one of Minnetonka’s Villages. The City should not approve a community center of this size on this lot. A community center means classes, events, weddings, lectures, etc. that would include visitors that are not members to the institution
- The stated classes and lectures ensure constant activities throughout the day. Celebrations and lifecycle and other special events are not mentioned in the Chabad proposal. The planned level of increased activity is very concerning and is not suitable for this site

**Buffering Space and Screening**
- With the level of increased activity for a 150 person or more-capacity building, there will be a lot light, noise and exhaust pollution from cars, security lighting and general activity. This activity will begin at least at 6:00 am as the first scheduled daily activity is scheduled at 6.30 am and will continue through the day until roughly 9:00 pm or later
- With windows at least 24 ft. high above ground level, no trees may be planted would be able to provide proper screening to the east side of the building year-round and its associated activities
  - Arbor Vitae: Mature height: 14 ft.
  - Spruce: Height: 60 – 200 ft. tall. Grows 6-11 inches per year
    - If you plant a 12 ft. tall spruce, it’ll take 12 years to start screening the 2nd floor windows

**Safety and Security**
- Currently, there are good sight lines to enable proper awareness of activities around our home. Increased screening, would remove these sight lines, allowing for areas in which intruders could hide, just steps away from our front door

**Light and Noise Pollution**
- The Dark Sky organization [www.darksky.org](http://www.darksky.org), says of a building of this size “there will be harmful upward reflecting light\(^1\); and to adjacent properties. We need to see the placement of lights and kind of lights on the building exterior and the parking lot but this has not been provided by Chabad. A light distribution plan is needed, in accordance with City ordinance (Ord. 2012-20)
- In addition to celebrations and events insides the building, Chabad had indicated that events could be held outside the building. All these events would produce noise that will

---

\(^1\) http://www.darksky.org/wp-content/uploads/2014/09/Light_Pollution_Diagram_680px.jpg
intrude on our outdoor activities at a much louder and more frequent level than a single-family home or an appropriately sized Center

- Signage
  - Signage has not been presented to the neighbors or the City to evaluate
  - What size, placement on property, number of signs, type of illumination, hours of illumination are they planning

- Noise
  - Noise from a large HVAC system serving a 15,000 sq. ft. building is a concern
  - Human interaction outdoors at 6:00am and 9:00pm are a concern

Water Runoff and Environment

- This property will become roughly 70% hardscape (roofs, asphalt and concrete). This amount in hardscape will cause substantial run off that can affect the neighbors and County Road 73/Hillside intersection
- Chabad is also planning on removing 28 trees, reducing shade and increasing heat absorbing asphalt. The 53 parking lots, south and north courtyard would be a huge heat sink, increasing heat retention and could increase the local temperature by 4°F to 6°F
- Pollution due to parking lot run off (pollutants such as salt, oil, grease, heavy metals and sediment – that cannot be absorbed by the impervious surface) is a concern. The risk of these pollutants entering the soil and into our backyard is unacceptable
- The plan does not show mitigation strategies for water runoff and how it will be managed on site. The plan also does not show how sewage be handled

Traffic and Safety

- Chabad’s Mission Statement is: “To strengthen and enhance Jewish life through Torah education, quality programs in the areas of Jewish religion and spirituality, social services and community events. To serve individuals and families with a joyful, accepting and personalized Jewish experience. To be a home away from home for every man, women and child who walks through our doors, regardless of background, philosophy or level of commitment.”
- The Center is designed for a lot more activity than stated in the application. As stated in Chabad’s mission statement, the Center will cater to more people than its registered members. And these visitors, be it for weddings, lectures, social services or other community events, will mean more disruptive activities and increase the parking requirements.
- The plan states “On Friday evening and Saturday (Shabbos) and holidays, some of the attendees will arrive on foot so there will be reduced parking demand from what one would typically calculate”
  - What would be the route of the pedestrian traffic
  - How is overflow parking going to be handled
  - Where would attendees of events (wedding, lectures, etc.) park their vehicles and get to the Center
  - Where would event service vehicles and event employees park their vehicles
- Currently no controlled turn lanes exist on County Road 73 and there’s no room to add any
- Pedestrian access is dismal, with no sidewalks for pedestrian and driver safety, and no room to add any on County Road 73 in its current state.

\(^2\) http://www.purdue.edu/uns/x/2007b/070911PijanowskiParking.html
Mikvah Garden – Structure at the back of the East side of the building
- The garden fence will extend out and be just 20 ft. away from our neighbor’s property boundary. The garden would have activities with a revolving door of strangers, just steps away from our home and we suspect we will be able to hear much of what is vocalized.

Questions for the Applicant
- Why has a rendering of east side of the complex not been provided? The neighbors on the east side are physically the closest to the buildings and would be looking at the Center all the time.
- What is the maximum human capacity of the proposed building for events
- What is the operating budget for maintenance
- What protection does the neighborhood have to ensure the property is well maintained
- How will snow be removed and what’s the plan for melting snow
- What time of day will snow be removed – is 4:00AM with beeping machines possible
- Special events and number of people is not stated in the application, what kind of events would the Center accommodate
- What considerations for increased activities are planned for the next three years
- Would the building serve as temporary housing, as Chabad’s mission statement says “To be a home away from home for every man, women and child who walks through our doors”

Minnetonka Standards for Review of Conditional Use Permit
City Code 300.16, Conditional Use Permit Standards for Residential Districts
2. General Standards
   No conditional use permit shall be granted unless the city council determines that all of the following standards will be met:

   a) the use is consistent with the intent of this ordinance
   b) the use is consistent with the goals, policies and objectives of the comprehensive plan
   c) the use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and
   d) the use does not have an undue adverse impact on the public health, safety or welfare. (Plan does not meet: traffic and pedestrian safety, as well as neighborhood safety due to drastically reduced sight lines)

3. Specific Standards
   b) Religious institutions and facilities:
      1. direct access limited to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets; (Plan does not meet: Traffic hazards will increase significantly because of many additional turns on County Road 73)
      2. buildings set back 50 feet from all property lines; (For a building this size, 50 feet set back is not enough and the Mikvah has only a 20’ set back)
      3. parking spaces and parking setbacks subject to section 300.28 of this ordinance; (City needs to carefully study this plan to ensure that this is met. City Staff has indicated that only the Sanctuary will be included for this measure as that is how 300.28 has been applied to other religious organizations and Staff wants to be fair. The fact is that the
Social Hall is contiguous to the Sanctuary and will most certainly be used as part of the Sanctuary on many occasions throughout the year. Our belief is that City Staff is being unfair to the neighborhood to have a “once size fits all” approach to this issue. Every proposal is unique and should be considered on its merits. In this case the size of the building versus the size of the lot is vastly different from every other religious site in the City of Minnetonka as shown in the graph earlier in this letter. Staff should be looking at this issue with an open mind.

4. **No more than 70 percent** of the site to be covered with impervious surface and the remainder to be suitably landscaped; and *(The plan looks like it will exceed the 70 percent threshold)*

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

**City Code 300.27 Subd. 1. Purpose**

It is the intent of this section to serve the public interest by promoting a high standard of development within the city. Through a comprehensive review of both functional and aesthetic aspects of new or intensified development, the city seeks to accomplish the following:

- a) implement the comprehensive plan;
- b) maintain and improve the city's tax base to a reasonable extent;
- c) mitigate to the extent feasible adverse impacts of one land use upon another;
- d) promote the orderly and safe flow of vehicular and pedestrian traffic; and
- e) preserve and enhance the natural and built environment.

*(Plan does not meet (300.27 Subd. 1. (c), (d), (e)))*

**City Code 300.27 Subd. 5. Standards**

Section 300.27 states that “no conditional use permit shall be granted unless the city council determines that all of the specific standards contained in this subdivision will be met.”

- The proposed Center is not consistent with the standards for religious institutions and facilities per City Code requirements as highlighted in bold text below

1. Consistency with the elements and objectives of the city's development guides, including the comprehensive plan and water resources management plan;
2. Consistency with this ordinance; *(Plan is not consistent with this ordinance)*
3. Preservation of the site in its natural state to the extent practicable by minimizing tree and soil removal and designing grade changes to be in keeping with the general appearance of neighboring developed or developing areas; *(Plan does not meet: It was indicated at the neighborhood meeting that 28 trees will be removed. There will be excavation done to the site, and there could be hazardous material (i.e. motor oil), due to the previous land usage as a garage. The proposed building does not keep with the general appearance and character of the neighborhood)*
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; *(Plan does not meet: The proposed building creates a hostile environment and relationship with neighboring buildings. The plan also removes a much green space, replacing it with a very large building footprint, courtyard and parking lots)*
5. Creation of a functional and harmonious design for structures and site features, with special attention to the following: (Plan does not meet several - highlighted)
   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. (Plan does not meet)

Sincerely,

Michael Leirdahl & Susan Flint
2290 Vernon Circle
Minnetonka, MN 55305
Appendix

Adath Jesherun:
1. Plenty of green space
2. No traffic safety issues
3. No pedestrian safety issues
4. Much more buffer with neighbors
   1. Runnymede Lane
   2. Trees
5. Ample parking
6. 72,000 sq ft (in 1,119,376 sq ft/25.7 acres). Ratio = 6.43%

Bet Shalom:
1. Plenty of green space
2. No traffic safety issues
3. No pedestrian safety issues
4. Much more buffer with neighbors
   1. Orchard Road
   2. Interstate 494
   3. Lots of trees
5. Ample parking
6. Height is 27 feet
7. 45,000 sq ft (in 362,018 sq ft/8.31 acres). Ratio = 11.87%
8. Neighbors were favorable
9. 41% hard surface cover
Sharei Chesed:
1. Plenty of green space
2. Access to four lane County 73, though still heavily trafficked
3. Access to sidewalk
4. Much more buffer with neighbors
   1. County 73
   2. Lots of trees
5. Ample parking

Chabad Shul of St Louis Park:
1. Access to four lane Minnetonka Blvd, though still heavily trafficked
2. Access to alleyway
3. Access to sidewalk
4. Much more buffer with neighbors
   1. Alleyway—physical barrier
   2. Lots of trees
5. Enough parking
6. Structure is inline with surrounding structures
Chabad - Lubavitch of Greater St. Paul:
1. Plenty of green space
2. Access to Stratford Road
3. Much more buffer with neighbors
   1. Lots of trees
4. Structure is inline with surrounding structures

Chabad - Lubavitch of Mikvah:
1. Plenty of green space
2. Access to Stratford Road
3. Much more buffer with neighbors
   1. Lots of trees
4. Structure is inline with surrounding structures

Chabad – U of M – The Rohr Center:
1. In dense 47,364 student University campus area
2. Structure is inline with surrounding structures
Dear Susan and Tony:

We are writing to express our opposition to the Chabad for Jewish Life application for the following reasons:

1. Traffic: We are not traffic safety experts, but we estimate that use and growth of the synagogue will lead to several thousand turns per month along Hopkins Crossroad, a road that is already at peak capacity and that lacks the infrastructure to handle additional active ingress/egress points. Adding additional ingress/egress with thousand of turns per month to a short stretch that already includes Hillside, Mill Run, Fetterly and Overlook Pass where cars already travel at high speeds at a high volume over a large hill, often in inclement weather, is risking the safety of motorists, bicyclists, pedestrians and homeowners in the area. We don't think additional turn lanes will remove the safety concerns given the traffic and congestion along that stretch and there does not appear to be available land on the west side of the guardrail. As stated in the CUP, the additional turns will create undue impact on public health, safety and welfare.

2. Pedestrian Traffic: Hopkins Crossroad has no pedestrian infrastructure. At least some of the attendees will be walking to the synagogue on Saturdays and holidays, many with small children. Adding more pedestrian traffic on Hopkins Crossroad creates undue impact on public health, safety and welfare.

3. Building: We concur with the email sent by Jo Soo that clearly demonstrates the ways in which the proposed facility would not have a harmonious relationship, in size or appearance, with neighboring structures.

4. Usage: We concur with the email sent by David Abrams regarding holiday frequency. Thirty three holiday days a year, with multiple events per day, far exceeds the applicant’s estimate of 5-10 days per year. In addition, the narrative was silent about life cycle events. As previously stated in an earlier email, Jewish life cycle events can include, but are not limited to, circumcision ceremonies, baby naming ceremonies, bar mitzvahs, bat mitzvahs, weddings, funerals. Also, the community center’s kitchen and social hall would make it an obvious choice for birthday and anniversary celebrations. All of the aforementioned events are often well attended. It is reasonable to project that there will be ten life cycle events the first year and it will grow from there. It is likely that there will be a major, well attended event at the synagogue multiple times a month in addition to what is referenced in the narrative. That will cause undue impact on public health, safety and welfare (privacy) of the neighborhood because of traffic, parking and noise issues.

5. Parking: The applicant failed to provide data in its narrative regarding how many people will walk and how many people will drive to synagogue on Saturdays, holidays and social events, so we have made some estimates based on reasonable assumptions. Our assumptions are based on a small Orthodox Jewish community located within walking distance of the facility, the lack of an eruv (a overhead wire designating an area that allows religious Jews to carry on the Sabbath and holidays) in the neighborhood, Chabad’s ethos of being welcoming and non judgmental across all denominations of Judaism.

We are assuming that eighty percent of attendees will drive to the site for Friday night, Saturday and all holiday services. We are assuming that about 100% of attendees will drive to all other events. We assume that attendees will not choose to park in the rabbi’s driveway because of the risk of being blocked in or not wanting to block others in, especially when Mill Run is a convenient alternative. We are assuming that the average passenger load per vehicle will be 1.5 persons.
When factoring all of the above, any event that exceed an attendance of 120 people will lead to overflow parking in the neighborhood. Chabad’s narrative indicates there will be one Friday night gathering a month of 75-125 people and holiday gatherings of 75-150 people “5-10 times.” As David Abrams noted, the Chabad website lists thirty three observance days during the year (some will fall on Saturdays, depending on the year). Most, if not all, will have services/activities on site. In addition, as previously stated, we anticipate ten life cycle events per year, plus growth. (Everything about the physical facility supports these estimates.)

When factoring in all of the aforementioned, we estimate the likelihood of overflow parking in the neighborhood of thirty to forty times a year. That well exceeds the precedent of Adath Jeshurun of two to three times per year. As stated in the CUP, we believe this cause an undue impact on the public health, safety and welfare of the surrounding neighborhood.

6. The Human Behavior of Parking: People tend to park where it is easiest and most convenient, not where they are instructed to park and not based on designated availability. Even though the applicant has increased its parking capacity, we believe that many people will still park in Mill Run because it is the first turn in for north bound drivers coming over the hill and the driver can avoid the hassle of circling the parking lot. One example of this kind of behavior in the neighborhood took place on April 12th when we walked by the new Hopkins Girls’ Varsity Softball field on Hillside at 4pm, just before the start of a game. There were approximately 40-50 spectators in the stands. Several cars were parked on Hillside with an extensive amount of additional availability and a few cars were parked in the Tanglen lot, with many open spaces. We also counted six cars parked in the Hillside Circle cul de sac with people leaving their cars, walking across Hillside toward the softball field, directly opposite the cul de sac. There was plenty of available parking in the public areas (Hillside and Tanglen) but several spectators parked in a residential area because it was easier. The same thing will likely happen on Mill Run, whether or not the Chabad lot is full. If our projection is correct, it will have an undue impact on public health, safety and welfare because Mill Run vehicle traffic will come around a semi blind curve, which will put people crossing the street at risk, and because it is a recurring violation of the privacy of neighborhood residents.

7. Site Maintenance: Chabad does not charge dues and, according to its website, runs its operations solely on donations. If there is no dues structure, it will be difficult to budget for proper upkeep, management, maintenance and capital repairs of a large facility. The new tax law has created an economic disincentive for charitable contributions. An economic recession can also negatively impact donations. Does the applicant’s team have any experience managing and maintaining a facility of this size on an ongoing basis? If the facility falls into disrepair due to lack of available funds and/or expertise, the property could become an even bigger eyesore than the first two lots under the previous ownership. That could have an undue impact on public welfare by harming the property values of the neighborhood.

Finally, it remains an overall concern that the applicant has put a significant amount of time and other resources into drawings and plans, yet the application lacks specificity about the frequency, numbers and anticipated usage growth of the site. A project of this size and scope would significantly change the nature and living patterns of hundreds of families in the area. The lack of detailed information about daily, holiday, event and life cycle usage is a makes it difficult to properly evaluate the application. The applicant’s narrative is incomplete and it doesn’t even match the information provided on its website. The risk of approving a project based on incomplete information and the significant, obvious public health, safety and welfare concerns seems not worth the reward of what it might add to the neighborhood.

Thank you for your review and consideration of this email.

Best Regards,

Jim Moscowitz and Amy Taswell
11120 Mill Run
Hello,

I am writing about my concerns regarding the Chabad Center for Jewish Life currently proposed on Mill Run & Hopkins Crossroad. I concur with my Mill Run & surrounding neighbors. I share the same concerns.

1- Parking on Mill Run- especially the private roads

2- Site Maintenance- I am aware of the membership structure of Chabad & knowledgeable of what it takes to financially maintain this type of facility.

3- Plan doesn’t have a harmonious relationship with the neighborhood.

4- Ambiguity regarding applicants plan for usage.

5- Additional vehicle traffic

6- Safety issues for walkers due to lack of sidewalks.

7- Shrinking tax base. Chabad has already purchased 3 home sites. Can they just keep buying homes to gain the property they need? Seems inappropriate.

Thanks for your consideration.

Alison Silberman
11123 Mill Run
Dear City Council and Review Board:

As 19-year residents of the neighborhood surrounding the proposed Chabad development, we are writing to voice our strong opposition to the proposal.

We believe the Chabad Proposal does not meet the standards set forth in Section 300.16/Conditional Use Permit Standards for Residential Districts.

Our concerns are as follows:

1. Proposed structure will negatively impact traffic.

We believe the proposed Chabad Center would have an undue, adverse impact on traffic and on safety. Hopkins Crossroad is a busy road and often serves as an alternate route when nearby highways have traffic or construction issues. Vehicles are frequently traveling fast and, during busy times of days, breaks in the traffic are rare. Adding a facility with needs for egress and ingress at this spot in the road would worsen this situation.

We live on Nottingham Court, just off of Fetterly Road. Several times each day, we leave our neighborhood by turning left from Fetterly onto Hopkins Crossroad. This can be a frustrating turn at any time of day. During rush hour, it can take 5 minutes before there is a break in traffic to make the left. If there is a vehicle ahead of you also trying to turn left, the wait time naturally can be quite a bit longer. The idea of additional traffic especially involving turns at this section of the road is alarming.

The revised plan submitted by Chabad appears to move the building north from the original plan, though this is not reflected in the more recently submitted 3-D renderings. In any case, the road simply is not wide enough to accommodate additional dedicated turn lanes which means traffic would stack up on Hopkins Crossroad itself as cars wait to turn into the proposed Chabad parking lot. This would compound the issues of turning into and out of our neighborhood.

The Hopkins Crossroad-Fetterly Road intersection is the only way out of the neighborhood for the 48 households that live here. It is problematic now, and adding the proposed Chabad Center would worsen it considerably. In addition to daily use of the intersection for our residents, we are concerned about potential difficulties getting in or out of the neighborhood that may be presented to emergency vehicles should a need arise during daily times of heavy usage.

Next, we are concerned about parking. Considering the size of the proposed structure, its actual capacity, and the limited parking spots available, it is fair to assume that the many Religious holidays and other life-cycle events to be celebrated would require overflow parking. Fetterly Road is very narrow. Any vehicle parking on it would render it impassable to more than one vehicle at a time, which would
create an impossible situation if congregants decided to use the neighborhood as overflow parking.

2. Proposed structure creates a pedestrian hazard.

We also worry about the impact of increased pedestrian traffic on Hopkins Crossroad. The submission from Chabad to the City indicates that on Friday evenings, Saturdays, and holidays some significant portion of attendees will travel to and from services at the proposed Center on foot. Hopkins Crossroad is notoriously unfriendly to pedestrian traffic. The section of Hopkins Crossroad near the proposed center has no sidewalks, few streetlights, and little or, often, no shoulder. Even if pedestrians are walking single file, they are very close to or on the lane of traffic. Cars on this road are often going fast, and the large hill on Hopkins Crossroad that crests near the proposed Center will limit the visibility of these pedestrians to drivers. It unquestionably would be dangerous for pedestrians headed to and from the Center.

3. Proposed project not in keeping with a residential neighborhood.

The proposal includes a 15,000 square foot structure that is unmistakably institutional in both size and appearance. It is 41 feet tall, with stucco and brick walls and a metal roof. In both size and style, such a structure is completely incompatible with the surrounding homes. In addition, the proportion of hardscape to landscape is very high, which would again be aesthetically incompatible with the neighboring structures and landscaping in this residential area.

The site on which the development is proposed is hilly and contains many large, mature oak and pine trees. In order to fit such a large structure and parking lot on the land, all or most of the trees would need to be removed. The removal of all of these trees, along with the changes in grading to the site that would need to be done to accommodate such a large structure would be visually not in keeping with our wooded, residential neighborhood.

4. Proposed structure raises environmental concerns.

Next, the proposed development raises issues of environmental concern and issues of light pollution. The Chabad building and parking lot would be a sea change from the existing structure and topography. We have concerns that the vast amount of hardscape in the form of building and parking lot could present drainage issues in the times of significant rainfall or snow melt. In addition, the proposed structure has many windows, including clerestory windows approximately 30 feet off the ground around its sanctuary. We are concerned that the light pollution from this, along with the security lighting that would be necessary on the exterior, would negatively impact the enjoyment of the outdoors by the existing residents.
5. Proposed site too small to allow for probable future growth and usage.

Finally, we are concerned about not only the development as it is now proposed, but also about how it is likely to develop into the future. The plan of the structure shows a sanctuary that is open to a large social area. It appears that if the congregation were to grow, which we believe to be one of the goals of the Center, it would be a simple thing to add seating to the sanctuary. The size of the structure as compared to the size of the site does not allow for the creation of significant additional parking, thus creating additional traffic and parking pressures on the surrounding neighborhoods. We are aware that you need to take the application as it is presented, but it seems prudent to consider reasonable predictions of growth based on apparent plans, as well.

Thank you for your consideration.

Daniel and Angela Meshbesher
2320 Nottingham Court
Minnetonka, MN 55305
April 18, 2018

Minnetonka Planning Commission
14600 Minnetonka Boulevard
Minnetonka MN 55345

Dear Planning Commission members:

I have reviewed the CUP application for the Chabad Center for Jewish Life and would offer the following comments for Planning Commission consideration.

First, I appreciate the modifications to the original concept that have been prepared by Chabad in response to neighbors’ concerns and Planning Commission feedback. Nevertheless, the proposed facility is essentially unchanged in mass and footprint, calling for a 15,000 sq. ft. community center.

Overall, I believe the proposed project, as detailed in the CUP application, fails to meet the standards in city code for CUP approval, specifically (a) the city’s general standards pertaining to public safety, (b) the specific standards for religious institutions and facilities pertaining to parking and (c) site and building plan review standards pertaining to harmonious design and impacts on neighboring properties.

I have the following concerns about this proposed project going forward:

1. I am concerned that the project will have an adverse impact on public safety in several regards. First, the traffic impacts resulting from such a development in an already busy segment of CR 73 will present significant new risks to traffic safety. The CUP application calls for vehicular access to the site directly off of CR73 about 200 feet north of the location where Mill Run and Fetterly both intersect the road. Adding a third source of traffic turning onto CR73 (with 14,000+ daily trips at 40 mph or more and limited south visibility) in close proximity to Mill Run and Fetterly will compromise public safety and impair access to and from area neighborhoods.

   Secondly, I am concerned about pedestrian safety, particularly in light of the fact that the application states that “some of the attendees will arrive on foot so there will be reduced parking demand from what one would typically calculate.” CR73 has no pedestrian infrastructure. And while the pedestrian environment along CR73 is variable, with 3 foot or wider shoulders near Cedar Lake Road and 394, the segment in which the facility would be located, between Overlook Drive and Live Oak is particularly hazardous. Pedestrians are required to either walk in a lane of traffic (west side) or in a turn lane to Hillside (east side). (See photo exhibits below). Expected evening pedestrian traffic will bring additional risk due to limited road lighting.

2. I am concerned about the lack of clarity and detail about programs, activities and the number of participants at the facility both at inception and, more importantly,
over time. The application provides some estimates of participants at various events on various days and times, but it is not clear whether those estimates are based on participation at Chabad’s current facility (which I understand is about one-third the size of the proposed new facility) or reflect future growth projections at a new 15,000 sq. ft. facility. In any event, it is highly likely that activity is expected to grow and I think future activity levels have been underestimated.

3. I am concerned that the proposed facility is still short of the parking capacity it will require. Mill Run is a small overflow option that should not be burdened with frequent overflow use and it is the only overflow option that does not require overflow parkers to cross or walk along CR73 that, as noted previously, is unsafe for pedestrians in this location.

4. I am concerned that this site is undersized for the facility and programs that are proposed. Even with the additional property that has been acquired, the total size of the site is only 1.97 acres. If approved, I believe this will be the smallest site in Minnetonka for any such facility (see table below). The smallness of the site is further aggravated by the lack of substantive physical space or buffers between adjacent residential properties as has occurred at many other church sites.

Finally, I believe the Planning Commission members were unified in their comments at the concept review meeting when members noted and affirmed:

- The validity and accuracy of neighborhood input;
- The excessive size and scale of the proposed facility;
- The inadequacy of parking;
- The potential for traffic safety issues, particularly at intersections with CR73;
- The lack of harmony between the proposed development and the surrounding neighborhood.

Chairman Kirk aptly summarized and concluded the discussion by noting “I think it will be very difficult for this development, the way its been presented, to meet the conditions in the CUP.”

I believe the Chairman was prescient in his assessment. While the Chabad proposal has been modified following the concept review, the principal concerns regarding facility size and mass, parking, traffic, safety and neighborhood harmony and compatibility remain. I believe the CUP application fails to meet the requisite standards in city code.

Respectfully submitted,

Philip Eckhert
2317 Archers Lane
Minnetonka
Hopkins Crossroads at Hillside Avenue lacks safe space for pedestrians.

West side looking north  East side looking north
### Minnetonka Religious Institutions and Facilities*

<table>
<thead>
<tr>
<th>Church Name</th>
<th>Address</th>
<th>Zoning</th>
<th>Land Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adath Jershurun</td>
<td>10500 Hillside Lane</td>
<td>R-1</td>
<td>25.7 acres</td>
</tr>
<tr>
<td>All Saints Lutheran</td>
<td>15915 Excelsior Blvd.</td>
<td>R-1</td>
<td>5.56 acres</td>
</tr>
<tr>
<td>Bethlehem Luth (GL)</td>
<td>5701 Eden Prairie Rd</td>
<td>R-1</td>
<td>2.51 acres</td>
</tr>
<tr>
<td>Bethlehem Luth (Mtka)</td>
<td>16023 Mtka Blvd.</td>
<td>R-1</td>
<td>3.05 acres</td>
</tr>
<tr>
<td>Bet Shalom</td>
<td>13613 Orchard Rd</td>
<td>R-1</td>
<td>8.31 acres</td>
</tr>
<tr>
<td>Cross of Glory</td>
<td>4600 Shady Oak Rd</td>
<td>R-1</td>
<td>3.98 acres</td>
</tr>
<tr>
<td>Faith Presbyterian</td>
<td>12007 Excelsior Blvd</td>
<td>R-1</td>
<td>7.19 acres</td>
</tr>
<tr>
<td>Good Shepherd Pres.</td>
<td>15321 Wayzata Blvd</td>
<td>R-1</td>
<td>2.4 acres</td>
</tr>
<tr>
<td>Hopkins Assem. Of God</td>
<td>11901 Excelsior Blvd</td>
<td>R-1</td>
<td>3.24 acres</td>
</tr>
<tr>
<td>Immac. Heart of Mary</td>
<td>13505 Excelsior Blvd</td>
<td>R-1</td>
<td>9.47 acres</td>
</tr>
<tr>
<td>Jehovah Witnesses</td>
<td>13001 Lake St. Ext</td>
<td>R-1</td>
<td>4.04 acres</td>
</tr>
<tr>
<td>Minnetonka Baptist</td>
<td>4420 Hwy 101</td>
<td>B-2</td>
<td>8.21 acres</td>
</tr>
<tr>
<td>Minnetonka Mills</td>
<td>13215 Mtka Blvd</td>
<td>R-1</td>
<td>4.81 acres</td>
</tr>
<tr>
<td>Mtka 7th Day Advocates</td>
<td>3500 Williston</td>
<td>PUD</td>
<td>19.78 acres</td>
</tr>
<tr>
<td>Mtka United Methodist</td>
<td>17611 Lake St. Ext.</td>
<td>B-2</td>
<td>4.65 acres</td>
</tr>
<tr>
<td>Mzizi International</td>
<td>13207 Lake St. Ext.</td>
<td>R-1</td>
<td>2.1 acres</td>
</tr>
<tr>
<td>Oak Knoll Lutheran</td>
<td>600 Hopkins Crossroad</td>
<td>PID</td>
<td>5.15 acres</td>
</tr>
<tr>
<td>Redeemer Bible Church</td>
<td>16205 Highway 7</td>
<td>R-1</td>
<td>4.12 acres</td>
</tr>
<tr>
<td>Saint David’s</td>
<td>13000 St. David’s Rd</td>
<td>R-1</td>
<td>3.55 acres</td>
</tr>
<tr>
<td>Saint Luke’s</td>
<td>3121 Groveland School</td>
<td>R-1</td>
<td>4.34 acres</td>
</tr>
<tr>
<td>Sharei Chesesed</td>
<td>1712 Hopkins Xroad</td>
<td>R-1</td>
<td>4.02 acres</td>
</tr>
<tr>
<td>Slavic Baptist</td>
<td>16625 Excelsior Blvd</td>
<td>R-1</td>
<td>2.64 acres</td>
</tr>
<tr>
<td>Proposed Chabad</td>
<td>11170 Mill Run</td>
<td>R-1</td>
<td>1.97 acres</td>
</tr>
</tbody>
</table>

*List may not be complete.
Dear Susan,

Good morning and thanks for the opportunity to view the scope for the traffic study. While we understand it is not possible to capture every nuance, as residents of the area we wanted to call attention to a couple key parameters we feel are important for the traffic study to take into account:

1) **Hillside Ln/Hopkins Crossroads Intersection.** The proposed center would sit between two intersections which are less than 1000 ft apart. However the Hillside Lane/Hopkins Crossroads is not included as a parameter in the study - just the Hopkins Crossroads/Mill Run intersection is listed. We think Hillside Ln/Hopkins Crossroads should be included for the following reasons:
   - It is 400 feet from the main driveway entrance to the proposed site, and is the closest high-volume intersection to the project. Cars turning in and out of Hillside will need to negotiate with cars going to/from the Chabad center, along with 40 mph through traffic on Hopkins Crossroads in a very small space.
   - The intersection was studied by SRF in 2003 for updates to Hopkins High School. It was found to be a D to F Level of Service (LOS) during a.m., school, and p.m. peak hours, respectively. Improvements to the intersection were also recommended (attached - p. 39, 41, 46).
   - The LOS most likely would have degraded over the last 15 years with the increase in volume on Co Rd 73, and a crash record of the intersection was noted in a study for the 2030 Comprehensive Plan (attached).
   - It absorbs a great deal of school and school event-related traffic (see #2).

   Does it make sense and is it safe to locate a new, active community center so close to an intersection which has noted deficiencies?

2) **Hopkins Public Schools - school and after school event-related traffic.** Hopkins High School, Tanglen Elementary, North Junior High are almost literally in the backyard of the proposed development site.
   - The study does not list school and after school event-related traffic as a separate parameter
   - Much of the traffic study/c Flow was conducted during a lull between key sports seasons (football, basketball, soccer, baseball etc), which contribute significantly to after-school event traffic.
   - There is a massive sports field upgrade taking place on the school campuses along Hillside Lane which will house several new stadiums and fields. It is not complete yet. This will bring in more traffic/turns/parking along Hillside from Co Rd 73 and add to the complexity of traffic in the area.
   - Large events and performances at all three schools occur regularly on school days and weekends.

*Attached is a photo taken of Hillside Lane last Thursday, April 12 for a softball game at one of the new stadiums.*
Traffic complications at this intersection and in the area are well-known. At the February 15, 2018 Planning Commission meeting, planning commissioners referenced first-hand experience of the traffic challenges in the area. In his closing comments, Commissioner Kirk referenced student traffic on Hillside and suggested that the area should be taken into consideration.

The Chabad proposal occurs in the middle of a larger traffic and facility interplay which involves Co Rd 73 and a central activity area for Hopkins Public Schools. The infrastructure is not designed like a "Minnetonka Village" and so adding intensification and additional activity to the area should be weighed carefully.

Coupled with Jim’s comments and insight about the level of activity a new center would bring, and because of the complexity of the area, we feel the traffic study should err on “overstudying” the area rather than not studying it enough, to ensure that it can absorb additional capacity without putting more strain on residents and current traffic, and ensure safety for all.

Thank you very much for your time and your work on the project.

Regards,

Kristin and Jo Soo

Vernon Circle, Tanglen Woods

Minnetonka, 55305
Legend
Crashes 2002-2006
- 31 - 50
- 21 - 30
- 15 - 20
- 10 - 14

Source: City of Minnetonka, Hennepin County, Metropolitan Council, Mn/DOT

Crashes 2002-2006

Map prepared by: SRF Consulting Group, Inc.
Figure VIII-10
Dear Mr. Wagner:

I am writing to follow-up on a phone conversation we had in February, prior to a Planning Commission meeting regarding the proposed development by Chabad Center for Jewish Life. At that time, I expressed my concerns about safety, the increased traffic – both pedestrian and vehicular and the size and scope of the project in a residential area.

At the February Planning Commission meeting the commissioners offered some clear direction for the organization especially regarding the size of the project on the land and parking. The Planning Commission recommended the scope of the project be reviewed to ensure it was “harmonious” with the neighborhood.

I was, therefore, surprised when the formal application was submitted without changing the scope of the project. In fact, the application included the addition of an adjacent property, which simply enlarges the potential scope of the facility.

At this writing I remain extremely concerned about the initial items we discussed in February.

1. Hopkins Crossroad is not conducive to foot traffic. The road is narrow, the traffic flow is heavy at times, there are no sidewalks and it doesn’t sound like sidewalks or widening Hopkins Crossroad are scheduled at any time in the near future. In addition, the Chabad members who choose to walk for services will be walking at dusk making it even more difficult to be seen.

2. It is very difficult to turn out of our neighborhood (Fetterly Woods), especially heading north during morning rush hour and evening. Adding more traffic to that area will only exacerbate that issue. In the morning there are four buses that stop at Hopkins Crossroad and Fetterly Road taking kids to Tanglen Elementary, Hopkins Junior High, ISLA and Groveland Elementary. That corner is a safety nightmare as cars frequently disregard the stopped bus, are unable to stop on slippery roads or are moving above the posted speed limit.

3. Although there were obvious issues with the previous property owners in terms of upkeep and maintenance this large, multi-purpose facility is not the right solution for this property located on a residential portion of Hopkins Crossroad.

I have not seen any visioning for Hopkins Crossroad or this area that would support transitioning the neighborhood from primarily residential to one with such a large structure. I respectfully ask for your “no” vote when/if this project, comes before the Minnetonka City Council.

Sincerely,

Amy R. Weiss
CONCEPT PLAN
Dear Susan and Ashley:

During our meeting last week you requested that we provide written feedback on the project by expressing both our concerns as well as outlining some of the things that we could live with if the project were to be approved. We have reviewed the information that has been uploaded on the eminnetonka web site and would like to share our thoughts in writing with you.

1. Concerns:

A) Traffic and turning on and off of Hopkins Crossroad. We calculate that every ten people arriving and departing the property at rush hour will result in 800 turns per month on and off of Hopkins Crossroad on weekdays alone. This is a real safety concern. Chabad currently estimates there will be 10-15 congregants on site for morning and evening prayers. Morning and evening prayer schedules roughly correspond to daily rush hours. That number of participants may be currently accurate, but we believe it will grow. If Chabad adds a preschool and/or day care, pick ups and drop offs will also take place during rush hours. Adding well over 1,000 rush hour turns a month to a two lane road that carries 15,000 cars a day at high speeds is unsafe and carries a real risk of injury and/or loss of life. This is contradictory to the safety language in the CUP.

B) Ingress/egress on Mill Run (MR) will lead to congestion during morning and afternoon rush hours as getting in and out of MR will become even more difficult. Wait times can already exceed five minutes per car to exit MR at rush hour. Ingress/egress on MR will also lead to parking on MR. An ingress/egress off of MR is contradictory to the language of the CUP because MR is not an arterial or collateral road. Any concerns about space for emergency vehicles can be addressed by creating a larger turnaround area for emergency vehicles on the site and making the building and parking lot smaller. The obligation to create sufficient space for emergency vehicles is on Chabad, not MR.

C) Large gatherings at the synagogue will lead to overflow parking on MR. We dispute the comment on the plans that enough people will walk to the synagogue on Saturday and Holy Days that there will be no overflow parking. Chabad’s “methodology” is to be very welcoming and to be somewhat proselytizing. That means they don’t shame those who are not that observant and who drive to Synagogue on Saturdays and Holy Days. Overflow parking on MR is a likely consequence of well attended services. Overflow parking on Mill Run is a likely consequence of well attended life cycle events such as B’nai Mitzvahs, Brit Milahs, weddings and other celebratory events. Well attended community events such as films and lectures will likely lead to overflow parking on Mill Run. Rabbi Grossbaum is building a large facility with the expectation of making it a busy, active place. That means parking and traffic will exceed the capacity of the site.

D) It appears from the plans that the top height of the structure may approach fifty (50) feet. If correct, that is hugely disproportionate to any residential structure in the neighborhood, even higher than what was presented at the 1/16/18 neighborhood meeting and is contradictory to the language in the CUP about new structures fitting in with the neighborhood. The newly constructed Tanglen gymnasium is about thirty feet tall and that dwarfs any residential structure in the neighborhood. The drawings appear to indicate that Chabad’s building will be considerably taller than the gymnasium and it sits on a hill.
E) The structure has an institutional appearance that is esthetically unappealing and does not fit with a residential neighborhood. That is also contradictory to the CUP language about a new structure fitting in with the neighborhood.

F) A 15,000 square foot building is approximately two and a half times the size of the largest residential structure in the vicinity. That also contradicts the CUP language about a new structure fitting in with the neighborhood.

G) Forty parking stalls creates the risk of runoff in the event of heavy storms.

H) Chabad doesn’t charge dues and doesn’t charge for most of its programs. That means very little operating revenue. Therefore, we believe that it is advisable for the city to require that Chabad raise enough funds to provide the city with a 10 year maintenance and property management budget so that the property doesn’t fall into disrepair and become an eyesore. The city must be vigilant in determining how Chabad plans to maintain the property once it is built. A poorly maintained site will reduce property values in the surrounding neighborhoods.

I) No synagogue related parking in MR. Cars will be ticketed by the city.

2. Acceptable Uses:

A) Ingress/Egress off of Hopkins Crossroad only. Hopkins Crossroad is an arterial or collateral roadway, which is consistent with the language of the CUP. Right turns only out of the Chabad property during during rush hours. That will reduce the safety hazard and take some of the pressure off of cars turning out of MR and Fetterly at the same time.

B) Posts erected at the current curb cut on Mill Run to prevent MR become a Chabad traffic outlet.

C) A larger turnaround area on the Chabad site for emergency vehicles.

D) Right turn only out of the site onto Hopkins Crossroards during rush hours from the property. This helps with safety issues and alleviates some concern of the Fetterly and Mill Run neighborhoods.

E) Building size of no greater than 9,000 square feet, 1.5 times the size of the largest house in the neighborhood.

F) Building height of 24’, approx the same height as the tallest houses.

G) The structure should have a residential look and feel. Examples in the neighborhood exist. The Shelter Corporation (newer construction) and and Sharai Chesed Congregation (purchased building), both at 394 and Hopkins Crossroad, would be excellent models for the architect to consider. A structure with a residential look and feel would be consistent with the language in the CUP.

Thank you again for meeting with us last week and for your time and attention to this issue.

Best Regards,

Jim Moscowitz and Amy Taswell
11120 Mill Run
Minnetonka, MN 55305
Dear Ms. Thomas

Thank you for all the help you have provided my neighbors as they have sought to understand the process surrounding the Chabad Center Project.

I send this email to express my concerns about the Chabad Center Project and the impact it will likely have on my and surrounding neighborhoods.

It is hard to speak to "The Intent of this ordinance (300.16) as I do not know it's intent but I'd like to take the issues one by one.

General Standards

C - I believe that building the Center on the proposed location will have an adverse impact on Utilities and Improvements. It is inevitable that Hopkins Crossroads will be widened and one would hope that would be soon. I am not aware of the wider rights of way being part of the current plan.

D - Impact on public safety - While Chabad will certainly want to downplay the practice of walking to synagogue and that they welcome all - observance of the Sabbath according to a strict interpretation of Jewish Law which Chabad supports requires walking to and from synagogue on the Sabbath. The core members of the congregation must certainly do this and one would expect them to encourage others to do so as well. My point is that Hopkins Crossroads has no sidewalks nor does the City have the authority to put them in - it is up to the County I believe. The absence of sidewalks, the wearing of black clothing, and the prohibition on carrying something as small as a flashlight on the Sabbath creates a real, clear, and present safety issue. Please understand that congregants will be walking in the dark every Friday night.

Hopkins Crossroad is a mess when it comes to rush hour traffic. I'm sure you are well aware of that. Folks on Fetterly and Mill Run often wait many minutes just to enter traffic with a right turn. An additional traffic burden with a parking lot that size will be an issue and the resistance to putting a traffic light at Hillside will allow the problem to continue.

b-1 Residential Streets - I am sure that when folks leave onto mill run as the current drawings allow, it will be that much harder for the current residents to enter the arterial roadway.

b-3 Parking spaces - Is the reception hall included in the count as the man sanctuary or assembly space? When looking at drawings the sanctuary would appear to be about 1/2 of the total volume of the assembly hall. The plan calls for a movable wall which will open the entire space.

5 -C It seems unlikely that many trees can be preserved.

d - Harmonious relationship with the surroundings - it would seem that the building height prevents this. I
would ask that the Peak of the roof be no higher than any of the neighboring roof lines.

5,e,2 - What is the opens space and landscaping requirement?
5,e,4 - It would seem that the amount of vehicular traffic would not be consistent with this requirement.

5g - I am particularly concerned about sound and sight buffers as well as light. The current plan calls for conifers to be planted along the east and west property lines with the intent of allowing for a buffer. My first reaction to this is that such plantings will reduce security for the building itself and that Chabad must, as a practical matter, either install a security fence or leave sight lines open so that intruders have no place to seek cover. This is no different than what we are all taught about our own landscaping. On the same issue, how will they manage security lighting without shining right into neighboring windows?

In summary my main concerns are the projects impact on traffic patterns and pedestrian safety as well as that a 15,000 sqft building just doesn't fit into this type of residential neighborhood where houses generally top out around 4,000 - 5000 sqft.

Thank you for your attention to this matter.

David Abrams
11501 Fetterly Road West
Susan:

When we last wrote to the city about the aforementioned proposed project, we were not aware that the plans called for the vertical section of the roof to have a metal facade. On sunny days a metal facade will create a glare that will be invasive and detrimental to the surrounding homeowners, especially with a proposed actual height of forty one feet of that section of the building.

Thank You,

Jim Moscowitz and Amy Taswell
11120 Mill Run
Minnetonka, MN 55305
Stuart Silberman  
11123 Mill Run  
Minnetonka, MN 55305  

February 12, 2018  

To: Tony Wagner, Ward 2 Council Member  
   Susan Thomas, Project Planner  
   Ashley Cauley, Project Planner  
   Julie Wischnack, Community Development Director  

Cc: The Honorable Brad Wiersum, Mayor  
   Deb Calvert, At-Large Seat A Council Member  
   Patty Acomb, At-Large Seat B Council Member  
   Bob Ellingson, Ward 1 Council Member  
   Tim Bergstedt, Ward 4 Council Member  
   (via email)  

Dear Mr. Wagner, Ms. Thomas, Ms. Cauley, and Ms. Wischnack,  

I’m sending you this letter to express my extreme concerns regarding the present plans for the Chabad Center for Jewish Life project at 11170 Mill Run.  

Most important to me are the undue adverse impacts the project would have on the public health, safety and welfare due to:  

- restricting emergency vehicle access to Mill Run;  
- significant additional traffic created at the intersection of Mill Run and Hopkins Crossroad during morning and evening hours and during special events;  
- significant additional traffic on Mill Run; and  
- increased danger to pedestrians and bicyclists.  

Additionally, as presented the project:  

- does not create a harmonious relationship with existing homes having a visual relationship to the development;  
- is not in keeping with the general appearance of neighboring developed areas;  
- does not minimize tree and soil removal; and  
- does not provide a desirable environment for the general community.
I will provide more substantive comments below:

Undue adverse impact on emergency vehicle access to Mill Run

- As presently configured, visitors driving to the Center will utilize Mill Run. During peak times this will result in many vehicles gathering/waiting on Mill Run to enter the building’s parking lot or turn on to Hopkins Crossroad. This is of the gravest concern to me. My daughter, Rachel, is diabetic and should the need arise for emergency services, given the only way to access Mill Run is via Hopkins Crossroad, any traffic congestion that impacts access to an ambulance is extremely frightening. During winter the snow cover already constricts access to Mill Run, and having a row of vehicles waiting to exit, possibly forming two lanes for right and left turns, exacerbated by the confusion and unnerving appearing of an emergency vehicle, may result in excessive and life-threatening delays. The same applies to emergency vehicle access in the event of other unforeseen emergencies and is compounded by even larger fire equipment.

Undue adverse impact on additional traffic created at the intersection of Mill Run and Hopkins Crossroad

- With the present heavy traffic flow on Hopkins Crossroad during morning and evening hours, it is already difficult to turn from Mill Run on to Hopkins Crossroad (either direction). With limited visibility to northbound traffic due to the crest in the hill just south of the intersection, a left turn from Mill Run on to Hopkins Crossroad is already difficult. Attracting additional traffic to the intersection will compound the difficulty of successfully completing the turn, potentially causing drivers to turn with less than safe space between their vehicle and oncoming traffic.

Undue adverse impact on additional traffic on Mill Run

- Our household includes two vehicles that need to turn left in the morning. It frequently takes minutes even when one of our vehicles is the first in line waiting for the opening to turn. According to the filed plan there may be 15 visitors to the Center during the times we need to exit our subdivision, with at least some of them needing to turn left, and this will result in extensive delays due to use of our local street by non-residents.

Undue adverse impact on bicycle and pedestrian safety

- Our family enjoys recreational bicycling. Presently our challenge is navigating the traffic on Hopkins Crossroad. With the Center’s ingress/egress as planned, their Saturday (what they refer to as Shabbos) and Sunday programs will result in between 35 and 100 visitors during the times we like to bike to the trails, and if the traffic uses Mill Run we will have unsafe conditions for navigating through their traffic. In addition, given they may attract a large demographic, we have the additional concern of certain drivers who may not be situationally aware of bicyclists in their vicinity.

- As the Chabad congregation advises that for religious reasons some of their congregants will choose to walk to their site, and given that Hopkins Crossroad has no sidewalks, there will be an increase in pedestrians on an already busy, narrow roadway with limited visibility due to the crest. Pedestrians may also walk in the same direction as traffic to avoid having to cross this busy roadway, creating additional unsafe conditions. Visitors from the west side of Hopkins Crossroad will be crossing under all types of conditions, though especially in the dark, and all throughout the year, including in slippery road conditions.

- There is no provision for additional pedestrian traffic by appropriate separation, even on the site that is causing the additional pedestrian traffic.

- The extensive delays resulting from using Mill Run for access to the Center’s parking lot will likely result in visitors to the Center parking where exiting will be easier, and the natural location is Fetterly Road W. This will result in more additional pedestrian traffic crossing Hopkins Crossroad. With the crest, vehicles traveling north would have very limited time to react in the event pedestrian crosses, in a hurry to make use of limited opportunities due to heavy morning rush hour traffic and slips on the icy conditions due to a recent storm.
Under these conditions stopping distance would also be negatively impacted, and compounding the concern is that the hill is at a downward slope.

Aesthetic concerns

- We purchased our home in 2015 in large part due to the surrounding beautiful, residential setting. The proposed structure looks like an industrial complex, not in keeping with the surrounding homes. There are many examples of non-residential structures that don’t distract from the beauty that is Minnetonka.

I am not opposed to the project in its entirety – just in the undue adverse impacts it will cause as presently described. As you consider these negative impacts in relation to the Minnetonka Standards for Review of Conditional Use Permit Applications document, please contact me if you have questions on my comments.

Thank you.

Sincerely,

Stu Silberman
February 12, 2018

Susan Thomas
Project Planner
City of Minnetonka

Regarding: Planning Commission Review of Chabad Center for Jewish Life
11170 Mill Run

We are writing to express our concern about the proposed Chabad Center for Jewish Life at 11170 Mill Run. Our home adjoins the property on the east side and will be affected by it in many negative ways should it be approved.

General Concerns

Preservation of the Site
The CUP ordinance calls for “the preservation of the site to the extent possible”. As this is a very open phrase I will suggest the following: the size of the proposed building (15,000 sq. ft.) does not allow for site preservation. Instead the site will become primarily impervious hard surface, building and asphalt.

Harmonious Relationship
The CUP ordinance calls for “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”. The size (15,000 sq. ft. and 36 ft.) are out of scale with the surrounding residential neighbors and neighborhoods and are not harmonious with them.

Open Space
The CUP ordinance calls for “special attention to open space and landscaping”. The building size (15,000 sq. ft., parking lots and drives) are out of scale with the building site. Thus, little open space exists, and landscaping will, because of the lack of open space, be minimal. One of the functions of landscaping is to mitigate the size of a structure. Because of this buildings mass (15,000 sq. ft. and 36 ft. height) the open space would not allow trees to be installed that are in scale with the building.

Materials, Textures and Details
The CUP ordinance calls for “materials, textures, colors and details of construction as an expression of the design concept and compatibility of the same with the adjacent and neighboring structures” the proposed exterior materials are hard and commercial in both function and appearance. The exterior cladding materials such as stucco and brick are used in residential homes but not with the scale and mass of the proposed building. The “medium-density laser cut overlay” is not a residential cladding material and will be totally out of place in the neighborhood. Finally, the clearstory windows at 30 feet lining the top of the sanctuary will act as a beacon throughout the neighborhoods when lit and it is dark, particularly in the winter when there is no foliage.

Lighting
The lighting on the proposed Chabad building and parking area has not been presented. However, as our property and 2 other residences are very close (30 to 150 feet) I would request that the City require Chabad to present a light distribution plan in accordance with City ordinance (Amended by Ord. 2012-20, adopted Dec. 3, 2012; amended by Ord. 2012-07. adopted June 25, 2012). It is important that the light spill not adversely affect these residences.

Parking

The CUP ordinance calls for “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”.

There is not enough parking present on the proposed plan to meet the standard of 2.5 space for every seat in the main sanctuary as set forth in the Conditional Use Permit standards of Minnetonka. The main sanctuary appears to hold 128 people and that would require 51 parking spaces. Chabad’s plan calls for 40 parking spaces which is 11 spaces short of the City’s requirements.

In addition, the plan has no permanent separation of the main sanctuary and the social hall. The space is designed as one room that may be temporarily divided if desired by a folding door that is contained in a pocket on one wall to hold it. There is no permanent separation to these spaces and as such it clearly indicates that both spaces will be used as Sanctuary/Assembly Space. Chabad will no doubt use this entire space. The total capacity of the space is estimated to be 240 people which would require 96 parking stalls. This leaves Chabad’s proposed 40 parking spaces 56 short of the CUP standard.

Does the Chabad plan provide a turnaround space that meets code of “general interior circulation” at the back of the proposed main parking on the north side of the property?

Chabad also has 4 classrooms, a tutoring room, 5 private offices, reception office and a common office that need to be taken into consideration for parking.

The proposed facility also has a complete kitchen and the facility could be available for rental purposes. With the size of the facility and the unknown make up of a rental party there could be additional parking required under the City of Minnetonka’s city ordinance requirements.

Public Safety and Welfare

Pedestrian traffic

There are no sidewalks, crosswalks or intersection lights on this part of Hopkins Crossroads. Chabad has indicated in their amended concept plan there could be as many as 75-125 attendees who will arrive on foot to the Center on at least a twice per week basis. There is no way to access the proposed Center without coming in from Hopkins Crossroads (perhaps by way of Mill Run, which also has no provision for pedestrian traffic). In addition, the entrance to the proposed Center off Hopkins Crossroads occurs soon after the crest of a hill to the south. This hill results in limited visibility for motor vehicle traffic being able to navigate around pedestrians who would likely need to cross Hopkins Crossroads to enter the property.

For those who will be walking the majority are doing so because of their religious beliefs. Those who practice a traditional Sabbath choose not to “kindle a spark” on that day. This means that those walking for religious purposes will do so on the Sabbath after dark on Friday night all year round. These pedestrians will be without flashlights or any light source while dressed in black on County Road 73 without sidewalks or walking trails, in the dark, walking for significant distances. This activity will clearly pose a safety risk to the pedestrians and the community members who will be driving on County Road 73 during these times.

Turn lanes and traffic stacking

The traffic study needs to address turn lanes and traffic stacking. There are no turn lanes into the proposed Center from Hopkins Crossroads in either direction. With 40 parking stalls to service the center there will be traffic stacking and
delays at multiple times during the week with the worse impact being during the Center’s Friday night and Shabbos services and the Holidays.

Traffic getting onto County 73 from neighborhoods
The traffic study needs to address all traffic that accesses County 73 from residential streets. Residents from Mill Run and the Fetterly neighborhoods will face greater difficulty entering and exiting their neighborhoods due to increased traffic and turn activity as well as the added pedestrian traffic. Additionally, Hillside Lane ends at Hopkins Crossroads just north of the proposed Center. Traffic at that intersection must either turn right or left. The increased traffic and turns at Chabad combined with the pedestrian traffic will result in more traffic stacking and delays as well as more safety issues for drivers and pedestrians.

School/Metropolitan Transit bus traffic (and associated stops)
The traffic study should address the impact to the schools in the immediate area including the weekday bus and student traffic (which heavily uses Hillside Lane) as well as the frequent before and after school activities on campus.

Metro Transit buses travel on Hopkins Crossroads with stops at Mill Run and Fetterly Road. These stops impact of the traffic at Mill Run, Fetterly Road and Hillside Lane.

Hours of Operation and Occupancy Load
The occupancy load as provided in the revised concept plan by Chabad should be used in the traffic study (see below.) However, this building is designed for use by many more than Chabad has identified (as shown above.) The Planning Commission and the City Council should not be fooled by the limited numbers that Chabad has selected to include in its proposal but instead should look at the total capacity that this proposed center will support.

Monday – Friday
Services in the morning 10 - 15 people
Some classes throughout the day 5 - 15 people
Evening classes and lectures
Regular 5 - 15
3 courses x 6 up to 30 - 50 people at any given time Friday night once a month
75 – 125 people

Shabbos 10am - 2pm 50 - 100 people

Sunday 8am 10-15 people, 9:45am -12pm 35 - 50 people

Mikveh approximately four people per week by appointment only

Holidays: 75 - 150 people 5 - 10 times
NOTE: On Friday evening and Saturday (Shabbos) and holidays, some of the attendees will arrive on foot so there will be reduced parking demand from what one would typically calculate.

Traffic Study Request
A traffic study should be conducted that includes the unique situations of this site, Chabad’s deficient parking plan and the pedestrian use outlined in the above paragraphs is requested. It is important that the factors outlined in this document are included in any traffic study conducted by the City.

Conclusion
The Minnetonka City Ordinances provides a process for Conditional Use Permits in R1 zoned areas for religious organizations to be reviewed. The purpose for this review is to examine each proposal to make sure it meets the CUP standards. Some of the standards are clear and easy to determine such as the 50’ set back provision. Others are less
defined and require decisions to be made by the City Council that include requirements like “the use does not have an undue adverse impact on the public health, safety or welfare”.

We would suggest that the City Council has a responsibility to not only focus on the very defined standards of the CUP but also has an obligation to focus on the enormous impact this “community center” will have on the public health, safety or welfare of the communities of Mill Run, Fetterly, Tanglen Woods, Sherwood Forest and others. While most of the clear and easy factors the proposal will meet (while pushing to them to or very close to their max) other CUP requirements as outlined above will not be satisfied by this proposal.

Does the Planning Commission and the City Council want to set a precedent for shoe horning a project onto a site that does not adequately support this proposed structure? Allow a building that is clearly at odds both aesthetically and in size with the immediate properties and the surrounding neighborhoods? Allow the traffic hazards to increase on County Road 73 with both the standard and the unique traffic challenges Chabad brings? We are trusting that the Planning Commission and City Council will do the right thing for the constituents in Ward 2. Thank you for your anticipated thoughtful consideration of our concerns.

Sincerely,

Michael Leirdahl & Susan Flint
2290 Vernon Circle
Minnetonka, MN 55305
Dear Ms. Thomas,

I am a resident of Tanglen Woods on Vernon Circle, the street behind the proposed new Chabad structure. Prior to the planning commission meeting, I wanted to weigh in the current plan submitted to the city.

I am not opposed to seeing the facility built. However, I feel pretty strongly that the building should aesthetically compliment the neighborhood and blend into the surroundings. Currently, it seems to be a transplant from an office complex plopped into the neighborhood. The proposed design is a tall, office type structure that towers over the current homes, fills the property with paved and built surfaces, and minimizes the tress and components that makes Minnetonka unique. There is no reason why a religious structure cannot be blended in to the existing residential neighborhood by redesigning the structure.

Once this is done, I am confident the city will assess and address any remaining issues concerning safety due the added traffic, site drainage and environmental impacts.

Thank you for your engagement,
Adrienne Trangle-Pelleg

2368 Vernon Circle
Minnetonka, MN.
Dear Ms. Thomas,

My husband, Ralph Powell, MD, and I are residents of Minnetonka. We live at 11155 Mill Run. We moved to Minnesota in 2002 when I was recruited to the University of Minnesota medical school and we purchased our current home at that time. We love our home which was built in 1922 and we have been told, was the original home in what is now Mill Run. We first heard of the Chabad Project in December and subsequently have learned much more about it through community meetings. We are very concerned by the sheer size for the proposed construction which is much larger than we had imagined. We were told that the construction would be in scale with other dwellings in our small neighborhood and the proposed project is very far from that. Additionally we are very concerned about the increased traffic. In our 15 years in the neighborhood the traffic on Hopkins Crossroad has increased dramatically. I still work full time at the University and I have waited as much as 7 minutes to get out of Mill Run onto Hopkins Crossroad in the morning. We are concerned about the potential of increased traffic on Mill Run as well and also about the destruction to the wooded environment that the project will cause. We plan to attend the planning meeting on Feb. 15 with some of our neighbors who share similar concerns.

Sincerely,

Deborah Powell

Deborah E. Powell, MD
Dean Emerita and Professor of Laboratory Medicine and Pathology
University of Minnesota Medical School
To whom this may concern
As residents of Tanglen Woods, we are very concerned with the Chabad’s proposed development. The size and institutional design do not fit in with the neighborhood surrounding. The size and height would create an eyesore and diminish views and sunlight to the surrounding neighborhoods. The size needs to be significantly decreased and aesthetics improved to meet “harmonious” standards that relate to conditional use permits.

We also have concerns that traffic will increase on Cty Rd 73 where it is already difficult to turn at Hillside and 73. In addition, increased pedestrians, especially for Friday night and Saturday morning services, creates hazards.

Sincerely
Judy and Reid Sandler
2363 Vernon Circle
Minnetonka Mn 55305

Sent from my iPad
Dear Mr. Wagner, Ms. Thomas, Ms. Cauley, and Ms. Wischnack,

I am a resident of Mill Run.

I’m sending you a note expressing my concerns regarding the plan for the Chabad Center for Jewish Life project at 11170 Mill Run.

As a mother of 2 teenage drivers, one of which has type 1 insulin dependent diabetes, I am particularly concerned about the hazardous conditions that this project will generate not only to my family but to the community at large.

Here is a short listing of the adverse public health, safety and welfare dangers caused by the result of the Chabad Project:

- RESTRICTED EMERGENCY vehicle access to Mill Run
- SIGNIFICANT additional traffic created at the intersection of Mill Run and Hopkins Crossroad during morning and evening hours and during special events
- SIGNIFICANT ADDITIONAL traffic on Mill Run
- INCREASED DANGER to pedestrians and cyclists

Thank you so much for your thoughtful consideration of my concerns.

Sincerely,
Alison Silberman
February 14, 2018

City of Minnetonka
Planning Commission Members
14600 Minnetonka Blvd.
Minnetonka, MN 55354

Re: Chabad Proposed Development on Hopkins Crossroads and Mill Run.

Dear City of Minnetonka Planning Commissioners:

We are Minnetonka residents and reside in the Tanglen Woods cul-du-sac that abuts the Chabad development that is proposed to be built on property located on Hopkins Crossroads and Mill Run. We are writing to express our concerns over this development as it is currently proposed for the reasons explained below. The Chabad proposal raises significant public safety concerns for both pedestrians and drivers. Moreover, the Chabad proposal does not fit within the neighborhood setting both in design style and in its disproportionate size. The proposed facility is to be situated between two homes in a long stretch of single family homes with single family homes surrounding it in all directions. The 15,000 square foot design dwarfs all surrounding homes and does not fit within the character of the neighborhood. We understand that other neighbors will be commenting specifically on the size and design of the building so we will not reiterate those concerns here other than to indicate to you that we agree with their assessment.

Our comments highlight additional concerns the Planning Commission and City Council should have regarding the proposed Chabad development as it relates to public safety and compliance with the terms of the Conditional Use Permit ordinance. The Minnetonka zoning ordinance regarding Conditional Use Permits states that, “It is the intent of the city in establishing general and specific criteria for conditional uses that such uses be subject to careful evaluation to ensure that their location, size and design are consistent with the standards, purposes and procedures of this ordinance and the comprehensive plan. See Zoning Ordinance, Chapter 3, sec. 300.16.1.
That statement of intent is followed by General Standards that require the Planning Commission to ensure that a proposed project:

a) is consistent with the intent of this ordinance;

b) is consistent with the goals, policies and objectives of the comprehensive plan;

c) does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and

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

See Zoning Ordinance, Chapter 3, sec. 300.16.2.

Public Health, Safety and Welfare

A comprehensive review of the Chabad proposal will reveal this proposal puts the public at risk because 1) it increases pedestrian traffic along a major roadway that has no sidewalks; 2) it increases vehicular traffic in an area where the local intersections in the area, like the intersection of Hopkins Crossroads and Hillside Ln (just 1000 feet from the proposed facility) are already overly impacted by traffic; and 3) it creates overflow parking into neighborhoods where streets were not designed to manage dense public parking.

The developer of the facility has indicated that many worshipers will walk to the proposed Chabad facility because their religion requires it. Others, who do not observe this particular religious requirement, will drive and park at the facility. Hopkins Crossroad does not have a sidewalk and does not adequately protect or segregate pedestrians from traffic that is moving at 40 mph. Worship services will often be held at night and pedestrians will be walking along Hopkins Crossroads in the night creating an even greater risk of collision between cars and people. Any individual driving along Hopkins Crossroads is at risk for not seeing the pedestrians -- which could lead to disastrous results. The city of Minnetonka should not permit such public safety risks to be incurred in a new development when alternate locations may serve this proposed use in a much safer way.

The additional traffic created by this new project has not been recently studied. The Hillside Ln intersection is already a major bottleneck for traffic. The cars that attempt to turn left into the proposed facility who are driving from the north will back up into the traffic that is waiting to turn left onto Hillside Ln and will dangerously block cars from turning onto Hillside Ln. A traffic study conducted more than ten years ago at the Hopkins Crossroads intersection with Hillside Ln indicated the intersection had a LOS (Level of Service) rating of D. Given the increased use of Hopkins Crossroads over the last ten years, it is likely this intersection has degraded to a LOS F. Typically, LOS D is considered the minimum acceptable LOS in an urban area. At a stop sign-controlled intersection, LOS F would be characterized by exceptionally long vehicle queues on each approach, or long queues and/or great difficulty in finding an acceptable gap for drivers on the minor leg at a through street intersection. The Hillside Ln intersection has one stop sign controlling the turns onto Hopkins Crossroads. High school, middle school, elementary school and peak rush hour traffic significantly impact this intersection. Traffic often backs up in both directions on Hopkins Crossroads and a driver can wait three to ten minutes to turn either
direction from Hillside Ln. Additional traffic going into the proposed facility will build-up in this area as drivers coming from the north attempt a left hand turn and will significantly negatively impact the already badly designed intersection at Hillside Ln.

An additional problem with the proposal is that it does not allow for adequate parking. Only 40 spaces have been proposed for a facility that will hold events for three hundred or more. Parking is not permitted on Hopkins Crossroads and the only other areas to park are on very narrow side streets that are severely narrowed during the winter months. Over-crowded parking on neighborhood streets is also a safety hazard as emergency vehicles will not fit through the streets should public parking be permitted an many of these small neighborhood streets. It appears the facility can hold approximately 300-360 individuals at any one time if both the sanctuary space and meeting space is combined. The plan calls for removable walls so that spaces can be joined for larger events. Such a large gathering would require 120 to 144 parking spaces. The proposed parking is totally inadequate for a facility that has the capacity to host 300 to 360 people. The lack of parking will cause drivers to seek parking along the neighboring side streets, many of which are not capable of managing dense parking.

**Specific Standards for Religious Institutions**

In addition to the General Standards described above, the Planning Commission must ensure the proposed development meets the specific Conditional Use Permit standards that are applicable to religious institutions. These standards require:

1) direct access limited to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;
2) buildings set back 50 feet from all property lines;
3) parking spaces and parking setbacks subject to section 300.28 of this ordinance;
4) no more than 70 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped; and
5) site and building plan subject to review pursuant to section 300.27 of this ordinance.

See Zoning Ordinance, Chapter 3, sec. 300.16.3(b).

1). The proposed development plan calls for an entrance and exit to be located on Mill Run which is a cul-de-sac road. This traffic design for the facility does not meet the restrictions that all direct access must be limited to collector or arterial roadways or otherwise located so that access does not create significant traffic on local residential streets. A cul-de-sac is the lowest use road designated by the City’s Comprehensive Plan and is not designed to manage traffic from a facility that has a capacity to hold events that range from 300-360 people or more (final designs have not been provided). Not only will the proposed development host large events but it also will hosts daily activities that begin early in the morning and run until 9:00 p.m. or 10:00 p.m. at night These daily classes will cause constant traffic to enter Mill Run in order to reach Hopkins Crossroads. This proposed use is not consistent with the Comprehensive Plan or the Conditional Use Permit requirements for religious institutions.
2). The proposed development must be setback 50 feet from all property lines. The plans are not specific enough to determine if this requirement will be met.

3). As discussed above, insufficient parking spaces are planned for a facility that can hold events that may include 300 – 360 people or more. The terms of a Conditional Use Permit require the facility to comply with section 300.28 of this ordinance. Section 300.28 (c)(2)g, requires that “religious institutions and facilities, other buildings that include public assembly space, such as community centers and buildings of fraternal organizations, but excluding hotels, and related uses: [create] one parking space for each 2.5 seats based on the design capacity of the main sanctuary or assembly space. The city may require additional spaces for offices, classrooms, day care centers or other uses operated on the grounds.” (Emphasis added). The proposed development includes a sanctuary with additional assembly space, as well as offices and classrooms. We have heard discussion that a child care facility may be added in the future. Using 2.5 seats for each parking space as the minimum, the proposed design would require 120 to 144 parking spaces. The limited space of this property would yield just 40 spaces.

As to the issue of increased traffic, Section 300.28.12 states that:

The city may require a traffic analysis to be prepared by a registered traffic engineer approved by the city to assess potential traffic impacts on local streets and highways. If impacts on service levels of roadways and intersections are anticipated, the project will be approved only contingent upon a traffic management plan that adequately mitigates those impacts. The plan may include travel demand management strategies, use of transit facilities or other appropriate measures to reduce traffic generation, and necessary improvements to road systems. The developer shall have the responsibility to install all necessary road system improvements.

Significant impacts to numerous roads and intersections are anticipated by the proposed development. The intersections of Hopkins Crossroads and Mill Run, Hopkins Crossroads and Hillside Lane, Hopkins Crossroads and Fetterly Rd and Hopkins Crossroads and Overlook Dr will be significantly impacted by the additional traffic created by the proposed development. Without a traffic study that indicates this additional traffic will not cause safety and traffic concerns, the project does not meet the conditions for a Conditional Use Permit.

4). No more than 70 percent of the cite can be covered with impervious surfaces. Given the current design plans, we have been unable to determine if this requirement has been met.

5). The proposed project must meet all of the requirements provided at Section 300.27. These specific provisions become relevant only if the concept design phase is approved by the Planning Commission.
We ask that the Planning Commission critically review the impact the proposed Chabad facility will have on the character of the neighborhood, the potential for vehicle and pedestrian collisions and the safety and health hazards created from an increase in traffic and parking.

Thank you for your consideration.

Jon and Susan Wiens
2346 Vernon Circle
Minnetonka, MN

c:  Mr. Brad Wiersum, Mayor
   Mr. Tony Wagner, Ward 2 Council Member
   Ms. Susan Thomas, Project Planner
   Ms. Ashley Cauley, Project Planner
   Ms. Julie Wischnack, Community Development Director
To Minnetonka City Leaders:  February 14, 2018

This is in response to the proposed Chabad Center for Jewish Life to be constructed on Cty Road 73 and Mill Run Road. We are 45 year residents of Fetterly Woods, and have obviously seen much development in the neighborhood, in the areas surrounding our neighborhood, and in traffic for Cty Rd 73 and until this point have weathered them all.

This project, though, cannot go without comment. Our concerns are based not only upon the proposed physical design and appearance of the Center but also based upon its wide range of uses, accessibility, and, most importantly, compatibility in our established neighborhood.

1. Churches/synagogues are present in all of our neighborhoods, but all are surrounded by ample green spaces which allow the architecture of the building to be an integral part of the landscape. Also, neighborhoods and churches/synagogues usually develop together, and are not forced into less than ideal settings. **This project overwhelms the available space** with its 15,000 square foot size and its industrial design. In addition, the 40 planned parking spaces create a hardscape mass that is not aesthetically pleasing nor environmentally in keeping with the “green” Minnetonka, which we call home. We refer to the Minnetonka 2030 Comprehensive Plan in which one of the three goals is **to respect the natural environment while managing growth.**

2. Traffic/transportation concerns are many:

   **Volume** – On any weekday at 8:00 a.m. or between 4:00 & 6:00 p.m. please come to Fetterly Road and attempt to make a left hand turn to access downtown on 394. Times to wait easily exceed 5 minutes and much more, when snow or rain is added.

   **Dangerous site lines** – As one heads north on Cty Rd 73 from Cedar Lake Road, you ascend a large hill, and just over the crest of the hill is Fetterly Road on the left and Mill Run on the right. Waiting to turn left onto Fetterly Road is daunting with cars passing at the posted (and often greater speed) . . . add traffic from Mill Run also entering or leaving Cty Rd 73, and you have a state of bumper cars. The site line for these intersections is very limited and dangerous.

   **No sidewalks** – On the coldest of days with snowy sidewalks, as well as hot summer days, we have observed this congregation walking on Cty Rd 73, where there is a sidewalk, to services at their present location . . . there are no sidewalks to the Mill Run location on a very scary hill from north or south, and especially for families with children and strollers. How can families be placed in this jeopardy?

   **Overflow parking** -- With weddings, bar mitzvahs, funerals, services, holiday feasts and celebrations, where will everyone park? Surely, some will park on Fetterly Road – a 16 foot roadway with no room for parking, especially at the entrance. And crossing Cty Rd 73 from Fetterly Road would be highly dangerous, again with short site lines, 3 lanes of traffic, and a 40 mph speed limit. The quiet Mill Run neighborhood will literally be overrun.
3. A **loss of neighborhood** -- My sympathies to the family homes directly behind, beside, and in front of this proposed building as they face an industrial mass as well as night lights for the parking lot and building. Who was there first, and is it the city’s obligation to protect these residents who thought they were living in a family neighborhood of ½ acre lots that would provide privacy, beauty, and a community? We need to support our families.

4. As meals will be shared with large groups here, what about **dumpsters, food delivery trucks, and a loading dock needed to handle large amounts of food and supplies.** Is this conducive to a neighborhood setting? Is there room to maneuver on the property much less exit and enter Cty Rd 73?

5. **Day Care** appears to be part of the Chabad House also . . . where will the children play outside? Will school buses also need access or will the children stand on busy, dangerous Cty Rd 73 waiting for pick-up and drop-off?

6. What is the **actual function of this house?** . . . is it a home or a synagogue or a community center? In our research of a Chabad House, it appears to be a **24/7 operation.** Is that part of the zoning of this property? Obviously there are guidelines, zoning restrictions, etc. for whatever designation it will be – can it be all three? If the rabbi and his family live there, is it a home, or is it tax free property?

7. One of the **goals of the Chabad movement** is to increase membership . . . with this proposed building, its capacity appears modest to less than adequate for a movement that wants to grow. It does not seem to be forward thinking.

We are currently staying on Fort Myers Beach, and for the past two years the town has been dealing with a very large development that originally would have changed the lifestyle and character of this cozy beach town. But the developer (Mr. Torgerson, from Minnetonka) has patiently worked side by side with the citizens of the town, local businesses, and environmental and government agencies to redesign a development that now greatly enhances Fort Myers Beach, aesthetically and environmentally. The developer sat down, side by side, with all factions, pro and con and in-between, (and to prevent any notion of “buying” their votes, did not even offer a bottle of water to any of them) and **LISTENED.** It has taken a year of intense negotiations to work through all of the concerns. The project passed its first step last night in becoming a reality -- a most divisive development is now widely endorsed by the community.

With the City of Minnetonka motto, *quality is our nature,* it is our hope that you, as our elected leaders, will **LISTEN to the concerns of our neighborhood and work together with the Chabad community to create a center, that if appropriate to the setting, will enhance our neighborhood -- a neighborhood of families who live in Minnetonka because of the amenities it provides, the nature it protects, and leaders whose abilities we can trust.*

Ron and Gail Dahl
11612 Fetterly Lane
Dear City of Minnetonka officials & staff:

As a resident of the Fetterly Woods neighborhood in Minnetonka, I am writing to express my reservations about the proposed Chabad project at the corner of Hopkins Crossroad and Mill Run. My primary concerns are about the impact of increased pedestrian and vehicular traffic the proposed use will bring to this intersection. Trying to turn onto Hopkins Crossroad from Fetterly Road in either north or south direction during rush hour periods can be trying at best currently, and sometimes requires a “hold your breath moment” as you attempt to join traffic. Similarly the amount of traffic on Hopkins Crossroad can make left turns onto Fetterly an exercise in patience during these peak periods.

In addition visibility of traffic coming north over the hill on Hopkins Crossroad as you wait at Fetterly to join northern traffic flow is foreshortened, creating some moments requiring quick decision-making and reflexive driving.

There is no dedicated pedestrian lane or sidewalk on this portion of Hopkins Crossroad. I have walked this stretch from Fetterly to the Park and Ride at 394 interchange and it is uncomfortable at times, and downright dangerous at certain periods.

I am concerned that size and scope of the Chabad project will only exacerbate these existing pedestrian and vehicular traffic problems, creating more dangerous conditions for our neighborhoods, the new users of the Chabad facility, as well as the commuters driving through this area. I would request that additional traffic studies are required to best understand how this new development will affect circulation patterns, and what can be implemented to increase safety on all levels.

I’ve reviewed the site diagrams for the proposed Chabad building and grounds. I was surprised by the scale of the proposed building and required parking. I understand that the site is zoned for such a use, but I’d like to see the owners work with the city and the adjacent neighbors to insert themselves in the neighborhood rather than overwhelm it with the currently proposed structure.

It appears the existing arborvitae hedge along the Hopkins Crossroad boundary is proposed to remain, as are the pine trees on the Mill Run boundary (for the most part?). I’m not sure of the planning tool required, but I’d like to see those two conditions be made a mandatory part of the approval process for this development, and/or if construction affects the viability of these existing plantings, the developer would be required to replace with comparable screen plantings. These existing plantings are invaluable regardless of what construction occurs on this site as a means for muting the impact of a new use here.

I have taken for granted this sleepy corner as a “home with a business run out of it”. It was never on my radar as anything other than a residential property in the nine years I’ve lived here. Based on the conversations I have had with my neighbors, we would appreciate any and all attempts by the new owners and the City to help mitigate the visual and programmatic impact this new development will have on our wonderful neighborhoods.

Thank you for your time –

Best –
Susan Thomas

From: Angela Meshbesher
Sent: Thursday, February 15, 2018 2:05 PM
To: Susan Thomas
Subject: Proposed Chabad Center

Dear Ms. Thomas:

As 19-year residents of the neighborhood surrounding the proposed Chabad development, we are writing to voice our strong opposition to the proposal.

We believe the Chabad Proposal does not meet the standards set forth in Section 300.16/Conditional Use Permit Standards for Residential Districts.

Some of our concerns are as follows:

1. Proposed project not in keeping with a residential neighborhood.

The proposal includes a 15,000 square foot structure that is unmistakably institutional in both size and appearance. It is 41 feet tall, with stucco and brick walls and a metal roof. In both size and style, such a structure is completely incompatible with the surrounding homes. In addition, the proportion of hardscape to landscape is very high which would again be aesthetically incompatible with the neighboring structures and landscaping in this residential area.

The site on which the development is proposed is hilly and contains many large, mature oak and pine trees. In order to fit such a large structure and parking lot on the land, all or most of the trees would need to be removed. The removal of all of these trees, along with the changes in grading to the site that would need to be done to accommodate such a large structure would be visually not in keeping with our wooded, residential neighborhood.

2. Proposed structure raises environmental concerns.

Next, the proposed development raises issues of environmental concern and issues of light pollution. The Chabad building and parking lot would be a sea change from the existing structure and topography. We have concerns that the vast amount of hardscape in the form of building and parking lot could present drainage issues in the times of significant rainfall or snow melt. In addition, the proposed structure has many windows, including clerestory windows approximately 30 feet off the ground around its sanctuary. We are concerned that the light pollution from this, along with the security lighting that would be necessary on the exterior, would negatively impact the enjoyment of the outdoors by the existing residents.

3. Proposed structure will negatively impact traffic.

We believe the proposed Chabad Center would have an undue, adverse impact on traffic and on safety. Hopkins Crossroad is a busy road and often serves as an alternate route when nearby highways have traffic or construction issues. Vehicles are frequently traveling fast and, during busy times of days, breaks in the traffic are rare. Adding a facility with needs for egress and ingress at this spot in the road would worsen this situation.
We live on Nottingham Court, just off of Fetterly Road. Several times each day, we leave our neighborhood by turning left from Fetterly onto Hopkins Crossroad. Even now, this can be a frustrating turn at any time of day. During rush hour, it can take 5 minutes before there is a break in traffic to make the left. If there is a vehicle ahead of you also trying to turn left, the wait time naturally can be quite a bit longer. The idea of additional traffic- especially involving turns at this part of the road- is alarming. In the proposed development, there would be ingress and egress from both Hopkins Crossroad and Mill Run. This alone would impact us significantly in turning onto Hopkins Crossroad, which is the only way out of the neighborhood for the 48 households that live here. We are also concerned about Religious holidays and other events that would require overflow parking and the hazards and inconveniences that would create.

4. Proposed structure creates a pedestrian hazard.

We also worry about the impact of increased pedestrian traffic on Hopkins Crossroad. The submission from Chabad to the City indicates that on Friday evenings, Saturdays, and holidays some significant portion of attendees (who consider themselves religiously prohibited from traveling by car on those days) will travel to and from services at the proposed Center on foot. Hopkins Crossroad is notoriously unfriendly to pedestrian traffic. The section of Hopkins Crossroad near the proposed center has no sidewalks, few streetlights, and little or, often, no shoulder. Even if pedestrians are walking single file, they are very close to or on the lane of traffic. Cars on this road are often going fast, and the large hill on Hopkins Crossroad which crests near the proposed Center will limit the visibility of these pedestrians to drivers. It would unquestionably be dangerous for pedestrians headed to and from the Center.

5. Proposed site too small to allow for likely future growth.

Finally, we are concerned about not only the development as it is now proposed, but also about how it could plausibly develop into the future. The plan of the structure shows a sanctuary that appears to be open to a large social area. It appears that if the congregation were to grow, which we believe to be one of the goals of the Center, it would be a simple thing to add seating to the sanctuary. The size of the structure as compared to the size of the site would not allow for the creation of any additional parking spaces, thus creating additional traffic and parking pressures on the surrounding neighborhoods.

Thank you for your consideration.

Daniel and Angela Meshbesher

2320 Nottingham Court

Minnetonka, MN 55305
RE; Proposed Chabad Community Center.

Minnetonka City Staff,

As "Safety" and "Harmony" are major legitimate considerations specified in our ordinances, and as Chabad themselves asserts, they will have up to 150 people attending functions.

A. This would appear to require them to have 60 parking spaces available rather than the 41 in the proposal. This falls short of their proposal and will add greatly to the intensity of use on this property within our neighborhood.
(And this doesn't take into account their future growth which will require more parking yet.

B. As Chabad is reportedly very Orthodox, it is assumed 100 - 150 people (as reported) will need to walk to Shabbat services, with that, they will have to cross Cty Rd #73 back and forth at some point. This coming and going will likely require a pedestrian crosswalk and or traffic light to be installed at some point. Further impeding traffic and ever increasing safety and congestion considerations.

C. This is an affect not only upon our neighborhood, but the entire Community of residents that use Hopkins Crossroads as well.

I believe there’s some 11 - 14,000 vehicles per day that will potentially be affected. The backups and delays that will be created in traffic are not really necessary.

D. This presents itself right now and doesn't take into account they will grow over time and likely be asking for more accommodations. Perhaps even buying more homes and expanding further as it appears they're maxing out the property they already intend to develop.

This I might add, when they have alternatives within the City as to where to relocate their facility with a better fit.

E. Even if it's our assertion alone, we believe;
JUST BECAUSE A CONDITIONAL USE IS ALLOWED OR PERMITTED, IT DOESN'T MEAN THEY CAN PUT THEMSELVES ANYWHERE THEY CHOOSE.
DENYING THIS LOCATION DOESN'T SHUT THEM DOWN OR PREVENT THEM FROM EXISTING, OPERATING, OR FINDING AN ALTERNATIVE APPROPRIATE LOCATION. THEY ALREADY EXIST AND ARE OPERATING IN THEIR CURRENT LOCATION.
THEY ARE DEPRIVED OF NOTHING AND ANY EXPENSES THEY'VE INCURED ARE BASED UPON THEIR OWN ASSUMPTIONS ABOUT THIS LOCATION WITHOUT VERIFYING THE VIABILITY OF THEIR INTENTIONS WITH ALL INVOLVED.
THEY CERTAINLY CAN SELL THE PROPERTY AND USE THEIR PLANS IN THEIR NEXT AND BETTER CHOICE OF LOCATIONS.

Might I add on a conceptual basis, this is a "Corporate entity" that does business of a fashion, even if that business is spiritual in nature.
It is a group of many who will not live and reside on the premises.
Should their desires supercede the rights and desires of the many Individual residents who already own and actually reside on their properties? This is the existing neighborhood and these are the individuals that will be most affected by this intensified change in usage of the property they intend to develop.
The Ordnance clearly speaks over and over about multiple facets of creating "Harmony."
Yet, in every way, I've not seen anything that brings "advantage" or "Harmony" that will come about for Cheryl and I, for our property, or for our Neighborhood as a whole. Only adverse affects.

With this, I would ask that the City assist Chabad in locating an alternative location that will permit them to fit more "Harmoniously" with their surroundings and architectural preferences.

Thanks for all you do,
Respectfully,

David and Cheryl Carlson
11171 Mill Run
Mtka, MN 55305
Dear Tony and Julie,

(Susan and Ashley if it is possible to make this study accessible to the Planning Commission for their review, it would be much appreciated)

I am forwarding a traffic study conducted by SRF in 2003 which analyzed intersections around Hopkins High School, including Hopkins Crossroads and Hillside Lane. This intersection is around 500 feet North from the 11171 Mill Run property where Chabad of Minneapolis has proposed a plan to develop a facility.

The summary of the traffic study results can be found on pages 35-46. The Level of Service of the Hillside and Hopkins Crossroads (CSAH 73) intersection are detailed on page 39, 41 and included in the recommendations section on page 46. Overall this intersection received Level of Service grades of "D", "E" or "F" during AM, school, and PM peak hours (respectively) for the worst approach.

This report confirms what residents deal with on a daily basis from this intersection, and it would not be surprising if over the past 15 years the Level of Service degraded even further with the increase in traffic on Hopkins Crossroads. It also aligns with the concern around locating a busy center so close to a challenging intersection, especially if Hillside is the closest street to use for additional parking.

We would ask that if traffic study is done for this project, it will re-examine this intersection.

Thanks Ashley for locating and forwarding this study.

Best,

Kristin Soo
Tanglen Woods
Dear Council Members, Planning Commission and City Planners,

My name is Kristin Soo, and my family and I live in Vernon Circle in Minnetonka. I am writing in response to the Concept Plan for a Conditional Use Permit submitted by Chabad of Minneapolis on 11171 Mill Run. I would like to outline some concerns I have in regards to how the submitted Concept Plan is not consistent with the city standards and requirements to be granted a Conditional Use Permit:

1) BUILDING

Section 300.27 Site and Building Plan Review: “In evaluating a site and building plan, the planning commission and city council staff shall consider its compliance with the following:”

a) Site Preservation

   c) 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.

Currently, approximately 85% of the site is open and natural, and is filled with mature trees. This is consistent with neighboring properties, most of which have an even higher percentage of open/natural space, not covered by a structure. The proposed development’s removal of 15 existing trees removes one of the key features of the neighborhood, and the conversion of the property to the maximum hardscape limits does not preserve the natural integrity of the site. All the hardscape will stand out significantly from the general appearance of the surrounding residential neighborhood.

b) Relationship with existing buildings

   d) 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.

   “Harmonious” - “arranged together in a pleasing way so that each part goes well with the others”¹.

The size of the proposed development is not harmonious with existing visible buildings as the structure is too big, too high, and completely out of proportion with the other neighboring buildings. The 15,000 square foot building dwarfs all residences around it, and is four times as large as the largest neighboring house. The actual proposed building height of 41 feet towers over the height of all residences which are on average 26 feet, and it would be 10 feet taller than the Tanglen Elementary Gymnasium, which is the tallest structure in the area. The addition of a large community center next to residential structures would not be harmonious, and is incredibly intrusive on the neighborhood.

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

   3) 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.

   The proposed building’s materials and design concept is not compatible with adjacent and neighboring structures.
**Materials:** Some of the materials proposed are painted MDO Board (Medium Density Overlay – paintable weather-resistant plywood), a seamless metal roof, and a mechanical screen. These materials are not found on any structures in the surrounding neighborhoods, nor do they express the design concept in these neighborhoods.

The materials that the majority of homes in the surrounding neighborhoods (Vernon Circle, Fetterly Road neighborhoods, Mill Run) are comprised of is real wood siding or a combination of stucco façade and wood siding. A couple of homes are a mixture of brick/wood. All homes in the area have a shingle or shaker roof. There are no adjacent or neighboring homes with painted MDO board, mechanical screens, or a metal roof. The structures in the neighborhoods are designed to go well with each other, but the proposed materials would create disharmony.

**Design Concept:**

The proposed structure’s design does not reflect the look of the neighboring homes, which are residential suburban homes largely built in the 1980’s and 1990’s. For example, our home, which shares the largest boundary with the proposed property, is a colonial-style house. There are no “urban” commercial-looking homes with a flat roof or angles of the proposed property anywhere near it. A “boxy” commercial-style building will not fit in with the character of the neighborhood, again creating disharmony. A good example of a non-residential structure which still has a residential “home” look and feel is the Shelter Corp. building on the corner of Hopkins Crossroads and Highway 394.

Overall, the proposed structure does not seem to acknowledge or try to blend in to the look and feel of the neighborhood. Instead it seems more like its own island. The Conditional Use Permit gives an institution the opportunity to locate in a residential setting, with the conditions that it be sensitive and adapt to the neighborhood. On many levels the fact that the plan does not do this is concerning.

b) **Protection of adjacent/neighboring properties**

\[ g \] 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.

The proposed plan does not ensure protection for adjacent and neighboring properties from this significant change in land use. A number of questions need to be answered:

**Sight buffers:**

- Our entire backyard view from the back side of our home faces the proposed property. How can this view be preserved?
- The 2-story part of the building will be just 100 feet away from our home (50 feet from our property). What Arborvitae is tall enough to screen the windows from both floors?
• The 40-stall parking lot is 10 feet away from our property line. Other religious institutions usually have a more significant buffer than 10 feet between a home and a parking lot - should there not be a larger buffer between our property and the lot?

• **Sound buffers**: The mechanical room is located on the 2nd floor in the part of the building 50 feet away from our house. Is this where the HVAC will be? Where will the AC condenser be located? What will mitigate the sounds from these machines?

• **Drainage**: The plan says that surface water drainage maintained on site. Where will the water go? A “vault” was suggested at the neighborhood meeting as an option, but this needs to be monitored and maintained. As an organization that relies on fundraising rather than dues, how will that play into the operating budget for the maintenance of the structure and significant items such as a drainage vault?

There are many concerns we have about the building. If a commercial-looking building which is disharmonious to the surrounding neighborhoods is allowed, no doubt this will set a precedent that will be repeated.

### 2) TRAFFIC and PARKING

Effects on residential traffic and concerns about parking are additional concerns.

**Section 300.16 Conditional Use Permit Standards for Residential Districts: General Standard “d”:**

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

The property sits alongside a narrow 2-lane segment of Hopkins Crossroads. This area already experiences traffic congestion, especially during peak hours. The closest intersection to the property is Hopkins Crossroads and Hillside Lane (approx. 500 feet away). A 2003 traffic study done at this intersection graded the Level of Service during AM, school, and PM peak hours a “D”-“P”. A traffic study by SRF showed 10-14 crashes at this intersection from 2002-2006[^3]. The data, and daily local resident experience, speaks to the fact that this is already a congested area with issues that need tending to, before bringing in a facility that would cater to hundreds of individuals a week. A large event-driven facility just 500 feet up the hill would only intensify problems in this area and would have an adverse impact on public safety and welfare.

Allowing a huge and busy Center just 500 feet up the hill from this Hopkins Crossroads/Hillside Lane intersection would only intensify traffic issues, as there is no left-hand turn lane on Hopkins Crossroads onto the property as it was a private residence. In the event that a few cars are lined up to turn left, through traffic does not have much room to react, adjust and maneuver around the stack (using the beginning of the right-hand turn lane for Fetterly Road). This will slow traffic down and will only compound current congestion challenges, not help solve them. Residents know that the area is at capacity and can’t take more volume without becoming detrimental to those who live here and use these roads on a daily basis. The 2003 Traffic Study referenced earlier also showed how difficult it is to turn onto Hopkins Crossroads. This same difficulty and dangers would be faced by those at the Chabad Center.
PARKING

Section 300.16 b) Religious Institutions and Facilities, Standard 3. “The city may require additional spaces for offices, classrooms, day care centers or other uses operated on the grounds”.

The proposed plan allows for 40 parking spaces which seems inadequate for the size and capacity of the building. Add in pedestrians walking from overflow parking along Hillside Lane to this “D”-“F” LOS intersection at peak hours with no sidewalks/crosswalks, and it is a dangerous combination.

Additionally, do the spaces allotted take into account parking spots for the 6 offices, the several classes that take place currently off-site, and staff to maintain the building and for events?

Chabad’s entrance into the neighborhood has not been smooth. Starting out by showing the 15,000 sq foot structure and hardscape development that you plan on building next to your neighbors is not a great way to start off on the right foot. It’s hard to imagine any property owner in an R-1 zoned neighborhood being happy about this.

Even though we are the longest adjacent property line owner, we were never approached individually by the organization or its leaders when they bought the property. The neighborhood meeting was initially set up at a date that was inconvenient for many people (December 27). We learned at the last minute (that day) that it had been changed, and some didn’t even receive change notices. It ended up being a very difficult meeting, as neighbors were shocked and upset at the enormous commercial-like “box” structure being designed for their residential area. Just two renderings of the structure were shown (from the West and South views), one of which ended up being not to scale. The side of the structure that would face our home (the most impacted) was not shown. Afterwards, email requests from my husband to the architect for us to view the East side that will face us, so we could have a chance to provide our input, was denied. Neighbor feedback that the structure was commercial-looking and too large were not taken into account in the revised plan.

We have heard that our new neighbors are part of a welcoming and friendly organization, and want to believe this. However, unfortunately the first impression has not been a good one. I hope the Planning Commission will look critically at the City Code and additional data such as traffic studies in determining if this is the right plan for this location, in terms of its wider impact on the neighborhood and community.

Thank you for your consideration,

Kristin Soo

Sources:

1. Oxford Learner’s Dictionaries online: http://www.oxfordlearnersdictionaries.com
3. City of Minnetonka 2030 Comprehensive Plan, 2002-2006 Crashes
Pictures:

1) Property – current site from Mill Run

2) Homes in the area- Fetterly Road, Mill Run, Tanglen Woods neighborhoods. Large green space lots, mature trees.
3) Map of area. A small segment of Hopkins Crossroads is the main access point for many residents.

4) Hopkins Crossroads/Hillside Lane Intersection – AM rush hour – Wed January 31, 8:45 am

5) Hopkins Crossroads PM rush hour – Friday Jan 19, 5:30 pm. Property is on right side
6) Renderings shown at the January 16 2018 Neighborhood Meeting – East and South street-level views (1 top-down view was shown as well). Concept Plan design has changed since this, but this is the initial view that neighbors saw.
PLANNING COMMISION
CONCEPT PLAN MINUTES
A. Concept plan review for Chabad Center for Jewish Life at 11170 Mill Run and 2449 Hopkins Crossroad.

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

Thomas reported. Staff recommends the planning commission provide comments and feedback that the planning commission deems appropriate. The discussion is intended to assist the applicant with future preparation of more detailed development plans.

Rabbi Mordechai Grossbaum, representing the Chabad Center, applicant, stated that:

- He appreciated the opportunity to review the project.
- The programs include classes and lectures for children and adults.
- The building is smaller than many synagogues in the area.
- He appreciated everyone’s concerns, interest, and ideas.

Powers asked how many people would visit the site in one week. Rabbi Grossbaum stated that there would be services at 6:30 a.m. Monday and Thursday; 8 a.m. on Sunday; Saturday morning; and overnight on Friday. Throughout the day there would be 5 to 10 staff members at the most. Small classes would be held throughout the day at different times. Lectures would be held at 7 p.m. Celebrations would also be held.

Sewall noted that the area is not very pedestrian friendly since it does not have sidewalks. Rabbi Grossbaum said that the families live close to the property. He would welcome a sidewalk. Many people walk on the street now.

Chair Kirk asked how parking would be handled. Rabbi Grossbaum said that he would work with staff.

Chair Kirk invited those present to provide input.

Stu Silberman, 11123 Mill Run, stated that:

- He was pleased with the detailed and thoughtful approach to the Orchard Lane proposal. This proposal would have more of an extensive impact on the neighbors.
- He was concerned with the public’s safety and welfare due to the proposal restricting emergency vehicle access, adding significant additional traffic, and creating a danger to bicyclists and pedestrians.
- The proposal would not be in keeping with the surrounding area.
- It would not minimize tree or soil removal and it would not provide a desirable environment for the community.
- He was concerned that Mill Run would become an auxiliary parking lot. The plowing of snow is not done curb to curb, so the street is narrower during the winter.
It is already difficult to turn from Mill Run onto Hopkins Crossroad.
He and his family ride their bikes on Hopkins Crossroad to get to a trail.
He found the proposed building unattractive.

Jo Soo, 2391 Vernon Circle, stated that:

- He was concerned with the size and aesthetics of the building.
- The intersection of Hopkins Crossroad and Mill Run is already at capacity. He was concerned with the safety of the drivers and pedestrians.
- He was concerned with the privacy, lack of screening, and proximity to the houses.
- He was concerned with water, light, and runoff.
- Each revision of the plan got worse. The height increased, the roof would reflect light, and the windows would be increased from three to 24 windows. The neighbors' comments were ignored.
- The building would be too big and out of character with the neighboring houses. The building would look too big from the view from his backyard.
- The proposal would cause an adverse impact on public health, security, and welfare.
- Parking, noise, and crowds would be an issue.

Michael Leardahl, 2390 Vernon Circle, stated that:

- Parking requirements require one parking space for every two and-a-half seats based on the sanctuary or main assembly space. He stated that the proposal bases the number of parking stalls on the sanctuary area only. The proposal has 40 parking stalls. He added the social hall and other areas, so his calculation finds that there should be 56 additional parking stalls.
- Weddings could have 250 people inside the building and an additional 150 people outside.
- Fetterly Road is 19 feet wide. Mill Run is 21 feet wide. Motorists park on Hillside for school events.
- He was concerned with pedestrian safety.

Amy Taswell, 11120 Mill Run, spoke on behalf of her husband and herself. She stated that:

- She appreciated the applicant hosting a neighborhood meeting and cleaning up the property.
- She welcomed having the Chabad Center as a neighbor if substantial revisions would be made. She opposed how it is proposed now.
- Hopkins Crossroad is already dangerous and has too much traffic. The morning and evening prayers are at the same time as morning and evening rush hour.
- Mill Run is not an arterial or collector street.
- Someone at the fire department told her that the emergency turn around could be handled without the Mill Run access if the size of the structure would be reduced and that it seemed like a lot of stuff on a small site. She requested the existing curb cut on Mill Run be blocked off.
- The building would be too large, be too much of an institutional style, and be too tall.
- The Mill Run covenants restrict the height of a building to two stories in height.
- She likes the appearance of Sharei Chesed, the synagogue on Hopkins Crossroad. It looks more residential.
- There would not be enough parking and motorists would park on residential streets which is not allowed.
- She was concerned about drainage.
- She was concerned with maintenance of the site.
- The proposal would not fit in the area because of its size and appearance.

Carl Smith, 11201 Fetterly Road West, stated that:
- An overturned vehicle took out his mailbox years ago.
- Forty-seven residences drive on Fetterly Road West to access Hopkins Crossroad.
- He provided photos of the site. The hills are steep. The road is slippery in the winter.

David Larson, 11171 Mill Run, representing his wife Cheryl Larson and some neighbors on Mill Run, stated that:
- The site should have 60 parking spaces to handle 150 people. Even more parking would be needed if the congregation grows.
- A pedestrian crosswalk and light might be needed at some point and that would impede traffic.
- The use would be too intense for the area and disrupt the harmony.

Sam Black, 2265 Cape Cod Place, stated that:
- He was concerned with the traffic on Hopkins Crossroad. He supported making it more pedestrian and bicyclist friendly.
- The renderings are inadequate. A 3D visualization would be better.
- He was concerned the building and parking areas would expand by purchasing surrounding properties.
Michael Leardahl, 2390 Vernon Circle, stated that:

- He was concerned with light reaching surrounding properties.

Clayton Haapala, 2309 Archers Lane, stated that:

- He was concerned with the sight line to the top of the building and parking lot lights.

Kristin Soo, 2391 Vernon Circle, stated that:

- A traffic study by SRF conducted 15 years ago found the level of traffic on Hopkins Crossroad to be a “D,” “E” or “F” during peak times. There are traffic issues at the top and bottom of the hill. It would not make sense to sandwich a large community center in between them.
- The intersection of Hillside and Hopkins Crossroad was identified as an intersection with more than the normal number of crashes.

Thomas explained the rights and restrictions cities have to create and apply city ordinances. Hennepin County would have to approve an application that would include an access on a county road.

Chair Kirk confirmed with Thomas that the city does not enforce private homeowner association covenants. Thomas stated that nuisance ordinances are applied to every property in the city.

Powers felt that the mass of the use should be scaled back. He is familiar with the site. He agreed with the traffic concerns. The proposal would not be in harmony with the neighborhood.

Schack agreed that the scaling would be too large considering its proximity to several residences. The building and parking would be too large for the parcel. Disrupting the harmony is an issue. Tree removal would create buffering issues. She would like to see how the actual building would blend into the surroundings. An access point to Hopkins Crossroad would benefit everyone including those visiting the proposed site.

Knight has a son who lives on Vernon. Residents on Mill Run and Fetterly Road have no other options than to travel on Hopkins Crossroad. That hill is steep. He had issues with adding traffic. The building would be too big for the site.

Sewall agreed with the scaling and harmony issues. He thought the appearance could work. His biggest concern is the parking and where overflow parking would occur for large events. A traffic pattern for vehicles not finding a spot and having to turn around needs to be considered.
O’Connell agreed with the mass and parking concerns. He would look at the traffic study before commenting on traffic.

Chair Kirk appreciated the respectful comments. He would support less mass and a larger buffer. There needs to be more parking, probably 75 or 80 stalls. The snow and student drivers complicate driving in the area.

Chair Kirk noted that this concept plan is tentatively scheduled to be reviewed by the city council at its Feb. 26, 2018 meeting.

B. Concept plan review for Solbekken Villas, a residential development at 5740 and 5750 Shady Oak Road.

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

Thomas reported. Staff recommends the planning commission provide comments and feedback that the planning commission deems appropriate. The discussion is intended to assist the applicant with future direction that may lead to the preparation of more detailed development plans.

Ed Briesemeister, applicant, stated that:

- The condominium building would be roughly the height of the barn. He described the architectural features and layout of the buildings. The design would be harmonious with the neighborhood.
- Everyone at the neighborhood meeting liked the concept plan.
- There would be a three-car garage and 2,000 square feet for each single-family house. The houses would provide everything a person needs on one level and have a basement. The market price would be $625,000 - $650,000.
- Solbekken means “sunny brook” in Norwegian.
- He described the floor plan of the condominium buildings.
- He described the proposed traffic pattern.
- The site would be engineered to deal with seven inches of rain in 30 hours.

In response to Powers' question, Mr. Briesemeister said that the condominiums would be similar in size and price to the houses, $625,000 and 1,900 square feet.

Sewall asked if a lot of grading would be needed. Mr. Briesemeister said that the hill would not be cut into, but grading would occur up to the hill.

Mr. Briesemeister said that the bright green area, 15,000 square feet, would be dedicated as park land connected to Lone Lake Park.
Chair Kirk asked if the elevator would meet building code requirements. Mr. Briesemeister answered affirmatively. All building code requirements would be met.

Chair Kirk invited the audience to provide input. No one responded.

Knight asked the applicant if he was concerned building next to a steep bank. Thomas provided that engineering staff already reviewed a similar proposal and found it acceptable. Mr. Briesemeister said that the slope appears steeper than it is due to the trees. Thomas noted that the topography is drawn with one-foot contours rather than the typical two-foot contours.

Mr. Briesemeister explained how the stormwater would be directed to the stormwater system.

Sewall supports the land use. The density would be appropriate. It is a unique product and site. He suggested connecting walkability to the park. Mr. Briesemeister said that there is a path connecting the cemetery and park.

Powers supports the idea. It is an exciting project. He likes the name. It is well thought through. The density is reasonably low.

Schack liked the look of the proposal. The price point is equal to the market. It is a beautiful project and is appropriate for the space.

Knight supports the proposal.

Chair Kirk liked the scale. The type of housing proposed is lacking in the city. He supports the proposal.

Chair Kirk noted that this concept plan is tentatively scheduled to be reviewed by the city council at its Feb. 26, 2018 meeting.

10. Adjournment

_Sewall moved, second by Powers, to adjourn the meeting at 10:15 p.m. Motion carried unanimously._

By:  ____________________________
     Lois T. Mason
     Planning Secretary
PLANNING COMMISION
MINUTES AND
CHANGE MEMO
B. Conditional use permit for a religious institution at 2333 and 2339 Hopkins Crossroad and 11170 Mill Run.

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

Chair Kirk called for a break to allow time to address technical issues. The meeting reconvened after a 5-minute break.

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

Schack confirmed with Thomas that the proposal does not include a school. Thomas explained that if a school, daycare, or food shelf would be added to the site, then plans must be submitted and reviewed by staff to determine if there would be adequate parking and the proposal’s impact on traffic.

Sewall asked if parking is allowed on Mill Run and Fetterly Road. Thomas answered affirmatively. Thomas explained that in order to request that parking be prohibited on a street, a petition must be signed by a percentage of property owners who reside on the street and submitted to the city council for approval.

Sewall asked what could be done if safety would become an issue. Thomas stated that the city engineer would look for the source of a traffic issue and take steps to correct a problem. Every conditional use permit allows the city council to add or revise conditions to address future, unforeseen problems.

Schack asked if staff would change its recommendation if Hennepin County would deny a permit to widen the existing access for the driveway to be located on the county road. Thomas stated that the applicant would then decide how to proceed. Chair Kirk explained that the planning commission would review a new application if the current one would not come to fruition.

Chair Kirk asked if the residence at 2327 Hopkins Crossroad has a shared driveway with 2333 Hopkins Crossroad. Thomas answered affirmatively. A condition of approval would require the applicant to maintain a connection and grading work on the adjacent site would need be agreed upon by a private agreement between the two property owners.

Chair Kirk asked if the residence at 2327 Hopkins Crossroad has a shared driveway with 2333 Hopkins Crossroad. Thomas answered affirmatively. A condition of approval would require the applicant to maintain a connection and grading work on the adjacent site would need be agreed upon by a private agreement between the two property owners.

Chair Kirk noted that the applicant also owns the residence at 11170 Mill Run. Thomas explained that the residence at 11170 Mill Run would also be included in the conditional use permit requirements. Chair Kirk asked if the house would be included in the FAR calculation. Thomas noted that there is no FAR standard in the code for religious institutions, but staff did provide the FAR for the proposal with and without the residence.

Sewall asked for the probability of a trail or sidewalk being added to the site. Wischnack explained that the capital improvement plan expected to be approved by the city council in June includes funds for a trail to be completed on the site in 2023.
Rabbi Mordechai Grossbaum, Chabad Center for Jewish Life, applicant, stated that:

- He appreciated the opportunity to present the project.
- Chabad has six synagogues in the area and has been located in Minnetonka 16 years. Chabad is looking for a home that is their own. The synagogue is just part of what they do.
- The property would meet all ordinance requirements.
- The neighborhood meeting provided good feedback.
- The concept plan review provided more good feedback and changes were made to match Chabad’s needs and the concerns of the neighbors.
- He thanked the neighbors for their valuable input. The building would be beautiful.
- He thanked staff for guiding them through the project. It was a pleasure to work with staff.
- He introduced the project architect, Aaron Parker, and the attorney for the project, Marvin List.
- He was available for questions.

Hanson asked what changes had been made in response to the neighborhood feedback. Rabbi Grossbaum answered the height of the buildings, entrance, building appearance, materials used on the building, clear wall on the east side, parking, and trees.

Mr. Parker stated that:

- He grew up in Minnetonka and graduated from Hopkins High School.
- The site has been expanded by 50 percent.
- The Chabad Center would be moved to the north and the residence on Mill Run would be used as a parish house. The house would retain its residential character on Mill Run. The Mill Run driveway would serve exclusively the house. Vehicular access to the Chabad Center would be exclusively from Hopkins Crossroads.
- Any regrading that would take place would occur on the Chabad property and meet the grade and alignment of the drive at the property line.
- The applicant lowered the height of the building. The sloping roof was replaced with a flat roof. An enclosed courtyard was added between the Mill Run house and the Chabad Center to serve as a buffer.
- The site has already been severely disrupted. The proposed design would introduce some discipline to what is a mess right now. The previous owner operated a dune buggy business on the property.
- He provided a photo of the site in the winter with no foliage and the view would not be obtrusive.
- He pointed out the floor plan and described the materials for the building.
- The site is already relatively well buffered, but the applicant would plant 150 coniferous trees with other shrubs and trees with high leaf density to screen the facility from the neighbors.
• He provided an illustration of the color palette and materials.
• The site would be regraded to address a neighbors’ concerns regarding flooding. Stormwater management would take place on the site with a storage vault below grade.
• Lighting would follow guidelines established by the Dark Sky Society. Lower height fixtures would be used to reduce light spill.
• All outdoor spaces would be enclosed and buffered.
• He had more detailed information available and was available for questions.

The public hearing was opened.

Jo Soo, 2391 Vernon Circle, stated that:

• He appreciated the opportunity to speak.
• He had deep concerns and opposed the proposal. The families in the neighborhood would be negatively impacted.
• He was concerned with safety. The concerns outweigh the benefits.
• The building would be too big. He liked the roof change, but the building would still be too big. The proposed building would not meet the character of the neighborhood because of its size. The FAR would be 21.08 percent which is larger than other religious institutions. He reviewed other religious-institution sites.
• It seemed like proof of parking was a way to get around the 70 percent impervious parking requirement.
• A school is expected to be there. Those activities should be included now.
• He reviewed the proposed plan. There would only be 51 parking stalls without proof of parking. It would not be possible for a fire truck to turn around. There would be one dangerous ingress and egress to County Road 73.
• There would be a lack of green space.
• He provided a rendering of the east side which would have a 110-foot wall 50 feet from the property line which would be a bad transition to a neighboring residence. He was concerned with light spilling onto the adjacent property.
• He believed there would be more activities than listed in the application.
• The proposal should be at a location with more parking and fewer traffic concerns.
• He did not agree with staff’s recommendation.
• Twenty-eight trees would be cut down.
• Other religious institutions are on bigger properties and have more buffer.
• The assembly area should be included as part of the regularly used sanctuary area and included in the parking requirement calculation.
• The neighbors provided letters detailing how the conditional use permit standards would not be met. Two of the letters in support of the application should not be considered because one was written by a Chabad member and the other author is moving.
He recommended denial of the application.

Vernon Swing, president and CEO of Swing Traffic Solutions, stated that:

- He is a licensed traffic engineer employed by residents of Mill Run. The city’s traffic engineering consultant used methodology consistent with industry standards, yet the overall scope was insufficient to fully understand the impact to the safety of the area. The study was deficient by not including the intersection of Hillside Lane and Hopkins Crossroad.
- Parent teacher conferences were being conducted and school was closed when traffic counts were done April 6, 2018.
- The traffic study did not address pedestrian and bicycle safety on Hopkins Crossroad. Twenty-five vehicles would turn left during the p.m. peak time. Stopped vehicles would interfere with traffic on Hopkins Crossroad and Hillside Lane.
- The stopping sight distance numbers are accurate, but the intersection site distance was not addressed. There would be insufficient sight distance at the proposed driveway location.
- He did not think the county would approve the access.

Susan Wiens, 2346 Vernon Circle, stated that:

- She did not agree with staff’s recommendation.
- She was concerned with the view, traffic and pedestrian safety.
- The sanctuary and social meeting space should be included in the parking calculation. The chairs and tables could be moved to make room for more people. She thought 46 more parking stalls should be included.
- She did not want vehicles to park on Mill Run and in other neighborhoods.
- The proposal should not be approved.

Amy Taswell, 11120 Mill Run, stated that:

- She believes the application omitted relevant information.
- She was concerned with traffic, parking and pedestrian safety in the neighborhood.
- She questioned the definition of “regular use” and wanted to know how often the wall would be moved to combine the sanctuary with the social hall.
- The building could accommodate up to 400 people.
- She witnessed seven of 16 vehicles parked off site at another Chabad center during a service.
- Snowbanks obscure vision. She provided photos of vehicles parked on both sides of Mill Run. Mill Run could become a parking lot.
- She showed videos of traffic on Hopkins Crossroads.

Douglas Altman, 11128 Mill Run, stated that:
• He and his wife live on the property adjacent to the site on the east side.
• He and his wife have been regulars at Chabad since its inception 15 years ago. His association with the Grossbaums has been nothing but uplifting.
• He has lived on Mill Run 25 years.
• The site of the proposed center was previously a junk yard with a mean dog. The site continues to be an eyesore. He appreciated that the proposal would clean up the site and create an elegant building.
• The number of Chabad members present at the public hearing is typical of a large gathering. There would be ample parking on the site. The residents on Mill Run have parties that require attendees to park vehicles on Mill Run more often than gatherings at Chabad would require additional parking.
• The Chabad Center would be a blessing. He encouraged commissioners to recommend that the proposal be approved.

Michael Leardahl, 2390 Vernon Circle, stated that:
• The proposed building would be 145 feet from his front door.
• The site was not a junkyard.
• He disagreed with staff’s recommendation.

Kristin Soo, 2391 Vernon Circle, stated that:
• The proposal would be “disharmonious” with the neighborhood.
• The neighborhood already has schools and institutions. She did not want large gatherings to be held there.
• The Hillside Lane and Hopkins Crossroads intersection is a challenge already.
• She provided pictures of Hopkins Crossroads at the Hillside Lane intersection. If traffic backs up behind a vehicle turning left, then there is no safe way to get around the vehicle waiting to turn. She had a picture of five vehicles waiting behind a vehicle turning left.
• She provided videos of the intersection that showed vehicles having to wait when a vehicle turned left.

Jack Fiterman, 11205 Overlook Drive, stated that:
• His house is directly across the street from the site. He agreed that there is always a lot of traffic on Hopkins Crossroads.
• He is not a member of Chabad, but he does go to services on occasion.
• On an average day, there would be no more than seven or eight vehicles at the current Chabad location. On a Saturday, there would be no more than 15 to 20 vehicles in the parking lot. There are only two high-holy days each year that draw a large crowd.
There are no more stand-up members of society than the Grossbaums and attendees of the Chabad. It would be an honor to have the Chabad in his neighborhood.

Jim Moscowitz, 11120 Mill Run, stated that:
- He questioned the need for a building with 15,000 square feet and such a big mass.
- He concurred with the neighbors.

Michael Farber, 11025 Joy Lane, stated that:
- He has been affiliated with Chabad for 18 years. He has lived in the neighborhood for six years. He is looking forward to cutting his walk in half.
- He is looking forward to having a permanent space and having enough room.
- The proposal will increase the property values in the area.
- He appreciated the opportunity to speak.

Carl Smith, 11201 Fetterly Road West, stated that:
- He was concerned with safety on County Road 73 and cul de sacs on Fetterly Road. Forty-seven households exit Fetterly Road to get to County Road 73. He and some of the Mill Run residents have developed hand signals to communicate which driver should proceed first. The number of turns into the proposed site and decision making by the drivers would cause a safety concern. He did not know how that could be mitigated. He concurred with the other comments including the concern with the lack of pedestrian infrastructure.
- He did not see the proposal as a harmonious addition to the area. He encouraged further study before making a decision.

Jim Bechthold, 11320 Fetterly Road, stated that:
- Through the years, things change. He was concerned with the traffic. There is not enough space for turns on County Road 73.
- Fetterly Road has turn lanes. When he turns left, vehicles pass on the right. The access to the site’s driveway should be as far from Mill Run and Fetterly Road as possible.
- The vehicles in the drop-off area could back up onto County Road 73.
- He suggested improvements be made to the roads to decrease the traffic impact.

Barry Ross, 11295 Overlook Drive, stated that:
• The site was an absolute junk yard. He looked forward to Chabad and the design would be a wonderful addition to the neighborhood.
• The location would be perfect. The Grossbaums are wonderful people.
• Hopkins Crossroads is a busy street. He does make left-hand turns every day. The increase in traffic would be a few drops of water in an ocean. It would not change what currently happens on Hopkins Crossroads. He saw what happened when Interstate 169 was closed and he was still able to turn left when thousands of vehicles were added. The proposal would be totally insignificant to that.

Vladimir Greengauz, 15200 Willowood Drive, stated that:

• A house of worship fits in a mature, vibrant neighborhood. He thought the applicant should be welcomed.
• No more than 50 or 100 trips would be added to 14,000 trips every day.
• He requested that the project be approved.

Sam Black, 2265 Cape Cod Place, stated that:

• He concurred with the traffic concerns.
• He requested that the proposal be postponed for two weeks to create a 3-D rendering to show what the proposed building would look like in context.
• He welcomed Chabad. It is a great project, but not for the proposed site. The building would be too big and imposing.

David Segal, 2220 Cape Cod Place, stated that:

• Some developments he helped create contribute to the traffic on County Road 73. That is part of the progress of a developing neighborhood. The scope of the project and type of use would have relatively low impact. There would be large gatherings two or three times a year for a couple hours that would have minimal impact on the surrounding neighborhoods. Parking accommodations can be made for those two days of the year.
• Chabad has been in the neighborhood in the office warehouse by Holiday for a long time. There have been no complaints including parking or traffic.
• He attended a Chabad service. There were 40 people. There were 12 vehicles in the entire parking lot.
• There is enough room on County Road 73 to add a turn lane in the center. That would help deal with the stacking and traffic flow going on now.

David Carlson, 11171 Mill Run, stated that:

• He concurred with the concerns regarding traffic.
• He hoped Chabad would find a home, but he did not think this site would be the appropriate location due to the traffic.

Marvin Liszt, attorney representing the applicant, stated that:

• A religious institution is allowed in a residential neighborhood with a conditional use permit. Staff are unbiased and recommend approval of the application with a set of conditions everyone is familiar with.
• One of the best traffic study consulting firms in the state, unbiased with the situation, did not find an issue with the proposal that was unsolvable.
• On the other hand, neighbors would prefer not to have an institution in their neighborhood. The neighbors have used hyperbole, exaggerated numbers way beyond what goes on, and refer to a huge traffic problem that the traffic-study professionals determined would not exist.
• There is no reason to delay taking action on the application.

Jeff Paletz, 2001 Runnymead Court, stated that:

• The potential traffic created by Chabad would be insignificant compared to the existing level of traffic.

No additional testimony was submitted and the hearing was closed.

Rabbi Grossbaum stated that:

• The size of the building is needed to provide room for classroom activities, office duties, worship services, and social hall gatherings to take place at the same time. The layout of the building would be phenomenal.
• There are two major holidays a year with services starting at 10 a.m.
• The numbers provided in the application are absolutely accurate.

In response to Schack’s question regarding lighting, Gordon explained that Dark Skies standards refers to lighting that points downward and is located only in necessary areas. It is a residential standard approach to lighting. Thomas explained that the city’s ordinance restricts the number of illuminated foot candles that can extend to a residential property line. Staff have the equipment to measure illumination at the property line and enforce lighting ordinance requirements. That is a standard that applies to every property in the city.

In response to Schack’s question, Colleran explained that the landscape ordinance requires islands with trees in a parking lot when there are more than 150 parking stalls. The proposal would have 43 parking stalls. The ordinance also requires one tree for every 15 stalls, but the trees could be planted around the perimeter. The final landscape plan has not been finalized or approved yet.
In response to Sewall’s question, Thomas explained that a county driveway permit would have to be obtained from the county to widen the access to a county road. If the county would deny the permit, then the applicant would have to decide how to proceed.

Chair Kirk clarified that the commission may table or recommend denial or approval of the proposed project to the city council as provided in the application.

In response to the concerns Chair Kirk listed from the public hearing, Thomas explained that the fire marshal reviews every application. Staff would not recommend approval of an application that the fire marshal did not approve.

Colleran explained the tree protection ordinance. The site does not contain a remnant woodland ecosystem. The site has 36 high-priority trees. The proposal would remove 14 high-priority trees. Of 45 significant trees, 40 would be removed.

Thomas explained how the code would require 40 parking stalls. The proposal would have 51 parking stalls. An office building of the same size would be required to have 60 parking stalls. The city has approved many conditional use permits for religious institutions that calculated the minimum amount of parking based on the main, sanctuary space. These institutions also had additional assembly areas.

In response to Hanson’s request, Thomas reviewed the traffic study.

Matt Pacyna, traffic engineer with SRF Consulting Group, stated that:

- The amount of traffic that would be generated by the proposal would be small in comparison to the existing traffic on Hopkins Crossroad. The delay may be increased by one or two seconds for drivers on Mill Run or Fetterly Road West to turn onto Hopkins Crossroads.
- He estimated the capacity of Hopkins Crossroads to be about 17,000 vehicle trips. The current number is approximately 14,500.

Schack noted that institutions face a conundrum because the code requires one to be accessed by an arterial road, drivers feel that arterial roads are already at capacity, and sites are limited in the community. So, change is needed. She appreciated the traffic concerns. Based on the code and conditional use permit standards, she agreed with staff that the scale of the building, while it would be big, has been made to be as harmonious with the community as possible. Buying the third lot was a response to the concern that the site was too small. Religious facilities make good neighbors. They are quiet, do not have massive parties, and visitors go home by 10 p.m. She understood the traffic concerns, but the traffic impact would be less than one percent. To evolve as a community, change is necessary. She walked to the site and witnessed times when vehicles were stacked. She supports staff’s recommendation.

Hanson agreed that the proposal meets the requirements made by the commission and city. Looking at the math without emotion made an impact on him. He confirmed with
staff that an increase in the use of the site would have to be reviewed by the commission and approved by the city council.

Sewall has learned that a resident’s view is not a protected right. He felt for the adjacent neighbors who would have a different view. He previously preferred to have access on Hopkins Crossroads instead of Mill Run, but he would now rather have the entrance on Mill Run since there are already turn lanes on Mill Run. He gave kudos to the applicant for the design changes. The building is much more attractive now. It is still very large. He is torn because he would like the access on Mill Run.

Chair Kirk believed the proposal would not be harmonious with the character of the neighborhood. The houses on adjoining properties are close to their property lines. The proposal meets all of the rules including setbacks and building height. He was concerned with the site having enough parking because the surrounding streets would not accommodate many parked vehicles. Hopkins Crossroads is not a safe road. Vehicles pass vehicles turning left on the right shoulder. The ordinance states that the collector road is the right place for the access. He would like to see turn lanes added to Hopkins Crossroads. He was on the fence. He will support staff’s recommendation, but hopes something will be done to make Hopkins Crossroads safer in that area.

Schack moved, second by Hanson, to recommend that the city council adopt the resolution approving a conditional use permit for a religious institution at 2333 and 2339 Hopkins Crossroad and 11170 Mill Run.

Schack, Hanson, and Kirk voted yes. Sewall voted no. O’Connell, Powers, and Knight were absent. Motion carried.

This item is scheduled to be reviewed by the city council at its meeting on May 14, 2018.

C. Preliminary plat of Arundel Addition, a three-lot residential subdivision with variances, at 15500 Minnetonka Boulevard.

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

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

Chair Kirk asked why staff is recommending approval of this lot-behind-lot application. Ingvalson answered that the site would be able to be subdivided with a public street and cul-de-sac, but a private drive would save trees and decrease site disturbance.

Daniel Schmidt, of Sathre-Bergquist, engineer for the project, stated that Ingvalson did a good job and he was available for questions.

The public hearing was opened.

Christi Brusven, 15518 Minnetonka Boulevard, stated that she supports the private drive. It is reasonable because a public road along the fence line would make her lot a corner
ITEM 8A – Adler Graduate School

The Adler Graduate School has informed staff that it currently offers summer courses in addition to holding courses during the fall, winter, and spring. The table on page 3 of the report did not note the summer classes. It should appear as below.

<table>
<thead>
<tr>
<th></th>
<th>Fall</th>
<th>Winter</th>
<th>Spring</th>
<th>Summer</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Day</td>
<td>Night</td>
<td>Day</td>
<td>Night</td>
</tr>
<tr>
<td>Monday</td>
<td>-</td>
<td>65</td>
<td>-</td>
<td>83</td>
</tr>
<tr>
<td>Tuesday</td>
<td>-</td>
<td>115</td>
<td>-</td>
<td>105</td>
</tr>
<tr>
<td>Wednesday</td>
<td>6</td>
<td>44</td>
<td>10</td>
<td>58</td>
</tr>
<tr>
<td>Thursday</td>
<td>-</td>
<td>116</td>
<td>-</td>
<td>82</td>
</tr>
<tr>
<td>Friday</td>
<td>-</td>
<td>-</td>
<td>4</td>
<td>-</td>
</tr>
<tr>
<td>Saturday</td>
<td>-</td>
<td>-</td>
<td>233*</td>
<td>176**</td>
</tr>
<tr>
<td>Sunday</td>
<td>-</td>
<td>37</td>
<td>99***</td>
<td>-</td>
</tr>
</tbody>
</table>

*Winter Saturday enrollment combined 1st half (130) and 2nd half (103) of semester courses
**Spring Saturday enrollment combined 1st half (103) 2nd half (73) of semester courses
***Spring Sunday enrollment combined 1st half (52) and 2nd half (47) of semester courses

In addition, staff was informed that the numbers provided were for the total number of students enrolled in courses during each quarter (fall, winter, spring, and fall). However, each quarter is split into two sessions, with several courses only lasting ½ semester. Based on this additional information, there would be significantly less cars visiting and parking on site. The chart below shows the maximum number of students that would visit the site for courses, based on last year’s enrollment.

<table>
<thead>
<tr>
<th></th>
<th>Fall</th>
<th>Winter</th>
<th>Spring</th>
<th>Summer</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Day</td>
<td>Night</td>
<td>Day</td>
<td>Night</td>
</tr>
<tr>
<td>Monday</td>
<td>-</td>
<td>37</td>
<td>-</td>
<td>45</td>
</tr>
<tr>
<td>Tuesday</td>
<td>-</td>
<td>68</td>
<td>-</td>
<td>56</td>
</tr>
<tr>
<td>Wednesday</td>
<td>6</td>
<td>44*</td>
<td>10</td>
<td>58*</td>
</tr>
</tbody>
</table>
ITEM 8B – Chabad Center for Jewish Life

The attached comments were received after publication of the staff report.
Dear Ms. Thomas and Mr. Wagner,

We live at 11128 Mill Run. We are the neighbors directly east of the proposed Chabad Center for Jewish Life. We heartily support this project.

We are aware of the concerns expressed by others, particularly relating to safety and traffic, which we believe are exaggerated and overblown.

For our part, we definitely believe that the benefits of the Chabad Center in our community will far outweigh any concerns that have been raised.

Very truly yours,

Elizabeth and Douglas Altman
April 24, 2018

To: Susan Thomas, Assistant City Planner  
City of Minnetonka

From: Vernon Swing, PE, Swing Traffic Solutions  
Mill Run/Fetterly/Hillside Neighborhood

Re: Chabad Center Traffic and Parking Study Review

Per the request of the Mill Run/Fetterly/Hillside neighborhood, Swing Traffic Solutions, LLC has reviewed the City of Minnetonka’s traffic and parking study which was conducted to determine the impacts to the area associated with development of the Chabad Center for Jewish Life in Minnetonka, MN. The proposed development is planned on the east side of Hopkins Crossroad, also known as Hennepin CSAH 73, just north of Mill Run Road, and approximately 200 feet south of Hillside Lane W. The development is proposed to have a single access point approximately 150 feet north of Mill Run Road. In general, the traffic and parking study has been conducted in accordance with industry standards but is too limited in scope to provide an accurate assessment of the impacts associated with this development. The following discusses our findings and highlights areas that need additional analysis.

1. The scope of the traffic study should have included the intersection of Hillside Lane W and CSAH 73 as this is one of the primary access intersections for Hopkins High School, Hopkins North Junior High School and Tanglen Elementary School. This intersection experiences some congestion during the AM, PM and High School event times and the proposed development traffic may exacerbate conditions particularly during High School football and basketball seasons when the Sunset services will overlap the event traffic.

2. The traffic counts taken on Friday April 6th, 2018 occurred when there were no events at the High School, and on a day when all three schools were not in session as parent teacher conferences were scheduled at this time.

3. CSAH 73 is under the jurisdiction of Hennepin County and the traffic study must address Hennepin County’s access spacing standards in order to obtain an access permit. CSAH 73 is an a-minor arterial, reliever category, and as such is guided for access limited to one quarter mile (1,320 feet) intervals for full access and one eighth of a mile (660 feet) for limited access (such as right in right out). The proposed access location for this development is shown as a full access and is approximately 150 feet north of Mill Run Road (measured curb to curb). This violates Hennepin County’s Standards.
4. CSAH 73 has wide shoulders intended to provide space for pedestrians and bicycle traffic. The traffic study suggests that an auxiliary turn lane may be needed to segregate turning vehicles from the through traffic. The study also indicated ten percent of the attendance during Friday Sunset and Saturday services will walk up to the Chabad Center. Yet there was no discussion related to the impact of the proposed access with a potential turn lane on the viability of the shoulders for alternative modes of travel.

5. The traffic study conducted for the proposed development considered sight distance along CSAH 73 at the proposed site driveway in terms of the distance required for a driver on CSAH 73 to stop upon identifying an issue on the road. While this discussion was accurate for the CSAH 73 traffic, it neglected to consider the “intersection sight distance”, or the sight distance required for a driver exiting the site to enter the traffic flow on CSAH 73 with out disrupting the flow in a hazardous manor. The Table below summarizes the engineering standards related to sight distance.

<table>
<thead>
<tr>
<th>Design Speed (mph)</th>
<th>Stopping sight distance (ft)</th>
<th>Intersection sight distance for passenger cars (ft)</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>80</td>
<td>165.4</td>
</tr>
<tr>
<td>20</td>
<td>115</td>
<td>220.5</td>
</tr>
<tr>
<td>25</td>
<td>155</td>
<td>275.6</td>
</tr>
<tr>
<td>30</td>
<td>200</td>
<td>330.8</td>
</tr>
<tr>
<td>35</td>
<td>250</td>
<td>385.9</td>
</tr>
<tr>
<td>40</td>
<td>305</td>
<td>440.1</td>
</tr>
<tr>
<td>45</td>
<td>360</td>
<td>496.1</td>
</tr>
<tr>
<td>50</td>
<td>425</td>
<td>551.3</td>
</tr>
<tr>
<td>55</td>
<td>495</td>
<td>606.4</td>
</tr>
<tr>
<td>60</td>
<td>570</td>
<td>661.5</td>
</tr>
<tr>
<td>65</td>
<td>645</td>
<td>716.6</td>
</tr>
<tr>
<td>70</td>
<td>730</td>
<td>771.8</td>
</tr>
<tr>
<td>75</td>
<td>820</td>
<td>826.9</td>
</tr>
<tr>
<td>80</td>
<td>910</td>
<td>882.0</td>
</tr>
</tbody>
</table>

Note: Intersection sight distance shown is for a stopped passenger car to turn left onto a two-lane highway with no median and grades 3 percent or less.

Source: Geometric Design of Highways and Streets 2004

CSAH 73 is a 40-mph roadway, thus the proposed driveway should be designed with at least 441 feet of intersection sight distance. The reported sight distance in the study is approximately 400 feet which suggest the access location does not provide the appropriate level of safety for drivers to safely egress the site. Further, the study needs
to address the proximity of the access location relative to the turning movements at the Mill Run/Fetterly intersection as it relates to the impact on driver’s decisions regarding suitable gaps in traffic.

6. The parking study conducted for the proposed development includes two basic assumptions that are not substantiated. First, the study assumes the average vehicle visiting the site will have 2.25 occupants. This should be verified by observing conditions at similar facilities. Second, the parking study assumed only half of the sanctuary will be used during religious services or events, yet the building will be equipped with a moveable accordion style divider which suggest special events may have nearly twice the attendance. Under these potential conditions there will be insufficient parking on site. The parking analysis must review a worst case scenario and discuss options to mitigate potential shortcomings.

In summary, the traffic and parking study is too limited in scope to fully understand the traffic impacts associated with the proposed development. The traffic study must consider the impacts to the traffic operations at the CSAH 73 and Hillside Lane W intersection and must involve Hennepin County prior to approval. Further, the parking analysis needs to substantiate the assumptions regarding vehicle occupancy and site usage.

Thank you for considering our concerns. Please contact me at [your phone number] or via email at [your email address] with any questions.
Thanks Susan. Here are some responses to the items listed in the Swing Traffic Solution Memo. If you have any questions or comments, please let us know.

1) Study Scope (Hillside Intersection) and Events
   a. Given the scale of the development, the primary study area from a capacity perspective was related to the proposed access on Hopkins Crossroad (CR 73). The Mill Run/Fetterly Road intersection was the closest intersection to the proposed access and thus was reviewed. The study notes minimal change (0 to 3 seconds in side-street delay change) in operations at the adjacent Mill Run/Fetterly Road intersection if the proposed development were to be constructed. Although not reviewed, the change in operations at the Hillside intersection would also be expected to be minimal, similar to the Mill Run/Fetterly Road intersection.
   b. The study focused on the weekday a.m. (Tuesday 7:15 to 8:15), Friday evening (5:00 to 6:00), and Saturday midday (12:30 to 1:30) peak hours, which correspond to the expected peak activity of the proposed development. During evening High School Football or Basketball events (typically start around 7 p.m.), traffic volumes along Hopkins Crossroad are generally 50 percent less than during the typical weekday p.m. peak hour (4:30 to 5:30). Other considerations to note include 1) traffic volumes are generally lower on Fridays, compared to Tuesdays, Wednesdays, and Thursdays, due to more flexible work schedules and vacations; 2) Event traffic coming from the north generally uses Hillside, while event traffic coming from the south or west generally use Cedar Lake Road.

2) Traffic Counts
   a. The weekday a.m. count occurred on Tuesday, April 10th with school in session. The Friday, April 6th count focused on the evening peak hour (5:00 to 6:00), which is outside the typical hours of operation of the area schools and thus school operations have minimal impact during this time. Note that the timeframes evaluated for this study correspond to the peak activity for the proposed development.

3) Access Spacing
   a. Hopkins Crossroad is a County facility (CR 73) and thus an access permit will be needed to modify to the current access. However, the existing property does have access rights that the County does need to considered.

4) Pedestrian Access
   a. Given the current bypass lanes along Hopkins Crossroad (CR 73) within the immediate area, there are limited shoulders to accommodate pedestrians. Furthermore, there are no other pedestrian facilities along Hopkins Crossroad (CR 73) that currently existing within the study area. Provisions could be made to include pedestrian connections, if desired, although that may encourage parking in the adjacent neighborhood.

5) Sight Distance
   a. The proposed access is a private facility and this is a gray area with respect to current guidance (private versus public intersection). Although it is good practice to maximize sight distance when possible. That said, the study notes to maintain landscaping to allow for adequate site distance.
6) Parking Study Assumptions
   a. During the Friday evening and Saturday services, the average vehicle occupancy was assumed to be 2.25 occupants per vehicle (it was assumed to be a 1 to 1 ratio for the weekday a.m. service). This was based on feedback from the proposed development staff that understand their current operations. Furthermore, the City’s parking code is based on 1 parking space per 2.5 seats, which would result in less trips than what was assumed as part of the trip generation. As a rule of thumb, event vehicle occupancy averages 2.5 to 3 people per vehicle depending on the event.
   b. Typically parking is designed to accommodate the majority of situations that occur. However, there could be certain events that may necessitate other strategies to reduce potential parking impacts. These types of strategies could include encouraging car pools, off-site parking options (shuttle), and or valet. Coordination with the proposed development staff should occur to minimize any potential parking concerns.

Matt Pacyna, PE (MN, ND, WI)
Principal at SRF Consulting Group, Inc.

Direct: 763.249.6726 | email: 
Main: 763.475.0010 | Mobile: 
1 Carlson Parkway, Suite 150, Plymouth, MN 55447

CONFIDENTIALITY NOTICE: The contents of this email message and any attachments are confidential and are intended solely for addressee. The information may also be legally privileged. This transmission is sent in trust, for the sole purpose of delivery to the intended recipient.

From: Susan Thomas [mailto:sthomas@eminnetonka.com]
Sent: Wednesday, April 25, 2018 4:40 PM
To: Matt Pacyna <mpacyna@srfconsulting.com>
Cc: Will Manchester <wmanchester@eminnetonka.com>
Subject: FW: Chabad Center traffic

FYI.

Susan Thomas | Assistant City Planner
City of Minnetonka | eminnetonka.com
Office: 952-939-8292

From: Vernon Swing <vswingtraffic@gmail.com>
Sent: Wednesday, April 25, 2018 4:37 PM
To: Susan Thomas <sthomas@eminnetonka.com>
Cc: Robert H. Byers <Robert.Byers@hennepin.us>
Subject: Chabad Center traffic

Hi Susan,
April 25, 2018

City of Minnetonka
Planning Commission Members
14600 Minnetonka Blvd.
Minnetonka, MN  55354

Re: Chabad Proposed Development on Hopkins Crossroads and Mill Run

Dear City of Minnetonka Planning Commissioners:

I am a Minnetonka resident residing in the Tanglen Woods cul-du-sac that abuts the Chabad development proposed to be built on property located on Hopkins Crossroads and Mill Run. I am also an environmental attorney and am expressing my legal concerns regarding the City of Minnetonka’s staff report recommending approval of the Chabad proposal. I am not representing any of my neighbors in these comments but offer them solely on my own behalf.

A relatively recent decision from the Minnesota Supreme Court has made it clear to Minnesota municipalities that when approving a Conditional Use Permit (CUP), municipalities must appropriately consider their own zoning ordinances. Failure to do so will invalidate their decisions. As you know, the Minnetonka Zoning Ordinance, Chp. 3, sec. 300.16.2, requires that when the City reviews a request for a CUP, it must determine that the proposed project will not have an undue adverse impact on the public health, safety or welfare. If the proposed project will adversely impact the public health, safety or welfare, the City may not approve the CUP. Traffic studies, expert testimony and neighborhood testimony must be considered by the City.

In RNDT v City of Bloomington, 861 N.W.2d 71 (Minn. 2015), the Minnesota Supreme Court held a Bloomington City conditional use permit ordinance, with almost the exact same language as Minnetonka’s, was lawfully applied by the City of Bloomington when it denied a CUP based solely on evidence (1) estimating an increase in traffic (should the facility be expanded) that would have negatively impacted the public health, safety and welfare; and (2) indicating the size, density and design of the proposed building was disproportionately large for the neighborhood. The court found the proposed nursing home facility adversely impacted the health, safety and welfare of the public because of increased traffic and the proposal was “incompatible with the scale and character of the surrounding low density, single family neighborhood.” 861 N.W.2d at 74.

In support of a finding of adverse impact to public health, safety and welfare, the City of Bloomington lawfully considered expert traffic consultant’s review of the proposal as well as the “credible” traffic concerns submitted by the public. The supreme court upheld the City of Bloomington’s CUP ordinance as lawful and found the City had a reasonable factual basis to determine the proposed use would harm
the public health, safety and welfare. As I'm sure you are aware, a court will reverse a city's approval of a CUP if the approval was unreasonable, arbitrary or capricious. The City of Bloomington's decision to deny the CUP was based upon a traffic study demonstrating increased traffic in the area by 26%. It also based its denial of the CUP on neighbors' testimony on the effects the traffic had on noise, safety and the general character of the neighborhood. The City of Bloomington found that the increase in square footage of the nursing facility campus was incompatible with the scale and character of the surrounding residences and found that the increase in traffic from the proposed development would have been over three and one-half times the average daily trips than if the site were instead developed into low density units. The Minnesota Supreme Court found consideration of these factors was sufficient to support the City of Bloomington's denial of a CUP.

The City of Minnetonka has far more evidence before it of the proposed development's adverse impact on public health, safety and welfare than what was deemed necessary in the RNDT case. The following evidence not only supports the Commission's recommendation of denial of the CUP but requires that it do so.

1. The City unreasonably relies upon the proposed application that only 125 individuals will be using the Chabad facility and thus requiring only 51 parking spaces. To reach this conclusion, the City unreasonably relies upon an artificial separation between a proposed sanctuary space and meeting space. A 3,800 square foot facility that can and will be used as sanctuary space is artificially reduced to 2100 square feet by the suggestion that a folding wall can be used to separate the room into a social hall and a sanctuary. The project proposer recognizes that both rooms will be used for numerous events—without specifying or limiting how often these events will occur. When all of the available sanctuary space is taken into consideration, the need for parking spaces doubles and if the movable tables and chairs are replaced with just chairs, the potential occupancy of the sanctuary increases dramatically as does the need for parking. Below is an illustration of the real and obvious need for significantly more parking spaces than is currently proposed.

<table>
<thead>
<tr>
<th>Currently Designated Sanctuary Space – 2,000 SF (2100 – 100 SF unused space)</th>
<th>Additional Sanctuary Space (social space separated with folding wall): 1700 SF</th>
<th>Total Sanctuary Space Available: 3,700 SF</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Room Config</strong></td>
<td><strong>NET SF</strong></td>
<td><strong>Capacity of Room</strong></td>
</tr>
<tr>
<td>Table and chairs</td>
<td>15</td>
<td>133</td>
</tr>
<tr>
<td>Chairs only</td>
<td>7</td>
<td>295</td>
</tr>
<tr>
<td>Standing room only</td>
<td>5</td>
<td>400</td>
</tr>
</tbody>
</table>

The table above demonstrates that when the entire sanctuary space of 3700 SF is used, the facility will need a minimum of 100 parking spaces. And, if the tables are removed for an
arrangement of just chairs, the capacity of the room dramatically increases to a minimum of 118 parking spaces and the potential for 215 needed parking spaces. The project proposer has not demonstrated that it will not use all of this meeting space and has specifically designed movable walls and movable chairs and tables to accommodate the larger assemblies it reasonably expects. Additionally, it does not seem plausible that a 15,000 square foot facility would be built to accommodate an average size meeting group of just 125 individuals.

2. If nothing else, this table demonstrates the significant need for off-site street parking to accommodate the numerous large events that are recognized to take place. The SRF traffic study indicates that Fetterly Road is inadequate to provide for street parking. It suggests that Mill Run may be sufficient to satisfy the additional parking needs. Mill Run is a very small cul-du-sac road that has very little room for parking as the road is very narrow and at least 30 feet cannot be used because of the placement of a fire hydrant. Moreover, Mill Run could never serve to provide an additional 46 or more parking spaces. Since Mill Run and Fetterly Road cannot provide for overflow parking, where will these additional 46 to 136 cars park? The only remaining options are neighborhoods quite far away that would require walking on Hopkins Crossroads and/or crossing at uncontrolled intersections or along Hopkins Crossroads at unpredictable places. Adding pedestrian traffic to Hopkins Crossroad is unsafe for the pedestrians and for all who drive on Hopkins Crossroads.

3. The CUP ordinance requires that religious institutions or facilities must create one parking space for each 2.5 seats based on the design capacity of the main sanctuary or the main assembly space. The design capacity of the proposed facility is to hold anywhere from 246 people sitting at table and chairs to 456 individuals for standing room only. Minnetonka Ordinance, Section 300.28(c)(2)(g). The design capacity of the sanctuary or main assembly space would require parking stalls for 100 – 246 cars!

4. Increased pedestrian traffic on Hopkins Crossroads is inevitable if parking capacity at the proposed site is not dramatically increased. There is no safe way for pedestrians to walk along or cross Hopkins Crossroads and it is an unreasonable public safety risk to cause drivers of vehicles on Hopkins Crossroads to mix with pedestrians. Moreover, the project proposer indicates that services will be held at sundown, requiring those who cannot park at the Chabad Center to walk in the dark. This fact alone significantly increases the risk to pedestrians and those who must drive this stretch of Hopkins Crossroads. Certainly, to permit this known risk is unreasonable and untenable.

5. The SRF Traffic study does not support the staff’s recommendations. The neighborhood residents have hired an independent traffic consultant to provide a review and analysis of the SRF study. Neighbors’ concerns regarding this study began to emerge when we discovered that one of the two days SRF conducted the study, school was not in session at the Hopkins High School, Middle School or Tanglen Elementary School, all part of the same school complex just east of the proposed development. The traffic from these three schools causes significant traffic delays, as evidenced by the traffic study undertaken by the Hopkins School District more than 12 years ago and previously provided to City staff. That study already demonstrated that the Hillside Lane/Hopkins Crossroads intersection operated at a Loss of Service (LOS) level of “F.” There have been no improvements to this area of Hopkins Crossroads that would have improved the LOS at this intersection. We are suspect of a traffic study that fails to consider the impact of the proposed development on this very important intersection. Those vehicles that
are traveling south on Hopkins Crossroads and turning left into the proposed development will stack up cars that will reach into the Hillside Lane intersection and significantly interfere with traffic flow; will cause cars to try to unsafely pass on the right-hand shoulder; and cause unsafe conditions for cars and pedestrians. We have been given no explanation about why the City staff chose not to study this intersection. Such a failure to do so is arbitrary, unreasonable and capricious.

6. The SRF study indicates that mitigation may become necessary if southbound vehicular queues along Hopkins Crossroads impact traffic operations and safety. After identifying this problem, SRF does not study the problem or even indicate when it would find there to be a “safety” problem or why it didn’t study the queuing problem and the potential impact upon Hillside Lane. The City’s failure to require further analysis is indicative of its inadequate oversight and review of the public health and safety needs of Minnetonka residents and the public in general.

7. Additional issues identified by the neighbor’s traffic consultant provide the Planning Commission with sufficient basis to recommend denial of the CUP for the proposed Chabad development. Those issues are best explained in our consultant’s separate report.

8. Anecdotal evidence provided by the neighbors along with pictures and videos are supported by our traffic consultant’s analysis and the prior traffic study conducted by the Hopkins School District. The Minnesota Supreme Court has indicated a municipality cannot disregard this type of evidence especially where it is independently corroborated by credible evidence.

The only recommendation to the City Council by the Planning Commission that takes into consideration the requirements of the City’s zoning ordinance, is that the current application submitted by Chabad Center for Jewish Life is incompatible with the zoning ordinance and the request for a CUP must be denied.

Thank you for your consideration,

[Signature]

Susan K. Wiens
C: Mr. Brad Wiersum, Mayor (via email)
   Mr. Tony Wagner, Ward 2 Council Member (via email)
   Ms. Susan Thomas, Project Planner (via email)
   Ms. Ashley Cauley, Project Planner (via email)
   Ms. Julie Wischnack, Community Development Director (via email)
Minnetonka City Staff:

After reviewing the proposed site plan and associated traffic study, we recommend that the city delay any approvals until the full ramifications of the impacts to County Road 73 (Hopkins Crossroad) can be examined and discussed.

We believe that the safety aspects have not been fully investigated relating to vehicular conflicts that the development will add to the county roadway if direct driveway access is allowed. In addition, we believe that sight distance and the existing geometric configuration at the Mill Run / Fetterly Road intersection also deserve further study as these characteristics complicate the accommodation of the higher volume driveway access proposed as part of this new development. For comparison, the proposed development access on the east side of County Road 73 produces and attracts more peak hour trips than Mill Run which is already an established intersection where vehicular conflicts are expected by road users. Creating a busier access point is such close proximity to an established intersection creates conflicts and safety concerns.

In earlier discussions with the developer and city staff, we suggested options to improve the safety and operations in this area while also improving the situation for the existing residents accessing the county road. We recommended access from the proposed development be focused to Mill Run, which already intersects County Road 73. Focusing these new trips to an existing intersection on the county road will provide a safer facility for the general public traveling to and through this area while minimally impacting resident travel times. In addition, intersection geometric revisions are recommended as part of the development to mitigate the increase in turning traffic including dedicated turn lanes on the county road.

Chad Ellos, P.E.
Transportation Planning Division Manager
Hennepin County Public Works
1600 Prairie Drive | Medina, MN 55340
612-596-0395 | Chad.Ellos@hennepin.us | www.hennepin.us

Disclaimer: If you are not the intended recipient of this message, please immediately notify the sender of the transmission error and then promptly delete this message from your computer system.
Tony & Susan,

I am writing to voice my support for Chabad Learning Center being proposed on the east side of County Road 73. As a resident and business owner in the area for over thirty years, I feel the new faculty will be a nice addition to the neighborhood and will have minimal impact on traffic.

David Segal

2220 Cape Cod Place

Sent from my iPhone, please excuse any typos.
SINCE
PLANNING COMMISSION
HEARING

REVISED BUILDING PLANS
TRAFFIC STUDY ADDENDUM
PUBLIC COMMENTS
Chabad Center for Jewish Life

The Chabad Center for Jewish Life requires a permit for the allowable conditional use as a religious institution for a facility of approximately 15,000 gross square feet to be constructed at the above captioned address. The center will share the property with a renovated existing residential structure which is planned for use as the rabbi’s family home.

There will be three elements to the building accessible from the main lobby:

The East Wing will be a two story structure clad in terra cotta rain-screen, with an elevator, containing: Ground Floor: Chabad offices and mikveh (ritual bath) and toilet rooms; Second Floor: Classrooms, storage

The North Wing will be a one story structure containing a large assembly space with a moveable partition separating the social hall from sanctuary/presentation/study room. Storage, kitchen/pantry and loading dock will be located along the west side of the social hall. There will be a small terrace north of the social hall accessible from three pairs of french doors.

The library/study will be located at the southwest corner of the building as a “gatepost” to the South Court.

BUILDING ACCESS

There will be a South Court created between the north face of the existing Mill Run House and the Chabad Center. A loggia between the library and the East Wing will give access to the lobby. There will be an entrance from the main parking lot and drop-off via a loggia on the north side of the East Wing giving access to the lobby between the East and North Wings. Entry is also possible through a West Entry facing Hopkins Crossroads. There is secure access to the men’s mikveh and the vessel mikveh in the west wall of the East Wing. There will also be a covered, dedicated entrance to the women’s mikveh on the south side of the building (by appointment only).

HOURS OF OPERATION AND OCCUPANCY LOAD

Monday – Friday

Services in the morning 10-15 people

Some classes throughout the day 5-15 people

Evening classes and lectures. Regular 5-15, 3 courses x 6 up to 30-50 people at any given time
Friday night once a month 75 – 125 people

Shabbos 10am - 2 pm 50 -100 people

Sunday 8am 10-15 people, 9:45am -12pm 35-50 people

Mikveh approximately four people per week by appointment only.

Holidays: 75 - 150 people 5-10 times

NOTE: On Friday evening and Saturday (Shabbos) and holidays, some of the attendees will arrive on foot so there will be reduced parking demand from what one would typically calculate.

LIGHTING

Site lighting will be guided by two factors:

1) to provide for safety, security and visibility for visitors to the Chabad Center.

2) To limit light spill and glare off site – horizontally, towards neighboring land and vertically, light pollution to the sky. We follow the dictates of the International Dark Sky Association [www.darksky.org](http://www.darksky.org)

3) Interior lighting will be designed to effectively place light where it is needed for safety and visibility and affect and to limit lighting and energy use where and when not efficacious.

PARKING

The property will have fifty-one (51) parking stalls including two HC accessible stalls. Forty-four (44) stalls are arrayed in the main lot along the north property setback; the remainder will be located in the South Court.

There is room on the property for eleven (11) additional vehicles: four (4) in the South Court; two (2) along the west drive; five (5) along the east verge of the north lot. This additional capacity would bring the total to sixty-two (62) vehicles with site access from Hopkins Crossroads.

There is also capacity for five (5) vehicles in the residential driveway (3) and 2-car garage accessible off Mill Run.

SITE ACCESS

The existing curb cut on Hopkins Crossroads must be widened to 26’ to accommodate fire equipment access and the centerline of that drive will be moved approximately fifteen feet (15’) south. This will provide the only vehicular access to the Chabad Center (except for mountain bikes).

The residence on the south portion of the lot will use the existing curb cut off Mill Run to provide vehicular access to the residence.

SITE ORGANIZATION
The Chabad Center building will be located near the center of the property. The existing residence at 11170 Mill Run will be renovated and serve as a residence for the rabbi’s family. The Mill Run house and the dense existing and proposed plantings on the south verge of the site will effectively screen the Chabad Center from view from Mill Run. Between the Chabad Center and the Mill Run house, at an elevation of approximately +956, will be a paved landscaped court enclosed by the facades of the two buildings. The main floor elevation of the new facility will be approximately +957’ above MHW. [NOTE: For reference, the southeast corner of the property on the Mill Run frontage is at El. +972; the main floor elevation of the Mill Run house is +967.5.]

An entry plaza on the north of the Chabad Center connects the north parking lot with the main entrance to the Chabad Center.

**LANDSCAPING & GRADING**
Existing trees along the perimeter and other trees undisturbed by the construction of the facility will be preserved to the extent possible. The grove on the southwest corner will be tended, restored and limbed up to provide a permeable screened view to motorists traveling north. It is anticipated that the access drive in the north portion of the Hopkins Crossroads frontage will continue to provide access to the property to the subject property’s immediate north. A retaining wall will be required between that drive and the north parking lot. The arborvitae hedge along the west property line will be tended and mended to provide a partial screening from Hopkins Crossroads. Additional plantings will be set judiciously to provide both screening and visual access.

The landscape plan has not been finalized. New plantings will be installed along the north and east property line to screen light and view from residences to the north and east. Species may be a mix of evergreens and, possibly, deciduous plantings with high twig density.

All precipitation falling on the site will be managed on site.

**Trees:**

All Trees in the area of the addition (and parking area)

Trees to be preserved: at least 20 (not including trees to remain south of the north face of the existing Mill Run house).

Trees to be removed: 25

New trees – 134 conifers as screening around the perimeter of the property.

New trees: Deciduous trees: approximately 10 trees.

Additional deciduous trees will be added as appropriate to site plan as the design progresses.

**MATERIALS**

**East Wing**

Exterior walls: Terra cotta rain screen

Roof: Standing seam metal roof

Fence at mikvah garden: wood
Lobby:
Walls: Terra cotta rain screen
Roof: EPDM

West Wing - Service Wing:
Walls: Terra cotta rain screen

Social Hall:
Exterior walls: Terra cotta rain screen
Roof: EPDM

Sanctuary/study room:
Exterior walls: Kasota Stone
Windows: Clerestory windows on north, south and west. Indirect, deep-cavity windows in thick wall on east facade.
Roof: EPDM

Kitchen / Storage:
Exterior walls: Terra cotta rain screen
Roof: EPDM

Library / Daily Minyan:
Exterior walls: Kasota Stone
Roof: EPDM
WEST FACADE

FORMAL APPLICATION, original submittal

FORMAL APPLICATION, revised, reviewed by Planning Commission

FORMAL APPLICATION, revised since Planning Commission
EAST FACADE

FORMAL APPLICATION, original submittal

FORMAL APPLICATION, revised, reviewed by Planning Commission

FORMAL APPLICATION, revised since Planning Commission
Addendum

To: Susan Thomas, Assistant City Planner
City of Minnetonka

From: Matt Pacyna, PE, Principal
Tom Sachi, PE, Senior Engineer

Date: May 9, 2018

Subject: Addendum to the Chabad Center for Jewish Life Traffic and Parking Study

Introduction

SRF completed the *Chabad Center for Jewish Life Traffic and Parking Study* on April 19, 2018. The focus of the study was to review the proposed development and access as currently proposed. However, based on feedback from area stakeholders, several questions/concerns were expressed regarding the study. Therefore, to address these questions/concerns, this addendum was developed to provide additional clarification or supplemental information since completion of the traffic and parking study.

Issues and Concerns

1) Hillside Lane Intersection

Concerns were expressed as to why this intersection was not included as part of the traffic study. Given the scale and amount of trip generation expected from the proposed development, potential impacts were expected to be localized to the proposed access. However, to address this concern, a supplemental review of the Hillside Lane intersection was included as part of this addendum and summarized as follows:

a) A vehicular turning movement count at the Hopkins Crossroad (CR 73) and Hillside Lane intersection was collected by SRF during typical weekday a.m. (7:15 to 8:15), Friday p.m. (5:00 to 6:00), and Saturday midday (12:30 to 1:30) peak hours between May 3, 2018 and May 5, 2018.

b) Existing and future year 2020 build traffic volumes within the study area are shown in Figure 1. Note that the higher of the traffic volumes along Hopkins Crossroad (CR 73) between the recent May counts and the data collected previously between April 6, 2018 and April 10, 2018 are shown and were utilized as part of the updated intersection capacity analysis within this addendum.

c) Results of the updated intersection capacity analysis including the Hillside Lane intersection is shown in Table 1. This includes the year 2020 build condition, as well a side-street comparison between existing and year 2020 build conditions at Hillside Lane and Mill Run/Fetterly Road.

d) The results of the updated intersection capacity analysis indicate that there is minimal overall change in area traffic operations that result from the proposed development and the updated operations analysis is generally consistent with the original traffic and parking study.
### Table 1. Updated Intersection Capacity Analysis Comparison

<table>
<thead>
<tr>
<th>Hopkins Crossroad (CR 73) Intersection</th>
<th>Weekday A.M.</th>
<th>Peak Hour Level of Service (Delay)</th>
<th>Friday P.M.</th>
<th>Saturday Midday</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Overall</td>
<td>Side-Street</td>
<td>Overall</td>
<td>Side-Street</td>
</tr>
<tr>
<td><strong>Year 2020 Build Condition</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hillside Lane</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overall</td>
<td>A (2 sec)</td>
<td>D (27 sec)</td>
<td>A (2 sec)</td>
<td>D (29 sec)</td>
</tr>
<tr>
<td>Side-Street</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chabad Center Access</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overall</td>
<td>A (1 sec)</td>
<td>D (27 sec)</td>
<td>A (1 sec)</td>
<td>C (24 sec)</td>
</tr>
<tr>
<td>Side-Street</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mill Run / Fetterly Road</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overall</td>
<td>A (1 sec)</td>
<td>D (34 sec)</td>
<td>A (1 sec)</td>
<td>D (30 sec)</td>
</tr>
<tr>
<td>Side-Street</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Side-Street Comparison</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Existing</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hillside Lane</td>
<td>D (25 sec)</td>
<td>D (27 sec)</td>
<td>C (22 sec)</td>
<td>D (29 sec)</td>
</tr>
</tbody>
</table>

### 2) High School Event Conditions

The study focused on the weekday a.m. (Tuesday 7:15 to 8:15), Friday evening (5:00 to 6:00), and Saturday midday (12:30 to 1:30) peak hours, which correspond to the expected peak activity of the proposed development. During evening High School Football or Basketball events, which typically start around 7:00 p.m., traffic volumes along Hopkins Crossroad (CR 73) are generally 50 percent less than during the typical weekday p.m. peak hour (4:30 to 5:30). Other considerations to note include:

a) Traffic volumes are generally lower on Fridays, compared to Tuesdays, Wednesdays, and Thursdays, due to more flexible work schedules and vacations.

b) Event traffic coming from the north generally uses Hillside Lane, while event traffic coming from the south or west generally uses Cedar Lake Road.

### 3) Proposed Site Access

As noted in the study, the proposed access is located along Hopkins Crossroad (CR 73), which is a Hennepin County facility, and any changes to Hopkins Crossroad (CR 73) have to be approved by the County. The goal of access management is to achieve an optimal balance between what is needed for safe and efficient roadway operations and the need to provide access to adjacent properties and businesses. Current *Hennepin County Access Spacing Guidelines* for Hopkins Crossroad (CR 73), which is functionally classified as an A Minor Reliever, would suggest limiting access to 1/4-mile for local public streets, non-public-high volume facilities, and arterial/collector roadways. Non-public low-volume facilities that generate less than 1,000 daily trips would not be permitted based on the current guidance. However, the following items should be considered with respect to the proposed access:
a) The proposed site access is located at an existing access to Hopkins Crossroad (CR 73), approximately 150 feet north of Mill Run/Fetterly Road.

b) County Guidelines would suggest relocating the proposed driveway to Mill Run to limit potential conflicts with closely spaced access and preserve mobility along Hopkins Crossroad (CR 73). However, preliminary review of the intersection indicates that the sight-distance at Mill Run/Fetterly Road is limited due to a vertical curve along Hopkins Crossroad (CR 73) approximately 350 feet south of the intersection (guidance suggests intersection sight distance should be approximately 445 feet; stopping sight distance is adequate). Intersection sight distance is better at the proposed site access as compared to the Mill Run/Fetterly Road intersection; as long as the landscaping is maintained (previous study recommendation) to ensure adequate sight distance is provided.

c) There are currently bypass lanes along Hopkins Crossroad (CR 73) at the Mill Run/Fetterly Road intersection, which provide reduced conflicts between turning vehicles and through vehicles in this area. This bypass lane begins approximately 100 feet north of the proposed site access and thus can be used to help reduce potential conflicts between vehicles turning into the proposed site access and through vehicles along Hopkins Crossroad (CR 73). Discussions with the County indicate a preference to have a dedicated left-turn lane in place of the bypass lanes if access to the proposed development is provided via Hopkins Crossroad (CR 73), as proposed. From a roadway capacity perspective, either configuration would be expected to result in similar levels of service.

d) Moving the proposed site access further north would provide a benefit with respect to further separation from the Mill Run/Fetterly Road intersection, but could potentially limit the ability to utilize the current bypass lane or the left-turn lane configuration preferred by the County.

e) Over the past 5-years (2013 through 2017), the following number of crashes were reported at the two study intersections along Hopkins Crossroad (CR 73):

- Hillside Lane: 6 total crashes (~1 per year)
- Mill Run/Fetterly Road: 2 total crashes (< 1 per year)

Note that there continues to be discussions with Hennepin County regarding the proposed access to determine the optimal location and roadway configuration to provide safe and efficient operations.

4) Parking Study Assumptions

Questions were identified with respect to the vehicle occupancy assumptions (2.25 guests per vehicle during the peak service time) associated with the parking study review. This data is based on input provided from proposed development staff members that understand their current operations. Furthermore, the City’s parking code and the ITE Parking Manual are based on 1 parking space per 2.5 seats and 1 parking spaces per 2.44 guests, which would result in less parking demand than what was assumed as part of the study.
5) Pedestrian/Bicyclist Accommodations

There are currently no dedicated pedestrian/bicyclist facilities along Hopkins Crossroad (CR 73) within the immediate study area. However, pedestrian/bicyclist use of the existing shoulder area along Hopkins Crossroad (CR 73) is not currently restricted or prohibited. Based on observations, there are currently pedestrians and bicyclists that use the existing shoulder area. Note that the City has identified this corridor for trail improvements within its Capital Improvement Plan. Thus, the proposed development should consider site modifications that compliment (and do not preclude) a future trail along the east side of Hopkins Crossroad (CR 73). Note that if the left-turn lane configuration was implemented (through striping), there may be the opportunity for an enhanced shoulder area (in place of the current bypass lane) to better accommodate pedestrians/bicyclists until an off-street trail can be constructed. However, further design would be necessary to confirm this possibility.
LEGEND

- Weekday A.M. Peak Hour Volume
- Friday P.M. Peak Hour Volume (Arrival)
- Friday P.M. Peak Hour Volume (Departure)
- Saturday Midday Peak Hour Volume
- Average Daily Traffic Volume [Existing/(2020)]
- Side-Street Stop Control

Existing and 2020 Build Conditions
Addendum to the Chabad Center of Jewish Life Traffic and Parking Study
City of Minnetonka

Figure 1
May 3, 2018

Minnetonka City Council
City of Minnetonka
14600 Minnetonka Blvd
Minnetonka, MN 55345

Dear Council Members,

Thank you for taking the time to consider the Chabad building project at 2339 Hopkins Crossroad.

Following the recommendations of the Planning Committee and further addressing the concern of some neighbors, we have made the following alterations to our plans:

1) We are in contract to purchase the neighboring house/lot to the north. This gives us more green space and makes the building a better fit for the lot size. We have moved the Chabad Center north on the properties. The house on Mill Run will be renovated and serve as a buffer between the center and the Mill Run neighbors.
2) We have shortened the width of the back building to 75’ from 115’ and about half of it steps back.
3) The sanctuary height will be lowered from 32’ to 24’. The windows on the east side of the clear-story have been eliminated. The lobby height will be lowered from 28’ to 18’.
4) The materials and colors are warmer and are harmonious with the area.

In letters to the city and at the Planning Commission, neighbors raised concerns regarding the project using wildly exaggerated numbers, stated projects that do not exist at this time and made a safety issue regarding walkers to the center. May I clarify these issues for the council:

Number of attendees

Jewish Holidays – Not all holidays in the Jewish religion are celebrated at the Chabad Center. Chanukah for example - our event is at Byerly’s in SLP. Lag B’Omer is at one of the parks in the area etc. Some holidays occur on the Sabbath. There are some holidays that occur on a weekday. Of these, some have a light turnout while others, perhaps 5-10 days, enjoy a better turnout.

Evening services – There are no regularly scheduled evening services at Chabad at this time other than Friday night at sunset.

This facility will allow us to use rooms for their intended purposes without having to rearrange them, often while people are waiting. For example those praying in the sanctuary and then moving to fellowship in the social hall.
School and Day Care

We are not planning a school or daycare at this time other than that which was addressed in the application - Hebrew School, Sunday morning for 2 hours.

The Safety of Walkers

The safety of those walking to Chabad is of great importance. In general walking to Chabad is limited to Saturday and major Jewish holidays (Rosh Hashanah, Yom Kippur etc.) The numbers of walkers are limited and not nearly the exaggerated numbers presented by the neighbors. Some of those that walk currently, will live adjacent to the property or nearby. As far as other are concerned, I have an agreement with the Altmans (Mill Run) and the Schnellers (Vernon Circle) behind them, to allow walkers to use the path that runs through their properties. The neighborhoods adjoining CR 73 look forward to the sidewalk and trail scheduled to be built in 2023.

I am hopeful this brings you up to date on our plans for this project and addresses some of the exaggerated claims made at the Planning Commission hearing. I am available to discuss or answer any questions you may have.

Thank you very much

Sincerely,

Rabbi Mordechai Grossbaum
May 7, 2018

Mayor Brad Wiersum
Members of the Minnetonka City Council
14600 Minnetonka Blvd.
Minnetonka, MN  55345

Re:  Chabad Center For Jewish Life
     Conditional Use Permit Application
     2333 and 2339 Hopkins Crossroad

Dear Mayor and City Council Members:

I represent the Chabad Center For Jewish Life and wish to highlight what I believe are the salient incontrovertible facts in this matter and indicate why the council should approve this application.

The basic facts in this matter can be condensed into the following summary:

1. The subject property is zoned R-1. Religious institutions are conditionally-permitted uses in Residential zones. Similar uses to the one proposed on the subject property exist in residential zones throughout the City of Minnetonka.

2. City staff determined, and the record amply supports the fact, that the proposed use would meet conditional use standards both objective and subjective.

3. The SRF Consulting Group, Inc. traffic study concluded:
   - Hopkins Crossroad experiences approximately 14,500 daily vehicle trips. The theoretical capacity of the roadway with its current configuration is 17,000 vehicles trips per day.
   - Based on general activity hours, the proposal would add 36 vehicle trips to Hopkins Crossroad during the weekday a.m. peak hour, 60 vehicle trips in the Friday p.m. peak hour, and 50 trips in the Saturday midday peak hour.
   - The proposal is anticipated to increase the delay at the Mill Run/Hopkins Crossroad by approximately two to three seconds during the a.m. and p.m. peak hours.
   - On the anticipated busiest day at the proposed institution, the proposed use would add 96 vehicle trips to Hopkins Crossroad. This would amount to a 0.7% increase in daily traffic.
The fact is that three unbiased groups (City Staff, SRF Consulting Group, Inc., and the Planning Commission) have looked at the application and/or the impact of the proposed use and have concluded that it satisfies the requirements of city ordinances and will not create a discernable safety or traffic issue. The exaggerated facts and hyperbole offered by some opponents of the application at the planning commission public hearing cannot change the careful analysis that has been made by the professionals involved in this matter. There is no justifiable reason, in law or fact, to deny the application.

The applicant bears no ill-will towards any of the opponents of the proposed use. In fact, the applicant understands that change of any degree can often be difficult and disconcerting and it is not uncommon for some to resist that change. However, it is also important to recognize that many of the neighbors in the areas surrounding the subject property have supported and welcomed the proposed use. The proposed building has been designed to be compatible with the neighborhood and will consist of a neutral color palate and will include natural materials which are residential in character. The building, and the use of that building, will be wonderful additions to the City of Minnetonka.

Applicant respectfully requests that the City Council approve the Resolution for a conditional use permit for a religious institution at 2333 and 2339 Hopkins Crossroad.

Sincerely,

BERNICK LIFSON, P.A.

[Signature]

Marvin A. Liszt
Attorney at Law

MAL:erb
cc: Chabad Center For Jewish Life
May 10, 2018

Minnetonka City Hall
RE: Susan Thomas
14600 Minnetonka Blvd
Minnetonka, MN 55435

RE: Chabad Center for Jewish Life, 2333 and 2339 Hopkins Crossroad and 11170 Mill Run

Dear Ms. Thomas:

Our firm has been retained by Mr. Charles Ellis to state his formal objection to the application for a conditional use permit to construct a religious facility on the properties at 2333 and 2399 Hopkins Crossroad and 11170 Mill Run. Mr. Ellis owns the property located at 2327 Hopkins Crossroads and is directly affected by the Chabad’s Centers proposal.

Mr. Ellis’s primary objections derives from the fact the driveway is shared by his property and the owner of 2333 Hopkins Crossroad. Arrangements have not been finalized that will ensure his rights to the driveway are maintained. It appears the proposal assumes only the entrance is shared, which is false. There are emails, letters and additional objective evidence proving the driveway is shared. Please note that Mr. Ellis has had conversations with the new property owners of 2333 Hopkins Crossroad and it is hoped a compromise can be worked out that will ensure both parties concerns are addressed. As of this writing, no compromise has been reached.

Removing portions of the part of the driveway, per the proposal before the city, will not allow access to Mr. Ellis’s garage at the 2327 Hopkins property. Additionally, Mr. Ellis just spent a substantial amount of money to repair and upgrade the shared driveway. If the proposed conditional use permit is granted, the upgrade would be destroyed. Moreover, the permit would substantially devalue my client’s property as a whole.

Finally, there is an easement between 2327 Hopkins Crossroad and 2333 Hopkins Crossroad, created and approved by the city of Minnetonka at or around 1977.
Please note these are just our initial objections from the limited information. We reserve to the right to make additional objections as more information becomes available.

It is our understanding that you will present Mr. Ellis concerns and this correspondence to the city council at the upcoming city council meeting. Please feel free to contact our office with any questions you may have.

Thank you for your consideration in this matter.

Best Regards,

BRODIN LEGAL, LLC

Jacob J. Brodin
Signed electronically
Attorney at Law

JJB
Enclosures

cc: Charles Ellis (via email)
May 10, 2018

Mayor Brad Wiersum
Members of City Council
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345

RE: Chabad Center Conditional Use Permit Application
Our File No. 3290.001

Dear Mayor Wiersum and Members of the City Council:

This office represents Susan Wiens and Jim Moscowitz as representatives of a group of residents with homes located in the Mill Run, Vernon Circle and Fetterly Road neighborhoods (the “Safety on 73 Neighborhood Alliance”). We write to state our clients’ opposition to the conditional use permit (“CUP”) application submitted by the Chabad Center for Jewish Life (“Chabad Center”) to allow a new community center at a parcel of land with the combined street addresses of 2333/2339 Hopkins Crossroad and 11170 Mill Run (the “Property”). The City Planning Commission has recommended approval of the application, and the City Council will consider the application at its regular meeting on May 14, 2018.

We ask that the City Council vote to deny the CUP application. Chabad Center had a legal obligation to demonstrate compliance with all requirements necessary for the City Council to approve the proposed conditional use. It has not done so. Specifically, it has not shown that its proposed facility complies the City’s minimum off-street parking requirements.\(^1\) Moreover, it has not shown that its proposed facility will not adversely affect the public health, safety and welfare through the creation of traffic hazards. As Chabad Center has failed to satisfy its burden of proving that it complies with the applicable requirements for CUP approval, the City Council should deny its

---

\(^1\) The number of off-street parking spaces proposed by the Chabad Center is woefully inadequate. There will inevitably and routinely be “spillover” parking on local streets. This in turn will generate pedestrian traffic on streets with no sidewalks or streetlamps, which will add to the traffic safety hazards already created by other features of the proposed facility (e.g., its direct access point onto Hopkins Crossroad in close proximity to an established intersection). The City Council should send Chabad Center back to the drawing board to re-design its proposed facility so that it has adequate off-street parking.
I. **Chabad Center Has Not Met Its Burden of Showing That It Satisfies the Requirements Necessary for the Granting of a CUP.**

Minnesota law provides that a city may only approve a CUP application upon “a showing by the applicant that the standards and criteria stated in the [city’s zoning] ordinance will be satisfied.” Minn. Stat. § 462.3595, subd. 1 (2017); see also *RDNT, LLC v. City of Bloomington*, 861 N.W.2d 71, 78 (Minn. 2015). Additionally, a city’s decision to approve or deny a conditional use permit must have a factual basis in the record before the city, and it must also meet the requirements specified by the relevant zoning ordinance. *RDNT, LLC*, 861 N.W.2d at 76-77; *Yang v. County of Carver*, 660 N.W.2d, 828 (Minn. Ct. App. 2003). The applicant has the burden to satisfy the standards and criteria for CUP approval set forth in a city’s ordinance. *RDNT, LLC*, 861 N.W.2d at 78.

As it relates to the approval of CUPS, the City’s zoning ordinance states, among other things, that “[n]o conditional use permit shall be granted unless the city council determines that the proposed conditional use will be “in compliance with the performance standards specified in section 300.28 of this ordinance” and that the proposed conditional use will “not have an undue adverse impact on the public health, safety or welfare.” City Code, § 300.21(2)(e), (f). Chabad Center has the burden of demonstrating that it satisfies these requirements. It has failed to meet that burden here. For this reason, the City Council should deny the application.

a. **Chabad Center Has Failed to Demonstrate Compliance with the City’s Off-Street Parking Requirements.**

As noted above, the City’s ordinance requires that conditional uses “[be] in compliance with the performance standards specified in section 300.28 of this ordinance.” City Code, § 300.21(2)(e). Section 300.28 establishes various performance standards, the most relevant of which relate to the required number of off-street parking spaces for religious assembly facilities in R-1 zoning districts. Chabad Center has simply failed to demonstrate that it will provide sufficient off-street parking, for three reasons.

First, the City’s ordinance provides that, for religious institutions and facilities that include public assembly space, one off-street parking space is required “for each 2.5 seats based on the design capacity of the main sanctuary or assembly space.” City Code, § 300.28(12)(c)(2)(g). In its application materials, Chabad Center does not even attempt to demonstrate that its proposed off-street parking is sufficient for seating based on the “design capacity” of its “main sanctuary or assembly space.” In its report, the City staff states that 40 off-street parking spaces are required for the proposed facility. As we understand it, the City staff based this calculation on the applicant’s
representation that it intends to provide seating in its sanctuary space in the form of 33 removable tables with three removable seats available at each table (for a total of 99 seats). An applicant’s statement of intent is not the same thing as the “design capacity” of an assembly space.\(^2\) Chabad Center has an obligation to establish that its proposed off-street parking is sufficient based on the “design capacity” of its assembly space. It has failed to do so. The City Council should therefore deny Chabad Center’s application.

Second, we note that, in its application materials, Chabad Center \textit{acknowledges} that the Property will routinely host events for which it will not have sufficient on-site parking. The application materials state that there will be once-a-month Friday services for which there will be up to 125 attendees. The application materials also state that there will be holiday services up to 10 times a year for which there will be up to 150 attendees. In other words, Chabad Center admits that it cannot operate its proposed facility without routine use of on-street parking. As noted elsewhere in this letter, the surrounding local streets are uniquely unsuited to accommodate the on-street parking necessitated by this application and the pedestrian traffic that it will generate. Approving the proposed facility will impose undue burdens and risks on neighborhood residents and on all drivers who must travel on Hopkins Crossroad. The City Council should not willingly impose such burdens and risks on its residents. Rather, it should reject Chabad Center’s application and instruct it to come back with a better plan with sufficient off-street parking.

Finally, we note that the City’s ordinance provides that the City “may require additional spaces for offices, classrooms, day care centers or other uses operated on the grounds.” City Code, § 300.28(12)(c)(2)(g). We strongly urge the City Council to exercise the authority conferred by this ordinance provision to require additional off-street parking spaces here. According to the floor plans submitted by Chabad Center, the proposed facility includes a 2,180 sf sanctuary; a 1,704 sf social hall; 577 sf of office space; 1,364 sf of classroom space; and areas slated for various other uses (e.g., a 118 sf “tutor/meeting” space, a 366 sf kitchen space, a 598 sf library space, etc.). This is a very large total area designed for a variety of different uses. Notwithstanding this, the City staff has chosen to base its required off-street parking spaces solely on the applicant’s planned seating arrangement for its main sanctuary space (which constitutes less than 1/3rd of the collective area of the above-referenced uses). The City should increase the number of required off-street parking

\(^2\) Our client, Susan Wiens, submitted letter dated April 25, 2018 in which she sets forth various estimates of the “design capacity” of Chabad Center’s assembly space, all of which demonstrate that the off-street parking proposed by Chabad Center is woefully inadequate. We ask that the City Council members carefully consider this letter and its contents. We note that it is not the responsibility of objecting neighbors to prove how much off-street parking is actually required for a proposed conditional use. Rather, it is the affirmative obligation of the applicant (here, Chabad Center) to prove its compliance with the City’s off-street parking requirements. As it does not even purport to base its proposed number of off-street parking spaces on the “design capacity” of its assembly space, Chabad Center has failed to satisfy this obligation here.
spaces to reflect the many other uses for which the proposed facility is designed, not just on the sanctuary space.

In summary, Chabad Center has not shown that its proposed conditional use includes sufficient off-street parking, and the City Council should deny its application for this reason. We ask that the City Council do so.

b. **Chabad Center Has Failed to Demonstrate that Its Facility will not Endanger the Public Health, Safety and Welfare through the Creation of Traffic Hazards.**

Chabad Center has failed to demonstrate its proposed facility will not have an “undue adverse impact on the public health, safety or welfare” as it is required to do by City Code, § 300.21(2)(f). The increased traffic created by the proposed facility will be a danger to public safety, and the City Council should deny Chabad Center’s application for that reason. Chabad Center’s application endangers public safety for at least three reasons.

First, Chabad Center has proposed direct driveway access onto a County road (CR73, aka Hopkins Crossroad) in very close proximity (less than 150 feet) to an established intersection (between Hopkins Crossroad and Mill Run/Fetterly Road). This is not safe. Hennepin County’s access spacing standards require a minimum quarter-mile spacing (1,320 feet) between established intersections and full access driveways onto CR73 like the one proposed here. For this reason, we understand that the Hennepin County Department of Public Works may not issue Chabad Center the required permit for its proposed access point. Regardless of whether the County choses to issue Chabad Center a permit or not, the City should not allow Chabad Center to create such an obvious traffic hazard.

Second, the lack of sufficient off-street parking described above will create pedestrian traffic on roads that are not designed to accommodate it. This likewise is not safe. Both Chabad Center and the City staff acknowledge that, for certain events (up to 22 a year, by Chabad Center’s own admission), the proposed facility will lack sufficient off-street parking. For these events, visitors to the Property will need to park vehicles on local streets. It will then be necessary for such visitors to walk from their vehicles to the Property. Neither Fetterly Road nor Mill Run nor any other local street on which visitors to the Property can park are designed to safely accommodate pedestrian traffic. There are no sidewalks, crosswalks or streetlamps. The City Council should not willingly impose such obvious risks and burdens upon the existing residents of the neighborhood. Rather, it should reject Chabad Center’s application and instruct it to come back with a better plan.

Third, the traffic study prepared by the City’s traffic consultant (SRF) does not adequately address the traffic hazards that will be created on Hopkins Crossroad by such a large volume of
visitors arriving at the Property during a short period of time. Our clients’ own traffic consultant, Swing Traffic Solutions, brought this deficiency to the attention of the Planning Commission along with other deficiencies in SRF’s analysis (namely, that the scope of the SRF study was too narrow; that SRF’s data was collected at an inappropriate time; that it failed to account for increased use of Hopkins Crossroad by pedestrians; and that it omitted proper consideration of “intersection sight distance”). We ask that the City Council take these deficiencies into account. The direct driveway access onto Hopkins Crossroad proposed by Chabad Center creates unacceptable traffic hazards, and the City Council should reject Chabad Center’s proposed conditional use for that reasons.

In summary, Chabad Center has not shown that its proposed conditional use will not endanger public safety, and the City Council should deny its application for this reason. We ask that the City Council do so.

II. **Denying the Chabad Center’s Application Would Not Violate the Religious Land Use and Institutionalized Persons Act.**

As the Chabad Center is a religious organization, its CUP application naturally raises questions relating to the extent to which the City is allowed to deny the application under the federal Religious Land Use and Institutionalized Persons Act ("RLUIPA"), 42 U.S.C. §§ 2000cc, *et seq.* The City’s attorney, Ms. Heine, submitted a Memorandum dated April 20, 2018 to the Planning Commission addressing RLUIPA and its impact on the Chabad Center’s application. In that Memorandum, Ms. Heine advises the Planning Commission to treat the Chabad Center’s application no differently than it would treat an application for a similar use by a non-religious applicant. We agree that this is the correct approach for the City to take.

We note that federal appellate courts have found that a municipality does not violate RLUIPA through the implementation and enforcement of land use regulations that are “neutral and traceable to municipal land planning goals” simply because those regulations affect religious institutions along with other uses. *Vision Church v. Vill. of Long Grove*, 468 F3d 975, 998-99 (7th Cir. 2006). Here, Chabad Center’s application raises concerns relating to off-street parking requirements and traffic hazards. These issues are neutral in character and do not relate in any way to the religious nature of the facility proposed by Chabad Center. For this reason, RLUIPA does not preclude the City Council from denying the Chabad Center’s application based on the deficiencies identified and discussed in this letter.

---

3 In very brief summary, numerous visitors arriving for the same event at approximately the same time will cause traffic to stack on Hopkins Crossroad. This will amplify the danger created by the planned driveway being in such close proximity to an established intersection.
III. CONCLUSION.

In summary, Chabad Center was obliged to make an affirmative showing that its proposed conditional use satisfies all requirements and criteria necessary for CUP approval under the City's zoning ordinance. Chabad Center has failed to make such a showing here. The City Council is therefore legally obligated to deny Chabad Center's application. We respectfully ask that it do so.

Our clients and many other residents of the neighborhood surrounding the Property will be present at the City Council meeting to voice their opposition to the proposed facility; to answer any questions the members of the City Council may have of them; and to provide the City Council with any requested additional information. Thank you in advance for your thoughtful consideration of this letter.

Very truly yours,

Bruce D. Malkerson
Stuart T. Alger
Patrick B. Steinhoff

PBS:ts
cc: Clients
    Corrine Heine, City Attorney
    Susan Thomas, Assistant City Planner
Resolution No. 2018-

Resolution approving a conditional use permit for a religious institution at 2333 and 2339 Hopkins Crossroad and 11170 Mill Run

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

Section 1. Background.

1.01 Chabad Center for Jewish Life has requested a conditional use permit to operate a religious institution from the combined site at 2333 and 2339 Hopkins Crossroad and 11170 Mill Run.

1.02 The site is legally described as: Lots 2, 3, and 4 Block 1, Heeler’s First Addition, according to the recorded plat thereof, Hennepin County, Minnesota.

1.03 On April 26, 2018, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. Standards.

2.01 City Code §300.16 Subd.2 outlines the following conditional use permit general standards:

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

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

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

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

2.02 City Code §300.16 Subd.3(b) outlines the following specific conditional use permit standards for religious institutions and facilities:
1. Direct access limited to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

2. Buildings set back 50 feet from all property lines;

3. Parking spaces and parking setbacks subject to section 300.28 of this ordinance;

4. No more than 70 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped; and

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

2.03 City Code §300.27 Subd.5 outlines the following site and building plan standards:

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

2. Consistency with this ordinance;

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

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

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

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

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

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

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

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

1. Religious institutions are specifically listed as conditionally-permitted uses in the single-family residential zoning district.

2. The goals, policies, and objectives of the comprehensive plan are generally the city’s effort to create a vibrant and resilient community. Religious institutions are a component of such communities.

3. The proposal has been reviewed by members of the city’s community development, engineering, public works, fire, and legal departments. Staff finds that the proposed religious institution would not have an adverse impact on the provision of government services or infrastructure.

4. The proposed institution would visually alter the Hopkins Crossroad/Mill Run area and result in a different level of activity than was historically observed while the site contained occupied single-family homes. Though noticeable, these changes would not be detrimental to the health, safety, or welfare of the community. The proposed institution would have no significant operational impacts to Hopkins Crossroad.

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

1. The proposed institution would have access to Hopkins Crossroad, which is defined as an arterial (minor reliever) roadway in the comprehensive plan.

2. The institution would meet the required setbacks from east and west property lines and exceed the required setbacks from the north and south.
3. By ordinance, one parking space is required for every 2.5 seats within the main sanctuary of a religious facility. As proposed, the sanctuary would regularly have seating for 99 people, requiring 40 parking stalls. 50 parking stalls would be striped on the site. Additional areas would be available as “proof-of-parking.”

4. Impervious surface would cover roughly 66 percent of the site.

3.03 The proposal would meet the site and building plan standards as outlined in City Code §300.27 Subd.5:

1. The proposal has been reviewed by city planning, engineering, and natural resources staff and found to be generally consistent with the city’s development guides, include the water resources management plan.

2. Religious institutions are specifically listed as conditionally-permitted uses in the single-family residential zoning district.

3. The proposal would result in alteration of the site, including changes to grade and tree removal/impact. However, with some modification to the grading plan – which is a condition of this resolution – site disturbance would be limited to the extent practicable, given construction of a building and parking lot.

4. The proposal would appropriately locate constructed features – new building and parking lots – at the center of the site, maintain green space and the opportunity for new plantings at its perimeter.

5. The location of the proposed building relative to open space and paved areas is appropriate. The façade of the building would be of a neutral color palate and would include natural materials, which are residential in character. Additionally, at a proposed height of 29 feet, the facility would be shorter than the 35 feet permitted for single-family homes. Vehicular and pedestrian circulation patterns would be intuitive.

6. As new construction, the building code requires use of energy saving features.

7. Generally, any change to the use of a property will bring with it changes to drainage patterns, sounds, and site lines. The objective standards – building setbacks, parking setbacks – as well as conformance with the stormwater management rules and conformance with nuisance regulations regarding lighting and “quiet hours” are intended to minimize or mitigate for these changes.

Section 4. City Council Action.

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

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:
   
   - Site plan, dated May 10, 2018
   - Floor plans, dated May 10, 2018
   - Landscape plan, dated March 23, 2018, and as amended by site plan dated May 10, 2018
   - Grading plan, dated March 23, 2018 and as amended by site plan dated May 10, 2018
   - Utilities plan, dated March 23, 2018
   - Building elevations, dated May 10, 2018

2. Prior to issuance of a building permit:
   
   a) This resolution must be recorded with the county.
   
   b) Obsolete drainage and utility easements must be vacated.
   
   c) Obtain permits from the county for access and work within county right-of-way.
   
   d) Submit a lot combination form to the county.
   
   e) Submit the following:
      
      1) Items associated with site work:
         
         a. An electronic PDF copy of all required plans and specifications.
         
         b. Final site, grading, utility, stormwater management, landscape, and tree mitigation plans, and a stormwater pollution prevention plan (SWPPP).
         
         1. Final site plan must be revised as follows:
            
            • Include a hammerhead turnaround in the northwest corner of the parking lot for fire apparatus.
            
            • Show and label “proof of parking” stalls in the south court as per the traffic and parking study.
2. Final grading plan must be revised as follows:
   - Runoff from the east side of the building must be directed overland or via piping to the underground stormwater facility.
   - Show no grading on adjacent property or otherwise provide written approval for such.
   - Adjust grading adjacent to trees 46, 49, 144, 147, 151, 152, and 152 to protect their critical roots zones.
   - Grade out area adjacent to Hopkins Crossroad to accommodate future public trail.

3. Final utility plan must be revised as follows:
   - Illustrate unused water services removed back to the main with pipe removed and the corporation stop turned off.
   - Illustrate unused sanitary services removed back to the main with pipe removed and the wye cut out and sleeved.

4. Final stormwater management plan must meet the requirements of the city’s Water Resources Management Plan, as outlined in Appendix A. Design. The plan and acceptable model must demonstrate conformance with the following criteria:
   - Volume Control: Provide onsite retention of 1-inch of runoff from impervious surfaces. The city prefers that this be accomplished through infiltration practices.
   - Rate Control: Limit peak runoff flow rates to that of existing conditions for
the 2-, 10-, and 100-year storm events at all points where stormwater discharge leaves the parcel.

- Water Quality: Provide for all runoff to be treated to at least 60% removal efficiency for total phosphorus and 90% total suspended solids.

In addition:

- Provide soil boring in underground storage locations to verify infiltration rates and three-foot separation between the bottom of the facility and the seasonally-high ground water table.

- The underground facility must be able to support 83,000 pounds and 10,800 pounds per square foot outrigger loads.

- The applicant must hire a qualified third party to inspect the installation of the underground facility. The party must provide the city verification that pressure requirements are adequately met.

5. Final landscaping and tree mitigation plans must:

- Include species and size of proposed plantings.

- Include substitution of half of the originally proposed 78 arborvitae with another species to avoid planting a monoculture.

- Include tree mitigation for trees removed outside of the code-defined basic tree removal area. Under the originally submitted plans, two 2-inch deciduous trees, and five 6-foot
evergreen trees must be planted as mitigation.

c. Private driveway easement for review and approval by the city attorney. The easement must outline the construction and maintenance responsibilities associated with the driveway, as between the owner of the site and the owner of the residential property to the north.

d. Stormwater maintenance agreement over the proposed underground stormwater treatment facility.

e. 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.

f. Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to construct parking lot and stormwater facility improvements, comply with landscaping requirements, and to restore the site. One itemized letter of credit is permissible, if approved by staff. The city will not fully release the letters of credit or cash escrow until: (1) a final as-built survey has been submitted; (2) vegetated ground cover has been established; and (3) required landscaping or vegetation has survived one full growing season.

g. 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 or grading problems.
2) Items associated with building work:

a. A final material and color palate board for staff review and approval.

b. An exterior lighting and photometric plan.

c. All required hook-up fees.

f) Install a temporary rock driveway, erosion control, 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. During construction adjacent streets must be kept free of debris and sediment.

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

5. This conditional use permit approves the land use as presented in the plans outlined in this resolution and as outlined in associated staff reports. Any change to the approved use that results in a significant increase in traffic or a significant change in character beyond that outlined in this resolution may require a revised conditional use permit. This includes a regular or permanent increase in sanctuary seating beyond 99 seats.

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 14, 2018.

_______________________________________  Brad Wiersum, Mayor

Attest:

________________________________________  David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption: ______________________
Seconded by: _____________________________
Voted in favor of: _________________________
Voted against: ___________________________ 
Abstained: _______________________________
Absent: _________________________________
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on May 14, 2018.

__________________________________
David E. Maeda, City Clerk
City Council Agenda Item #15A
Meeting of May 14, 2018

**Brief Description:** Reappointments to the senior citizens advisory board

**Recommended Action:** Approve the recommended reappointments

**Background**

On May 31, 2018, the following board members will reach the end of their terms and are eligible for reappointment: Vickey Brouillette, Richard King, Tom Scott, HS Tim Temple, and Robert Waddell. All of them have been valuable and productive members and each member has indicated an interest in continuing to serve an additional term. Chris Meyer has completed his term and no longer eligible for reappointment.

With the information listed for each of the above members, the board has one opening.

The updated membership roster showing the composition of the senior citizens advisory board is attached.

**Recommendation**

Approve the following terms on the senior citizens advisory board:

- Vickey Brouillette, to the senior citizens advisory board, to serve a two-year term, effective June 1, 2018 and expiring on May 31, 2020.
- Richard King, to the senior citizens advisory board, to serve another two-year term, effective June 1, 2018 and expiring on May 31, 2020.
- Tom Scott, to the senior citizens advisory board, to serve another two-year term, effective June 1, 2018 and expiring on May 31, 2020.
- HS Tim Temple, to the senior citizens advisory board, to serve another two-year term, effective June 1, 2018 and expiring on May 31, 2020.
- Robert Waddell, to the senior citizens advisory board, to serve another two-year term, effective June 1, 2018 and expiring on May 31, 2020.

Respectfully submitted,

Brad Wiersum
Mayor
Senior Citizens Advisory Board

Current Members

This board is comprised of 15 members whose duties include advising the city council on the needs and status of seniors in the city, recommending ways in which those needs may be met; determining and assessing existing resources in the city which may be utilized by seniors to meet their needs; evaluating and assessing proposed programs, grants and other governmental activities which may impact seniors; recommending policies, goals and objectives for the operation of the Senior Center, and working with staff and the senior director. Members serve two-year terms, and meet the second Tuesday of each month at 10:00 a.m.

<table>
<thead>
<tr>
<th>Name</th>
<th>Ward</th>
<th>Comments</th>
<th>Appointed</th>
<th>Reappointed</th>
<th>Reappointed</th>
<th>Reappointed</th>
<th>Term Expires</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open Position</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Miranda</td>
<td>2</td>
<td></td>
<td>2017-10-10</td>
<td>Reappointed</td>
<td>Reappointed</td>
<td>Reappointed</td>
<td>2019-05-31</td>
</tr>
<tr>
<td>Aurelien</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Patricia</td>
<td>4</td>
<td></td>
<td>2018-04-30</td>
<td>Reappointed</td>
<td>Reappointed</td>
<td>Reappointed</td>
<td>2019-05-31</td>
</tr>
<tr>
<td>Baker</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vickey</td>
<td>4</td>
<td></td>
<td>2016-05-23</td>
<td>Reappointed</td>
<td>Reappointed</td>
<td>Reappointed</td>
<td>2019-05-31</td>
</tr>
<tr>
<td>Brouillette</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Frances</td>
<td>1</td>
<td></td>
<td>2013-06-03</td>
<td>Reappointed</td>
<td>Reappointed</td>
<td>Reappointed</td>
<td>2015-05-31</td>
</tr>
<tr>
<td>Dranginis</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2017-05-22</td>
</tr>
<tr>
<td>Bob</td>
<td>1</td>
<td></td>
<td>2018-04-30</td>
<td>Reappointed</td>
<td>Reappointed</td>
<td>Reappointed</td>
<td>2019-05-31</td>
</tr>
<tr>
<td>Gilbertson</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Judith</td>
<td>1</td>
<td></td>
<td>2015-05-18</td>
<td>Reappointed</td>
<td>Reappointed</td>
<td>Reappointed</td>
<td>2017-05-22</td>
</tr>
<tr>
<td>Hansen</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2019-05-31</td>
</tr>
<tr>
<td>Richard</td>
<td>2</td>
<td></td>
<td>2014-06-02</td>
<td>Reappointed</td>
<td>Reappointed</td>
<td>Reappointed</td>
<td>2016-05-31</td>
</tr>
<tr>
<td>King</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2018-06-01</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Name</td>
<td>Ward</td>
<td>Comments</td>
<td>Appointment Date</td>
<td>Term Expires</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------------</td>
<td>------</td>
<td>----------</td>
<td>------------------</td>
<td>-------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thomas O'Reilly</td>
<td>1</td>
<td></td>
<td>2017-10-10</td>
<td>2019-05-31</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ron Parker</td>
<td>4</td>
<td></td>
<td>2015-05-18</td>
<td>2019-05-31</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tom Scott</td>
<td>1</td>
<td>President</td>
<td>2014-06-02</td>
<td>2020-05-31</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bonnie Sussman</td>
<td>2</td>
<td>Vice President</td>
<td>2011-06-06</td>
<td>2019-05-31</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>HS Tim Temple</td>
<td>4</td>
<td></td>
<td>2013-06-03</td>
<td>2020-05-31</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Robert Waddell</td>
<td>1</td>
<td></td>
<td>2016-07-01</td>
<td>2020-05-31</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wendy Woodfill</td>
<td>4</td>
<td>Secretary</td>
<td>2015-06-22</td>
<td>2019-05-31</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Staff Liaison:**
Steve Pieh, Senior Services Director, Ph # 952-939-8366