Agenda
Minnetonka City Council
Regular Meeting, Monday, October 26, 2015
6:30 P.M.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Ellingson-Allendorf-Acomb-Wiersum-Bergstedt-Wagner-Schneider
4. Approval of Agenda
5. Approval of Minutes: None
6. Special Matters:
   A. Retirement recognition of Bob Manor
   B. Recognition of 2015 photo contest winners
   C. Proclamation for Extra Mile Day
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. Ordinance regarding appeals from fire marshal decisions
   B. Ratification of solar garden contract with New Energy Equity LLC
11. Consent Agenda - Items Requiring Five Votes:
   A. Resolution approving a conditional use permit, with locational variance, for an accessory apartment at 11816 Karen Lane
12. Introduction of Ordinances:

   A. Ordinance amending Section 710 of the city code regarding increases/changes in fees

      Recommendation: Introduce the ordinance (4 votes)

   B. Items regarding land exchange agreement for property on Crosby Road:

      1) Land exchange agreement for property on Crosby Road
      2) Introduction of ordinance authorizing land exchange

      Recommendation: Approve the land exchange agreement and introduce the ordinance (4 votes)

13. Public Hearings:

   A. On-sale wine and on-sale 3.2 percent malt beverage liquor licenses for People’s Organic Coffee and Wine Shop, 12934 Minnetonka Boulevard

      Recommendation: Open the public hearing and continue to November 23, 2015 (4 votes)

   B. Secondhand Dealer license for Best Buy Stores, LP at 12411 Wayzata Blvd

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

14. Other Business:

   A. Resolution authorizing the city of Minnetonka to serve as the Local Government Unit representing Eagle Ridge Academy in their application for a Hennepin County Youth Sports Program grant request

      Recommendation: Adopt the resolution (majority votes)

   B. Resolution authorizing the certification of delinquent water and sanitary sewer charges to the Hennepin County Auditor

      Recommendation: Adopt the resolution (4 votes)

   C. Items concerning Cherrywood Pointe of Minnetonka at 2004 Plymouth Road

      1) Ordinance rezoning the property from R-1 to PUD;
      2) Master development plan; and
      3) Site and building plan review.

      Recommendation: Adopt the ordinance and resolution approving the proposal (4 votes)
15. Appointments and Reappointment: None

16. Adjournment
Brief Description: Retirement recognition of Bob Manor

Recommendation: Recognize employee

It is the practice of the city council to recognize the contributions of retiring city of Minnetonka employees.

**Bob Manor, 28 years of service**

Bob began his service with the city in March of 1987. Bob started as a part time employee, but that did not last long. The city recognized Bob’s dedication and offered him full time employment. He eventually was promoted to Building Official and supervises the inspections staff for the city of Minnetonka.

Bob’s regular duties include early morning inspections to get contractors on their way for the day and ensure they are conducting work properly. He often advises architects on code compliance, but does it early, to prevent problems in the future. Bob often mediates issues and is considered a calm, seasoned advisor.

Bob has been involved in local (10,000 Lakes Chapter), state and national building code committees. He has also held numerous leadership positions within those organizations. He has spent time researching and providing input, particularly to the International Code Council.

Some interesting statistics during Bob’s tenure are:

- 1600 new single family homes were built
- Nearly 200,000 permits were issued
- Over 2 billion dollars of construction investment occurred
- Countless building inspections for code compliance were completed

Some of Bob’s most memorable experiences include involvement in such projects as Boulevard Gardens, Carlson Towers, Crescent Ridge, United Health Group and the Marriott Hotel. He was particularly instrumental in the success of the Extreme Makeover Home Edition television show that required round the clock inspections and innovative on-the-spot solutions. One of the most rewarding and most recent projects Bob has provided leadership for is the Ridgedale mall expansion, particularly Macy’s and Nordstrom.
The city has been fortunate to have such a dedicated employee. Bob treated everyone he met with patience and kindness. He is respected by his peers, contractors, residents and his co-workers. Bob’s retirement plans include spending more time with his family and continuing his maple syrup operation in Wisconsin. He will be greatly missed upon his retirement, and we thank him for his many years of dedicated service to the city.

Submitted through:
   Geralyn Barone, City Manager

Originated by:
   Julie Wischnack, AICP, Community Development Director
City Council Agenda Item #6B  
Meeting of October 26, 2015

**Brief Description:** Recognition of 2015 Photo Contest Winners

**Recommended Action:** Recognize 2015 Contest Winners

**Background**

This year’s photo contest, hosted in conjunction with the Minnetonka Fire Department and City Open House, received more than 90 entries. The entries were judged by the Minnetonka Park Board.

Photos were submitted in three categories: Natural Minnetonka, Lifestyle Minnetonka and Wild Minnetonka. The judges chose three overall winners and a Judges’ Choice winner in each category. In addition, Open House visitors voted for a People’s Choice Award winner. All winners receive a certificate of recognition.

- Eric Raarup earned first place for “Three Sisters,” a photo of the reflection of three trees on Lake Minnetonka.
- Jennifer Hyland earned second place for her photo of a barred owl in her backyard.
- Jennifer Hyland also earned third place for her photo of black-eyed susans.
- Danny Mydra earned the Judges’ Choice award in the Wild Minnetonka category with his “Pollinating Bumblebee” photo of a bumblebee on a flower.
- Christi Bystedt earned the Judges’ Choice award in the Natural Minnetonka category with her “Blazing Star in Pollinator Garden” photo of two monarch butterflies.
- Krista Badola earned the Judges’ Choice award in the Lifestyle Minnetonka category with her “On Gray’s Bay” photo of sailboats on Gray’s Bay.
- The People’s Choice award winner was Brad Caron’s photo, “Bambi and Thumper,” of a deer and a rabbit in his backyard.

**Recommendation**

Recognize the 2015 photo contest winners.

Submitted through:
Geralyn Barone, City Manager
Perry Vetter, Assistant City Manager

Originated by:
Kari Spreeman, Communications and Marketing Manager
First Place
Three Sisters

Eric Raarup
Second Place

Barred Owl

Jennifer Hyland
Third Place

Black-Eyed Susans

Jennifer Hyland
Judges’ Choice, Wild Minnetonka
Pollinating Bumblebee
Danny Mydra
Judges’ Choice, Natural Minnetonka

Blazing Star in Pollinator Garden

Christi Bystedt
Judges’ Choice, Lifestyle Minnetonka:

On Gray’s Bay

Krista Badola
People’s Choice Award

Bambi and Thumper

Brad Caron
Brief Description: Proclamation for Extra Mile Day

Recommended Action: Approve the proclamation

Background

The Extra Mile America Foundation is a nonprofit organization that empowers individuals, organizations and cities to "go the extra mile." In 2014, 527 inspirational mayors and city leaders stood up and jointly recognized Extra Mile Day, a day to recognize the people and organizations who are creating positive change in our communities through their extra mile efforts in volunteerism and service. Each year, the organization hosts an Extra Mile Day, set this year for November 1.

The city of Minnetonka has been declared an “Extra Mile City” this year. On Wednesday, November 4 the Minnetonka Park Board will recognize a portion of our 1,200 volunteers that have contributed over 29,400 hours for our park, recreation and trail system in the areas of recreation programming, natural resource stewardship and historical educational, an average of 25 hours per volunteer.

Recommendation

Approve the proclamation for Extra Mile Day on November 1, 2015.

Submitted through:
Geralyn Barone, City Manager

Originated by:
Perry Vetter, Assistant City Manager
City of Minnetonka
Proclamation
Extra Mile Day
Sunday, November 1, 2015

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

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

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

WHEREAS, Minnetonka, Minnesota acknowledges the mission of Extra Mile America to create 550 Extra Mile cities in America and is proud to support “Extra Mile Day” on November 1, 2015.

NOW THEREFORE LET IT BE RESOLVED that the Minnetonka City Council hereby proclaims November 1, 2015, to be Extra Mile Day. We urge each individual in the community to take time on this day to not only “go the extra mile” in his or her own life, but to also acknowledge all those who are inspirational in their efforts and commitment to make their organizations, families, community, country, or world a better place.

Terry Schneider, Mayor
October 26, 2015
City Council Agenda Item #10A  
Meeting of October 12, 2015

**Brief Description:** Ordinance regarding appeals from fire marshal decisions

**Recommended Action:** Adopt the ordinance

**Background**

This is a technical amendment to the city code. The ordinance was introduced on October 12, 2015.

Under the state fire code, any appeal from a local fire marshal must be brought to a local board of appeals before it can proceed to the state fire marshal. If no local board of appeals is appointed, the city council serves as the board of appeals.

The city’s current ordinance requires that an appeal from a fire marshal decision must be heard by a hearing officer. The hearing officer’s decision is not final but is only a recommendation to the city council. That process adds an unnecessary additional layer to the review process. Under the proposed amendment, appeals from the fire marshal will be heard either by the city council or by an ad hoc board of appeals appointed for the purpose of hearing the appeal. In either case, the decision of the council or the board is a final city decision.

The board of appeals is proposed to be ad hoc because appeals from a fire marshal decision are infrequent. An ad hoc board eliminates the need to annually appoint a board that is unlikely to take action. The council will have the option of appointing an ad hoc board of appeals that involve complicated interpretations of the fire code or that may involve a lengthy hearing.

**Recommendation**

Adopt the ordinance.

Submitted through:
- Geralyn Barone, City Manager
- John Vance, Fire Chief

Originated by:
- Corrine Heine, City Attorney
- Luke Bersheit, Fire Marshal
Ordinance No. 2015-___

An Ordinance amending sections 910.031, 910.032 and 910.033 of the Minnetonka City Code; relating to appeals from decisions of the fire marshal and variances from the fire code

The City of Minnetonka Ordains:

Section 1. Section 910.031 of the Minnetonka City Code is amended to read as follows:

910.031. Hearing.
A hearing must be held within 30 days after receipt by the city clerk of a timely appeal or variance application. The hearing must be held before a city-appointed hearing officer who may not be a member of the city staff council, unless the council appoints an ad hoc board of appeals to hear the matter. An ad hoc board of appeals must consist of at least three members, each of whom is familiar with construction methods and the uniform fire code. The Minnesota rules of evidence need not be strictly followed, and the records of the fire marshal must be considered without further foundation. The hearing examiner must prepare a report containing written findings, conclusions, and a recommendation to the city council on the appropriate disposition of the appeal or variance application. The hearing officer's report must be made within 15 days after the hearing and must be served upon the person who filed the appeal or variance application, the fire marshal, and the city clerk.

Section 2. Section 910.032 of the Minnetonka City Code is amended to read as follows:

910.032. Decision City Council Action.
The city council or ad hoc board of appeals must issue a written decision report of the hearing examiner must be referred to the city council within 30 days after the hearing, affirming or overturning the fire marshal's decision and approving or denying the variance application after issuance of the report. The decision must be mailed or delivered to the person who filed the appeal or variance application, the fire marshal, and the city clerk. The decision of the council or ad hoc board of appeals is the final decision of the city. The person filing the appeal or variance application must be notified of the hearing at least seven days before the date when the city council will consider the hearing examiner's report. The person filing the appeal or variance application and the fire marshal must be given the

The stricken language is deleted; the underlined language is inserted.
opportunity to summarize their positions before the city council. The city council may either affirm, modify, or overturn the hearing examiner’s recommendation.

Section 3. Section 910.033 of the Minnetonka City Code is amended to read as follows:

910.033. Standards of Review.
In reviewing a variance application submitted under section 910.030, the hearing officer and the city council or ad hoc board of appeals must take into consideration the benefit to be obtained by complying with the fire marshal’s order and the effect on affordable housing, provided that the spirit of the code is complied with and public safety is secure. In addition, a variance from the minimum requirements in the state fire code may be granted only if there is substantial compliance with the provisions of the state fire code, the safety of the public and occupants of buildings will not be jeopardized, and undue hardship will result to the applicant unless the requested variance is granted.

Section 4. This ordinance is effective 30 days after publication.

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

____________________
Terry Schneider, Mayor

Attest:

____________________
David E. Maeda, City Clerk

The stricken language is deleted; the underlined language is inserted.
Action on this Ordinance:

Date of introduction: October 12, 2015
Date of adoption:
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication:

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

__________________________________________________________________________

David E. Maeda, City Clerk
Brief Description: Ratification of solar garden contract with New Energy Equity LLC

Recommended Action: Ratify the execution of the contract

Background

On August 31, 2016, the city council approved a contract with WGL Energy for a solar garden subscription agreement, subject to final approval of terms by the city attorney and city manager. The final terms were agreed upon a short time later.

At the time the contract was to be executed, the representatives with whom the contract has been negotiated informed the city attorney that the business will be operated under the corporate name of New Energy Equity LLC. The principals with whom the city has negotiated have not changed, nor have the terms of the agreement changed. The only change is the corporate entity name. The city’s consultant, Gary Swanson, confirmed that the change was acceptable.

The contract has been executed with New Energy Equity LLC. It is requested that the council ratify the execution of the contract, in order to document the change in the contracting party’s name.

Recommendation

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

Originated by:
Corrine Heine, City Attorney
Brief Description
Resolution approving a conditional use permit, with locational variance, for an accessory apartment at 11816 Karen Lane

Recommendation
Recommend the city council adopt the resolution approving the permit, with variance.

Background
In 2002, the owner of the subject property submitted building, electrical, plumbing, and mechanical permit applications to convert an accessory building into a “guest house.” The permits were reviewed and approved by the building division of the community development department. Unfortunately, the permits were not reviewed by the planning division. Had they been, planning staff would have noted that additional zoning review and approval was required. Both the property owner and planning staff just recently became aware that the existing accessory apartment has not received this zoning approval.

Proposal
The property owner is now requesting approval to continue use of the existing accessory apartment. This requires:

• Conditional Use Permit: Accessory apartments are conditionally permitted uses within the R-1 zoning district.

• Variance: By definition, an accessory apartment is a self-contained housing unit located within the confines of an existing single-family house. A locational variance is required as the accessory apartment is a separate structure.

Planning Commission Hearing
The planning commission considered the request on its October 15, 2015 consent agenda. The staff report from that meeting is attached and various plans and documents describing the proposed project may be found on pages A1–A11. Staff recommended approval of the request, noting:

• The property owner responsibly applied for and received building, electrical, plumbing and mechanical permits for creation of the accessory apartment. The permit applications themselves clearly indicated they were for a “guest house.” It would be unreasonable to require disuse of the existing apartment because of an oversight on the part of city staff.
The unique shape of the existing property, distance between the home and accessory apartment, and mature vegetation separating both from surrounding properties, combine to form a unique circumstance not common to other residentially-zoned properties. (See page A1).

It is unlikely that the existing accessory apartment has negatively impacted the character of the surrounding area. The accessory building has been in place for nearly 25 years and used as an accessory apartment for 13 years. During this time, the city has received no complaints regarding either the building or use.

At the meeting, a public hearing was opened to take comment on the consent agenda items. No comments were received.

Planning Commission Recommendation

On a 6-0 vote, the commission recommended that the city council approve the permit, with variance. Meeting minutes may be found on page A18.

Since Planning Commission Hearing

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

Staff Recommendation

Adopt the resolution approving a conditional use permit, with locational variance, for an existing accessory apartment at 11816 Karen Lane. (See pages A12–A17.)

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

Originator: Susan Thomas, AICP, Principal Planner
Conditional use permit, with locational variance, for an accessory apartment at 11816 Karen Lane.

Recommend the city council adopt the resolution approving the permit, with variance.

In 1991, the owner of the subject property submitted building, electrical, plumbing and mechanical permit applications for construction of an accessory building. The building was to be used as an artist studio/workshop. The proposed structure met all minimum requirements, and the permits were approved.

Nothing in the zoning ordinance prohibits the general installation of electricity, plumbing, or heating/air conditioning in an accessory structure. However, *specific* installations that is intended to allow for residential occupancy – provision of areas for sleeping, cooking, and sanitation – would not be allowed without special and specific zoning approval.

In 2002, the property owner submitted building, electrical, plumbing, and mechanical permit applications to convert the accessory building into a “guest house.” The permits were reviewed and approved by the building division of the community development department. Unfortunately, the permits were *not* reviewed by the planning division. Had they been, planning staff would have noted that additional zoning review and approval was required. Both the property owner and planning staff just recently became aware that the existing accessory apartment has not received this zoning approval.

The property owner is now requesting approval to continue use of the existing accessory apartment. (See pages A1–A12.) This requires:

- Conditional Use Permit: Accessory apartments are conditionally permitted uses within the R-1 zoning district.

- Variance: By definition, an accessory apartment is a self-contained housing unit located *within the confines of* an existing single-family house. A locational variance is required as the accessory apartment is a separate structure.
Staff Analysis

Staff finds that the request is reasonable for the following reasons:

1. The property owner responsibly applied for and received building, electrical, plumbing and mechanical permits for creation of the accessory apartment. The permit applications themselves clearly indicated they were for a "guest house." It would be unreasonable to require disuse of the existing apartment because of an oversight on the part of city staff.

2. The unique shape of the existing property, distance between the home and accessory apartment, and mature vegetation separating both from surrounding properties, combine to form a unique circumstance not common to other residentially-zoned properties. (See page A1).

3. It is unlikely that the existing accessory apartment has negatively impacted the character of the surrounding area. The accessory building has been in place for nearly 25 years and used as an accessory apartment for 13 years. During this time, the city has received no complaints regarding either the building or use.

Staff Recommendation

Recommend the city council adopt the resolution approving a conditional use permit, with locational variance, for an existing accessory apartment at 11816 Karen Lane. (See pages A13–A17.)

Originator: Susan Thomas, AICP, Principal Planner
## Supporting Information

**Surrounding Land Uses**
The subject property is surrounded by single-family homes zoned R-1

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

**CUP Standards**
The accessory apartment would meet all general conditional use permit standards as outlined in City Code §300.16 Subd. 2:

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

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

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

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

The apartment would meet all specific conditional use permit standards for an accessory apartment as outlined in City Code §300.16 Subd. 3(d):

1. To be created only on property zoned for single family detached dwellings and no more than one apartment to be created in any dwelling;

   **Finding:** The property is zoned R-1; just one accessory apartment exists on site.

2. Structures in which an accessory apartment is created to be owner-occupied, with the owner residing in either unit on a continuous basis except for temporary absences throughout the period during which the permit is valid;

   **Finding:** This has been the historical practice of the property owner and is included as a condition of approval.

3. Adequate off-street parking to be provided for both units of housing with such parking to be in a garage, carport or on a paved area specifically intended for that purpose but not within a required turnaround;
Finding: Both the primary home and the accessory apartment have indoor garage space and paved driveways.

4. May be created by the conversion of living space within the house but not by conversion of garage space unless space is available for a two car garage on the lot without the need for a variance;

Finding: Both the primary home and the accessory apartment have indoor garage space; the primary a two-stall garage and the accessory a one-stall garage.

5. An accessory apartment must be no more than 35 percent of the gross living area of the house or 950 square feet, whichever is smaller. The gross living area includes the accessory apartment. The city council may approve a larger area where the additional size would not substantially impact the surrounding neighborhood.

Finding: The accessory apartment is 779 square feet in size. With the attached garage, the building has a total area of 974 square feet. Given that the city has received no complaints regarding the apartment, staff finds that the additional size does not substantially impact the surrounding area. This has been noted in the approval resolution.

6. Exterior changes to the house must not substantially alter the single family character of the structure;

Finding: No changes were made to the home to accommodate the existing structure.

7. No apartment to be created except in compliance with all applicable building, housing, electrical, plumbing, heating and related codes of the city;

Finding: All required permits were obtained.

8. To be permitted only where it is demonstrated that the accessory unit will not have an undue adverse impact on adjacent properties and where there will not be a substantial alteration of the character of the neighborhood; and

Finding: Given that the city has received no complaints regarding the existing apartment, staff finds that it has not had an undue adverse impact on adjacent properties or substantially altered the character of the neighborhood.
9. All other provisions of this ordinance relating to single family
dwelling units to be met, unless specifically amended by this
subdivision.

Finding: This finding is met.

Variance Standard

The existing accessory apartment is not located within the
confines of an existing house. Rather, it is located in a separate
building. As such, a locational variance is required. The
apartment meets the variances standard as outlined in City Code
§300.07 Subd. 1:

1. PURPOSE AND INTENT OF THE ZONING ORDINANCE:
The intent of the zoning ordinance as it pertains to accessory
apartments is to ensure that single-family residential
properties on which such apartments are created maintain the
visual appearance of a single-family property. The existing
apartment meets this intent. The unique shape of the existing
property, distance between the home and accessory
apartment, and mature vegetation separating both from
surrounding properties, ensure that the apartment does not
seem “out of place.” The visual appearance of the single-
family property and neighborhood is not negatively impacted.

2. CONSISTENT WITH COMPREHENSIVE PLAN: Accessory
apartments are consistent with the housing goals of the
Comprehensive Guide Plan, as they add to the diversity of
housing types, sizes, and prices in the community.

3. PRACTICAL DIFFICULTIES: There are practical difficulties in
complying with the ordinance:

   a) REASONABLENESS: The locational variance, which
would allow for the existing accessory apartment to
remain, is reasonable. The property owner responsibly
applied for and received building, electrical, mechanical,
and plumbing permits for creation of the accessory
apartment. It would be unreasonable to require disuse of
the existing apartment because of an oversight on the part
of city staff.

   b) UNIQUE CIRCUMSTANCE: The unique shape of the
existing property, distance between the home and
accessory apartment, and mature vegetation separating
both from surrounding properties, combine to form a
unique circumstance not common to other residentially-
zoned properties.
c) CHARACTER OF LOCATILTY: It is unlikely that the existing accessory apartment has negatively impacted the character of the surrounding area. The accessory building has been in place for nearly 25 years and used as an accessory apartment for 13 years. During this time, the city has received no complaints regarding either the building or use.

<table>
<thead>
<tr>
<th>Neighborhood Comments</th>
<th>The city sent notices to 45 area property owners and received no comments to date.</th>
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</thead>
<tbody>
<tr>
<td>Deadline for Decision</td>
<td>December 21, 2015</td>
</tr>
</tbody>
</table>
Location Map

Project: Karen Danielson
Address: 11816 Karen Lane
(09003.15a)
Statement for Conditional Use Permit with Variance
Laura Danielson
11816 Karen Lane, Minnetonka

On or about 2001 or 2002 I hired a contractor to renovate a pre-existing building as a guest house for personal use. Everything was done with proper building permits, as indicated in city records. The original pre-existing building was built in 1991 and was built with proper permits for use as an art studio. It had gas heat, water, and a toilet. I remember the building inspector visiting the property regularly in 1991 to insure it was up to code. The renovations in 2001 (or thereabouts) were substantial and included putting in all new windows, skylights, a new bathroom with shower, full kitchen, furnace, air conditioning, a bedroom, and an office space. (See photos, attached.) These renovations were done with regular inspections by the Minnetonka city inspector at the time. I distinctly remember him requiring larger egress windows in the bedroom and a vapor barrier in the garage because he knew people would sleep there. Over the years it has been home to numerous guests, family (adult children and parents) and close friends. I was never notified until now that I needed a conditional use permit with variance.

At the time I had this renovation work done I was financed by US Bank based upon an appraisal that gave significant value to this new addition, of approximately $150,000. Recently I decided to refinance my property and I learned from two appraisers that my guest house cannot be given any value over $10,000 because it never got a conditional use permit. This was the very first I had ever learned of this issue, nearly 15 years later! The appraisers raised the issue that I might have difficulty getting the guest house rebuilt if it were ever to be destroyed through fire or natural disaster, which is a horrifying thought, particularly as I have had it insured for all of these years. Additionally, although I don’t plan to resell my property any time soon, I am concerned that in future the property cannot be sold at actual value because a future bank will not be able to appraise the guest house at true value. I don’t understand why I was not told of this need at the time that the Minnetonka inspector approved the building of the guest house, when all proper permits were pulled by my contractor. All that I can surmise is that he may have believed that such permits were acquired in 1991 when the art studio was built. While it was built with the required building permits and full inspections at that time, my friend who built it was never informed that any additional permits were required for conditional use or variance.

My property is unique, as it is the first house to be built in the neighborhood, back in 1943 or so. It is on a very large lot set back from neighbors on a hilltop. In the past nearly 25 years since the art studio was built, I have never received a single complaint from neighbors about the structure. As a private, setback property on a hill, with mature trees, fences, and significant landscaping, there is no reason for complaint.

I built the guest house for personal use only with what I thought was all the proper permits and allowances, and it has been invaluable to my family over the many years since (adult children, their children, and parents). I am still paying the bank for the renovations on this property and it would be a significant hardship to me financially if that value is lost. Therefore I am seeking this variance so that the property can be properly appraised and assessed (which I realize will likely increase my property taxes, as is fair.) There is no harm done to neighbors or anyone else to allow this structure to be granted a conditional use permit and variance so late in the game (15 or 25 years later!)

Thank you for considering my applications.

Laura Danielson
11816 Karen Lane
09003.15a

[Signature] 9/2/2015
Conditional Use Request with Variance, photos:

Guest house, built with permits in approximately 2001-2002. Total square footage is 974. On cement slab. Garage is approximately 195 sq feet of that total. Interior has 1 BR, 1 Bath w/shower, one small office/den, and combination living, eating and kitchen area with counter. Photos are labeled:

Front view: south
Side view: west

Garden view: east
Back view: north. Note: setback from neighbors 11.3 feet. Neighbors are on large 1 acre plot and have lots of room (double-drive, etc) so it is still private. There was a tall privacy fence between us until recently that neighbors took down because it was getting old. They have indicated a plan to put it up again but there is no hurry because there aren’t significant privacy concerns.
East side garden and patio: note this is elevated significantly from neighbors to the east, with a fence blocking the property from neighbor’s to north and east. On east side there is also a retaining wall and an area still on my property beneath the retaining wall 9 feet wide which contains raised bed vegetable gardens, with a chain link fence between my property and neighbor’s.
Interior photo of kitchen and counter space

Eating area and east view to garden (note privacy fence above retaining wall)
Living area

Bedroom with egress windows
Office/den overlooking brick patio (south facing window)

Bath
Resolution No. 2015-

Resolution approving a conditional use permit, with locational variance, for an accessory apartment at 11816 Karen Lane

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

Section 1. Background.

1.01 By city code, an accessory living unit/accessory apartment is defined as a self-contained unit of housing located within the confines of an existing single family house and used as a separate housekeeping unit.

1.02 Accessory living units/apartments are conditionally-permitted on single-family residential properties.

1.03 In 2002, the owner of the property at 11816 Karen Lane applied for and received building, electrical, plumbing, and mechanical permits to convert an existing accessory building into an accessory apartment. However, due to an oversight on the part of city staff, a conditional use permit was not applied for or obtained.

1.04 The property owner has now applied for a conditional use permit, with locational variance, to allow for continued use of the accessory building as an accessory apartment.

1.05 On October 15, 2015, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.
Section 2. Standards.

2.01 City Code §300.16 Subd. 2 outlines the following general standards that must be met for granting a conditional use permit:

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

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

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

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

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

1. To be created only on property zoned for single family detached dwellings and no more than one apartment to be created in any dwelling;

2. Structures in which an accessory apartment is created to be owner-occupied, with the owner residing in either unit on a continuous basis except for temporary absences throughout the period during which the permit is valid;

3. Adequate off-street parking to be provided for both units of housing with such parking to be in a garage, carport or on a paved area specifically intended for that purpose but not within a required turnaround;

4. May be created by the conversion of living space within the house but not by conversion of garage space unless space is available for a two car garage on the lot without the need for a variance;

5. An accessory apartment must be no more than 35 percent of the gross living area of the house or 950 square feet, whichever is smaller. The gross living area includes the accessory apartment. The city council may approve a larger area where the additional size would not substantially impact the surrounding neighborhood.
6. Exterior changes to the house must not substantially alter the single family character of the structure;

7. No apartment to be created except in compliance with all applicable building, housing, electrical, plumbing, heating and related codes of the city;

8. To be permitted only where it is demonstrated that the accessory unit will not have an undue adverse impact on adjacent properties and where there will not be a substantial alteration of the character of the neighborhood; and

9. All other provisions of this ordinance relating to single family dwelling units to be met, unless specifically amended by this subdivision.

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

Section 3. Findings.

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

3.02 The existing accessory apartment meets the specific conditional use permit standards outlined in City Code 300.16 Subd.3(d).

1. The property is zoned R-1; just one accessory apartment existing on-site.

2. Historically, the property owner has resided in the home and family members or guests have resided in the accessory apartment. Owner occupancy has been included as a condition of this resolution.

3. Adequate off-street parking is provided for both the home and accessory apartment. Both have indoor garage space and paved
4. The accessory apartment is 779 square feet in size. With the attached garage, the unit has a total area of 974 square feet. The size of the unit does not substantially impact the surrounding area.

5. No changes were made to the home to accommodate the apartment.

6. All applicable building, electrical, plumbing, and heating permits were obtained.

7. The city has received no complaints regarding the existing apartment. Given this, it is unlikely that the apartment has had an undue adverse impact on adjacent properties or substantially altered the character of the neighborhood.

8. All other provisions of this ordinance relating to single family dwelling units are meet.

3.03 The apartment meets the variances standard as outlined in City Code §300.07 Subd. 1.

1. PURPOSE AND INTENT OF THE ZONING ORDINANCE: The intent of the zoning ordinance as it pertains to accessory apartments, is to ensure that single-family residential properties on which such apartments are created maintain the visual appearance of a single-family property. The existing apartment meets this intent. The unique shape of the existing property, distance between the home and accessory apartment, and mature vegetation separating both from surrounding properties, ensure that the apartment does not seem “out of place.” The visual appearance of the single-family property and neighborhood is not negatively impacted.

2. CONSISTENT WITH COMPREHENSIVE PLAN: Accessory apartments are consistent with the housing goals of the Comprehensive Guide Plan, as they add to the diversity of housing types, sizes, and prices in the community.

3. PRACTICAL DIFFICULTIES: There are practical difficulties in complying with the ordinance:

a) REASONABLENESS: The locational variance, which would allow for the existing accessory apartment to remain, is reasonable. The property owner responsibly applied for and received building, electrical, mechanical, and plumbing
permits for creation of the accessory apartment. It would be unreasonable to require disuse of the existing apartment because of an oversight on the part of city staff.

b) UNIQUE CIRCUMSTANCE: The unique shape of the existing property, distance between the home and accessory apartment, and mature vegetation separating both from surrounding properties, combine to form a unique circumstance not common to other residentially-zoned properties.

c) CHARACTER OF LOCATILTY: It is unlikely that the existing accessory apartment has negatively impacted the character of the surrounding area. The accessory building has been in place for nearly 25 years and used as an accessory apartment for 13 years. During this time, the city has received no complaints regarding either the building or use.

Section 4. City Council Action.

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

1. The property owner must reside in either the home or accessory structure.

2. The accessory structure must be maintained in the same footprint as illustrated on the survey received January 21, 2009.

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

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on October 26, 2015.

Terry Schneider, Mayor
Attest:

David E. Maeda, City Clerk

**Action on this resolution:**

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on October 26, 2015.

David E. Maeda, City Clerk
7. Public Hearings: Consent Agenda

No item was removed from the consent agenda for discussion or separate action.

Magney moved, second by Knight, to approve the item listed on the consent agenda as recommended in the respective staff report as follows:

A. Conditional use permit with a locational variance for an accessory apartment at 11816 Karen Lane.

Recommend that the city council adopt the resolution approving a conditional use permit with a locational variance for an existing accessory apartment at 11816 Karen Lane (see pages A13-A17 of the staff report).

Powers, Calvert, Knight, Magney, O’Connell, and Odland voted yes. Kirk was absent. Motion carried and the item on the consent agenda was approved as submitted.
City Council Agenda Item #12A
Meeting of October 26, 2015

Brief Description
Ordinance amending Section 710 of the city code regarding increases/changes in fees

Recommendation
Introduce the ordinance

Background
Each year, during budget preparation, staff reviews the fees charged by the city for certain services, and recommends adjustments to the fee schedule, where appropriate. Fees required by ordinance can be changed by amending Section 710 where these fees are listed. Staff requests the council introduce the enclosed ordinance (pages A1-A3), which increases certain fees.

When considering appropriate fees for service, the primary consideration is ensuring the fee is comparable to the actual costs of providing the service. Secondly, staff considers other jurisdictions’ charges for services, but only to provide a context, not as the basis for the fee or its increase. By law, the city may not charge fees higher than the city’s actual costs of providing the service.

Proposed 2016 Environmental Health License Fee Changes

As is the case with all other fee-based services in Minnetonka, environmental health inspection fees are also based on the city’s actual costs of providing those services. In this case, the staff analysis also considered Hennepin County’s 2016 proposed fee structure as a basis of comparison.

As a result of this analysis, staff is recommending that Minnetonka’s environmental health license fees be increased in order to cover both direct and indirect costs for these inspections.

Minnetonka’s fee schedule is based on the type of establishment, with different fees for each class based on the actual costs of the inspections. Generally, food establishments with more complex operations have more costs associated with the inspections, so fees are higher in these cases. The fees for schools are lower than restaurants despite the fact the city is required to inspect schools a minimum of two times a year as opposed to one, with restaurants. We have gradually been increasing the school fee over the last eight years to cover the city’s costs to provide the service.
Meeting of October 26, 2015
Subject: 2016 Fee Increases

If the fee changes shown above are adopted, the 2016 fees become effective January 1, 2016. While 2016 license renewals are sent out prior to the end of the year, the license is effective from January 1 to December 31.

**Proposed 2016 Engineering Fee Changes**

As is the case with all other fee-based services in Minnetonka, right-of-way fees are based on the city's actual costs of providing those services. In this case, the staff analysis also considered the present fee structure of comparable cities in the metro area as a basis of comparison.

The increase of new technology to install fiber optic networks and faster customer speeds continues to grow; therefore, right-of-way permits have continued to take up increasing amounts of staff time for the application process, right of way width and easement questions, follow up, and inspection. As a result of this fee analysis, staff is recommending that Minnetonka’s right-of-way fees be increased in order to cover both direct and indirect costs. Some of these fees have not been adjusted to actual costs since the original fee structure was adopted in 2010. These revised fees will still remain considerably below adjacent communities.
Other 2015 Licensing Changes

In April 2015, staff reviewed the licensing requirements for swimming pool contractor licenses to determine if there were any efficiencies that could be added for the contractor, as well as staff. Staff determined that it was unnecessary for a swimming pool contractor to apply for a license because the intent of the license was to ensure that the city was aware of excavation of the site. Currently, all swimming pool installations are required to have a building permit which allows staff to inspect and approve the site. The city licenses two to four pool contractors on an annual basis for $50 per license. Based on this information, it was determined that the swimming pool contractor license was not necessary and it was eliminated.

The Police Department is not proposing any changes for 2016.

Recommendation

Staff recommends introduction of the ordinance found on pages A1-A3. Additionally, staff has included page A4 to summarize the proposed fees. The ordinance indicates only those fees that are proposed for amendment. Licensees for environmental health related requests will be notified prior to council action on final approval and adoption of the ordinance, which is planned for council consideration on November 9, 2015.

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

Originated by:
- John Weinand, Environmental Health Supervisor
- Kathy Leervig, Community Development Coordinator
- Will Manchester, PE, Director of Engineering
Ordinance No. 2015-

An ordinance amending city code section 710.005 regarding certain fees

The City of Minnetonka Ordains:

Section 1. City code section 710.005, paragraphs 5, 10, 11, 18, 31, and 32 are amended as follows, to be renumbered alphabetically and the following paragraphs added and renumbered accordingly:

<table>
<thead>
<tr>
<th>para. no.</th>
<th>Description</th>
<th>amount</th>
<th>code section</th>
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<tbody>
<tr>
<td>5.</td>
<td>body art license</td>
<td>$315.00</td>
<td>320.015</td>
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<td><strong>315.00</strong>320.015</td>
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<td>10.</td>
<td>engineering and street items</td>
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<td>1120.055</td>
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<td></td>
<td>right of way permit</td>
<td>$40.00</td>
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<td></td>
<td>administrative fee</td>
<td><strong>40.00</strong>50.000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>excavation within street</td>
<td>$40.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>excavation within boulevard</td>
<td><strong>40.00</strong>50.000/ hole</td>
<td></td>
</tr>
<tr>
<td></td>
<td>open cut trench</td>
<td>$25.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>25.00</strong>50.000/100 linear for first 100 linear feet plus $.50/foot over 100 feet</td>
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<tr>
<td>11.</td>
<td>food establishment licenses</td>
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<td>815.020</td>
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<tr>
<td></td>
<td>Class A: supper clubs, sit-down, drive-in, delivery,</td>
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<tr>
<td></td>
<td>take-out restaurants; or similar facility</td>
<td><strong>800.00</strong>810.00</td>
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<td></td>
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<td></td>
<td>Class B: mobile food vendor, limited food vendor,</td>
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<td></td>
</tr>
<tr>
<td></td>
<td>mobile food cart, or similar facility</td>
<td><strong>480.00</strong>490.00</td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Class C: grocery, meat market, bakery, deli, rental</td>
<td>$640.00</td>
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</tr>
<tr>
<td></td>
<td>kitchen, limited food service, or similar facility</td>
<td><strong>640.00</strong>650.00</td>
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<tr>
<td></td>
<td>additional facilities - more than one of any type or</td>
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<td></td>
</tr>
<tr>
<td></td>
<td>types of any operation</td>
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The stricken language is deleted; the underlined language is inserted.
<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
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<tr>
<td>listed within the classes</td>
<td>$250.00 - 260.00</td>
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<tr>
<td>school kitchen inspection fee</td>
<td>$670.00 - 680.00</td>
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<tr>
<td>special food handling establishment - day care center</td>
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</tr>
<tr>
<td>full service</td>
<td>$485.00 - 490.00</td>
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<tr>
<td>limited service</td>
<td>$250.00 - 260.00</td>
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<td>18. lodging establishment license</td>
<td>$195.00 - 205.00</td>
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<tr>
<td>830.015</td>
<td></td>
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<tr>
<td>31. swimming pool installer's license</td>
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<tr>
<td>805.050</td>
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<tr>
<td>32. swimming pool license, public</td>
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<tr>
<td>indoor</td>
<td></td>
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<tr>
<td>outdoor</td>
<td></td>
</tr>
<tr>
<td>additional pool, same location</td>
<td>$260.00 - 265.00</td>
</tr>
</tbody>
</table>

Section 2. Section 805.050 (1)(2), related to swimming pool installers is repealed.

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

Section 4. This ordinance is effective January 1, 2016.

Adopted by the city council of the City of Minnetonka, Minnesota, on November 9, 2015.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

The stricken language is deleted; the underlined language is inserted.
Action on this ordinance:

Date of introduction: October 26, 2015
Date of adoption:
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication:

CERTIFIED COPY:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on November 9, 2015.

________________________________________
David E. Maeda, City Clerk

The stricken language is deleted; the underlined language is inserted.
## Summary of Proposed Fee Changes

<table>
<thead>
<tr>
<th>License Category</th>
<th>2015 fee</th>
<th>Proposed 2016 fee</th>
<th>Increase</th>
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<tbody>
<tr>
<td><strong>Environmental Health Fee Changes</strong></td>
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<tr>
<td>Class A license (restaurants)</td>
<td>$800</td>
<td>$810</td>
<td>$10</td>
</tr>
<tr>
<td>Class B license (mobile food vendor)</td>
<td>$480</td>
<td>$490</td>
<td>$10</td>
</tr>
<tr>
<td>Class C license (grocery stores)</td>
<td>$640</td>
<td>$650</td>
<td>$10</td>
</tr>
<tr>
<td>Additional facilities license</td>
<td>$250</td>
<td>$260</td>
<td>$10</td>
</tr>
<tr>
<td>School kitchen Inspection</td>
<td>$670</td>
<td>$680</td>
<td>$10</td>
</tr>
<tr>
<td>Daycare center food license</td>
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</tr>
<tr>
<td>Full service</td>
<td>$485</td>
<td>$490</td>
<td>$5</td>
</tr>
<tr>
<td>Limited service</td>
<td>$250</td>
<td>$260</td>
<td>$10</td>
</tr>
<tr>
<td>Swimming pool license, public</td>
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<tr>
<td>Indoor pool</td>
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<td>Outdoor pool</td>
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<td>$420</td>
<td>$5</td>
</tr>
<tr>
<td>Additional pool, same location</td>
<td>$260</td>
<td>$265</td>
<td>$5</td>
</tr>
<tr>
<td>Lodging establishment license</td>
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</tr>
<tr>
<td>Body art</td>
<td>$315</td>
<td>$320</td>
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### Engineering Fee Changes

<table>
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<tr>
<th>Right-of-way fees</th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>administrative fee</td>
<td>$40</td>
<td>$50</td>
</tr>
<tr>
<td>excavation within street</td>
<td>$40/hole</td>
<td>$50/hole</td>
</tr>
<tr>
<td>excavation within boulevard</td>
<td>$25/hole</td>
<td>$30/hole</td>
</tr>
<tr>
<td>open cut trench</td>
<td>$25/linear feet</td>
<td>$50 for first 100 linear feet, plus $.50/foot over 100 feet</td>
</tr>
</tbody>
</table>
City Council Agenda Item #12B  
Meeting of October 26, 2015

Brief Description: Items regarding land exchange agreement for property on Crosby Road:
1) Land exchange agreement for property on Crosby Road
2) Introduction of ordinance authorizing land exchange

Recommended Action: Approve the land exchange agreement and introduce the ordinance

Background

The city owns a parcel of land located southerly and southwesterly of property owned by David and Annmarie Yasminleh. The Yasminleh property is at 2634 Crosby Road, and the city’s property has no assigned street address. The Yasminleh property includes the land underlying a portion of Crosby Road, which is subject to an easement in favor of the city.

For several years, the city and Mr. Yasminleh have disagreed about the scope of the city’s easement. Mr. Yasminleh contended that the easement only gave the city the right to use the easement area to turn around city snow plows and road maintenance equipment. The city contended that the easement created a roadway easement that would allow establishment of a public street. In addition, the Yasminleh property includes a trampoline and other personal property on a portion of the city property, which was a concern to city staff.

Over the past several years, the parties have periodically discussed a land exchange to resolve these ongoing issues. Recently, city staff and the Yasminleh property have reached agreement on terms that the staff is willing to recommend to the council.

Under the proposed agreement, the city will convey a 35-foot wide strip from the city parcel to the Yasminleh property, and the strip must be combined with the Yasminleh parcel. The city property is currently encumbered by an easement in favor of the watershed district, and the agreement is contingent on the city’s ability to get the easement vacated. In exchange, the Yasminleh property will convey fee title to nearly all of the easement area to the city, except for a small triangle of land that is not needed by the city. The city will vacate its easement over that triangle of land.

The proposed land exchange agreement is attached. It includes sketches that depict the lands to be exchanged. The land area to be conveyed to the city is significantly larger than the land to be conveyed to the Yasminleh. However, because the land to be conveyed to the city is already subject to an easement, the parcels are considered to
be of equivalent value. Therefore, only land will be exchanged, without any additional payment of money to either party.

Sales of city property must be authorized by ordinance, and the city attorney has prepared an ordinance for the council's consideration. If introduced at this meeting, the ordinance will be presented for adoption at the November 9, 2015 council meeting.

The agreement provides for a closing before the end of December. The Yasminehs are negotiating for the sale of their property, with possible closing in December. Both the city staff and the Yasminehs desire to have this longstanding issue resolved before new owners take title to the Yasmineh property.

**Recommendation**

Approve the land exchange agreement and introduce the ordinance.

Submitted through:
- Geralyn Barone, City Manager
- Julie Wischnack, Community Development Director
- Will Manchester, City Engineer

Originated by:
- Corrine Heine, City Attorney
This map is for illustrative purposes only.
LAND EXCHANGE AGREEMENT

This Agreement is made __________________, 20___ by David J. Yasmineh and Annmarie C. Yasmineh, husband and wife (“Yasminehs”) and City of Minnetonka, a Minnesota municipal corporation (“City”).

Recitals

A. City is the fee owner of the real property with an unassigned address located on Crosby Road, immediately west of the property at 2634 Crosby Road, Minnetonka, Hennepin County, Minnesota, legally described as on the attached Exhibit C and depicted on the attached Exhibit A (the “City Property”).

B. Yasminehs are the fee owners of the real property located at 2634 Crosby Road, Minnetonka, Hennepin County, Minnesota, legally described on the attached Exhibit D and depicted on the attached Exhibit A (the “Yasmineh Property”).

C. The Yasmineh Property is subject to an easement in favor of the City of Minnetonka, dated April 30, 1968, and recorded as Document No. 3715380 in the office of the Hennepin County Recorder (the “Easement”). The Yasminehs and City dispute the scope of the rights granted under the Easement. The location of the Easement is depicted on the attached Exhibit A.

D. The City Property is subject to a blanket easement in favor of the Minnehaha Creek Watershed District, according to an Easement Agreement recorded June 19, 1979 as Document No. 4480317 if the office of the Hennepin County Recorder.

E. The City Property is generally vacant and unimproved, except that a portion of the City Property has been improved with asphalt and is used for a vehicle turning area (the “Turnaround Area,” as depicted on the attached Exhibit B, and, in addition, the Yasminehs have encroached with personal property upon a portion of the City Property.

F. Yasminehs desire to acquire a portion of the City Property (the “Strip Parcel,” as defined below), to be added to the Yasmineh Property.

G. In order to resolve the dispute concerning the scope of the rights granted in the Easement and to terminate encroachments on the City Property, the City is willing to convey the Strip Parcel to Yasminehs and to grant a limited use permit to the Yasminehs for use of the Turnaround Area, in exchange for fee title to most of land encumbered by the Easement.

Terms of Agreement

In consideration of the promises made below, the parties agree as follows:
1. **Recitals Incorporated.** The recitals above are incorporated into and made a part of this Agreement.

2. **Land to be Conveyed by Yasminehs.** Yasminehs agree to grant and convey to the City fee simple title to that portion of the Yasmineh Property (the “Right of Way Parcel”) described on the attached Exhibit E and depicted on the attached Exhibit B for public road purposes, without right of forfeiture. The Yasminehs will convey the Right of Way Parcel to the City for public road purposes, without right of forfeiture, by quit claim deed. The Right of Way Parcel consists of approximately 7,214 square feet of land, all of which is encumbered by the Easement. The Yasminehs may maintain the existing posts at the end of their current drive. Any replacement of the posts must be approved by the city prior to installation.

3. **Land to be Conveyed by City.** The City agrees to grant and convey to the Yasminehs fee simple title to that portion of the City Property (the “Strip Parcel”) described on the attached Exhibit F and depicted on the attached Exhibit B. The City will convey the Strip Parcel to Yasminehs by quit claim deed, subject to the restrictive covenant as set forth in this paragraph. The Strip Parcel consists of approximately 5,250 square feet of land. The quit claim deed must contain the following restrictive covenant:

   “The property described above (the “Strip Parcel”) is subject to restrictive covenants in favor of the City of Minnetonka, as follows: (1) the Strip Parcel is to be combined as a single tax parcel with the adjacent real property owned by the Grantors, (the “Adjacent Parcel”) which is described below [which will be a description of the Yasmineh Property]; and (2) if any application for subdivision of the combined Adjacent Parcel and Strip Parcel is made in the future, the City of Minnetonka is permitted to disregard the availability of the Strip Parcel for purposes of determining whether the minimum requirements for lot subdivision have been satisfied and to make the determination based solely on the Adjacent Parcel.”

4. **Limited Use Permit to be Granted by City.** The City agrees to grant to the Yasminehs, as owners of the Yasmineh Parcel, a limited use permit that allows the current or future owners of the Yasmineh Parcel to use, maintain, repair and replace the Turnaround Area, provided that the right to use the Turnaround Area is non-exclusive and provided further, that the City may terminate the permit upon written notice to the owners of the Yasmineh Parcel if (a) the existing garage structure (the location of which is depicted on the attached Exhibit B) is destroyed, demolished or moved; or (b) a cul-de-sac is constructed that provides public street access to the Yasmineh Parcel, as enlarged with the Strip Parcel.

5. **Contingencies.** This Agreement is contingent upon the following:

   a. **Partial vacation of Easement.** On or before the Closing Date (defined below), the City must vacate the Easement with respect to that area legally described on the attached Exhibit G (the “Vacation Area”) and depicted on the attached Exhibit B. This contingency is for the benefit of the Yasminehs and may be waived by them.
b. Vacation of watershed district easement. On or before the Closing Date, the City must obtain from the Minnehaha Creek Watershed District the release or vacation of the easement in favor of the watershed district with respect to the Strip Parcel. This contingency is for the benefit of the Yasminehs and may be waived by them.

c. Governmental approval of the subdivisions contemplated in Section 8 of this Agreement.

d. Adoption of an ordinance approving the sale of the Strip Parcel to the Yasminehs.

If any of the above contingencies is not satisfied by the Closing Date, the Yasminehs may terminate this Agreement by providing written notice to the City, and the Agreement will be null and void. The contingencies will be deemed to have been waived if no notice is given.

6. **Title Examination.** Each party is responsible for undertaking its own review of the condition of title for the property that it proposes to acquire, at its own expense. The parties have 40 days from the date of this Agreement to conduct a title review and to provide the transferring party with written notice of the reviewing party’s objections to marketable title. Any objection that is not made within the 40-day period will be deemed waived. The transferring party agrees to pursue with due diligence to cure defects in marketable title, but neither party is obligated to undertake any cure that would require the expenditure of funds in excess of $1,000. Within 10 days after receipt of the written objections, the transferring party must provide written notice to the reviewing party of its intention to correct defects in title. If the defects are not corrected prior to the Closing Date, the reviewing party may terminate this Agreement upon written notice to the transferring party.

7. **No Monetary Consideration.** This is a land exchange only, and no money will be paid by either party to the other as consideration for the exchange. For purposes of determining state deed tax, the parties agree that the value of the land to be transferred is $500.

8. **Land Division/Survey/Lot Pins.** The City’s conveyance of the Strip Parcel constitutes a subdivision for which governmental approval is required. The City is responsible for obtaining that approval at its cost, prior to the Closing Date. The Yasminehs’ conveyance of the Right of Way Parcel constitutes a subdivision for which governmental approval is required. The Yasminehs are responsible for obtaining that approval at its cost, prior to the Closing Date. The City has obtained a survey of the Strip Parcel and Right of Way Parcel, and the legal descriptions used in this Agreement are based upon that survey. After the Closing has occurred, the City will arrange for its surveyor to place pins marking the new property line between the Strip Parcel and the property owned by the City.

9. **Lot Combination.** The Yasminehs agree to execute at closing an application to Hennepin County to combine the Strip Parcel with the Yasmineh Property for tax purposes. The Yasminehs represent and warrant that they will combine the two properties as a single tax parcel. The City’s agreement to convey the Strip Parcel is expressly conditioned upon the combination occurring promptly after closing.
10. **Closing.**

   a. **Closing Date.** The closing of the transfers contemplated by this Agreement will take place on December 31, 2015 (“Closing Date”), or at such other date as may be mutually agreed upon by the City and Yasminehs.

   b. **Closing Costs.** Each party will pay the following:

      1. Document preparation costs, recording fees, and deed taxes for documents necessary to establish the party’s good and marketable title in the parcel that it is conveying to the other party.
      2. Document preparation costs for the grantor’s deed, certificate of real estate value, seller’s affidavit, well disclosure certificate, and any other documents necessary for the party to transfer good and marketable title in its parcel to the other party.
      3. Filing fee for the well disclosure certificate related to the property for which the party is the grantor, if necessary.
      4. Recording fee and deed tax for the deed in which the party is the grantee.
      5. Fees payable to the party’s lawyer.
      6. One half of the closing fee, if any, for conducting the closing.

   c. **Affidavits of Sellers.** At closing, each party will deliver to the other an affidavit of seller in a form substantially the same as the Minnesota Uniform Conveyancing Blank Affidavit of Seller. Each party’s affidavit must include the attesting party’s representation since the date of this Agreement no encumbrances have been placed on the real property that is being conveyed by the attesting party.

11. **Responsibilities and Adjustments.** No adjustments will be required at closing. Both the Strip Parcel and the Right of Way Parcel are exempt from real estate taxes. There are no pending or levied special assessments affecting either parcel. Neither parcel is buildable by itself nor is either parcel connected to private or public utilities.

12. **No Broker Involved.** The Yasminehs and City each warrant to the other that there is no broker involved in this transaction with whom the party has negotiated or to whom the party has agreed to pay a broker commission. Each party agrees to indemnify the other for all claims for brokers’ commissions or finder’s fees in connection with negotiations for the land exchange contemplated by this Agreement.

13. **Disclosure.** The Yasminehs and City waive any disclosures required by Minn. Stat. §513.52 to 513.62. The Yasminehs and City each represent and warrant to the other as follows:

   a. Neither has any knowledge of any wells (as defined by Minnesota Statutes §103I.005, Subd. 21, as amended, on the property they are conveying to the other;
   b. Neither has knowledge of any individual sewage treatment systems (within the meaning of Minnesota Statutes §115.55, Subd. 1(g) in use or abandoned and located or serving the property they are conveying pursuant to this Agreement;
c. Neither knows of any sewage generated at the property they are conveying to the other pursuant to this Agreement;
d. Neither has any knowledge of any methamphetamine production that has occurred on the property they are conveying pursuant to this Agreement;
e. Neither has any knowledge of any underground or above ground storage tanks currently or formerly located on the property they are conveying pursuant to this Agreement;
f. The property being conveyed is unimproved;
g. Neither has any knowledge of any exclusion from market value due to home improvements pursuant to Minn. Stat. §273.11 applicable to the property they are conveying.

14. **Possession.** Each party will deliver possession of the property it is conveying to the other at Closing. Yasminehs agree to remove all personal property from the City Property prior to Closing.

15. **No Merger.** The provisions of this Agreement are intended to survive closing and will not be merged in the deeds to be delivered under this Agreement.

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

17. **Binding Effect; Assignment.** This Agreement is binding upon and inures to the benefit of the parties and their respective heirs, executors, administrators, successors and assigns. Neither party may assign its rights and interest under this Agreement without notice to, and approval by, the other party.

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

a. If to Yasminehs: David and Annmarie Yasmineh  
   2634 Crosby Road  
   Minnetonka, MN 55391

   With a copy to: Paul W. Fahning  
   Email only: pfahning@pfb-pa.com

b. If to City: Geralyn Barone, City Manager  
   City of Minnetonka  
   14600 Minnetonka Boulevard  
   Minnetonka, MN 55345

   Email: gbarone@eminnetonka.com
Either party may change this location by giving written notice to the other party specifying the new location.

19. **Specific Performance.** This Agreement may be specifically enforced by either party, who may recover reasonable costs and attorney’s fees, provided the action is brought within one year of the date of breach.

[Signature Page Follows]
The undersigned agree to the terms of this Land Exchange Agreement.

___________________________________________
David J. Yasmineh

___________________________________________
Annmarie C. Yasmineh

Date: _______________________________
CITY OF MINNETONKA

By: ______________________________________
   Its Mayor

By: ______________________________________
   Its City Manager

Date: ________________________________

Approved by the Minnetonka City Council on ____________________________.

____________________
David E. Maeda, City Clerk
I hereby certify that this sketch, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Dated this 21st day of August, 2015

SUNDE LAND SURVEYING, LLC.

By:  

Mark S. Hanson, P.L.S.  Minn. Lic. No. 15480
EXHIBIT B

"Right of Way Parcel"
6,868 sq. ft.
0.158 acres

"Vacation Area"
395 sq. ft.
0.009 acres

CITY OWNED PROPERTY
(ALSO DESCRIBED IN WARRANTY DEED BK. 472 DEEDS, PG. 306)

"Strip Parcel"
5,250 sq. ft.
0.121 acres

SCALE
IN FEET
August 20, 2015
EXHIBIT C

Legal Description of City Property

All that part of Section 8, Township 117 North, Range 22 West of the 5th Principal Meridian, described as follows: Commencing at a point at lower water mark on Lake Minnetonka which said point is located as follows: Commencing at the 1/4 section corner between Sections 8 and 9, Township 117, Range 22; thence south on section line 644 feet; thence West at right angles 1012.5 feet to said point of beginning of land to be described; thence North 32 degrees 27 minutes East 150 feet to a point which is 517.4 feet South and 932 feet West of said 1/4 section corner; thence North 57 degrees 33 minutes West 150 feet; thence South 32 degrees 27 minutes West 150 feet; thence Southeasterly to place of beginning.

The courses given above are on the assumption that said above mentioned section line is due North and South.
EXHIBIT D

Legal Description of Yasmineh Property

All that part of the following described parcel of land lying Southwesterly of a line drawn parallel to the center line of John Street located and measured 160 feet Southwesterly from said center line as measured at right angles thereto: Commencing at the Southwesterly or most Westerly corner of Lot 5 in Block 2, “Woodville Park on Gray’s Bay, Lake Minnetonka”; thence Northeasterly along the Northwesterly line of said Lot 5 and same extended, a distance of 130 feet to the center line of John Street as laid out, and dedicated in said plat of “Woodville Park on Gray’s Bay, Lake Minnetonka”; thence Southeasterly along the center line of said John Street a distance of 300.6 feet to the point of intersection of said center line with a lien drawn Southwesterly from the most Southerly corner of Lot 1, Block 1, said “Woodville Park on Gray’s Bay, Lake Minnetonka”, said line so drawn being at right angle to the northeasterly line of aforesaid John Street; thence Southwesterly in a straight line 461.4 feet more or less, to a point on the shore of Gray’s Bay, Lake Minnetonka, which point is distant 300 feet Easterly of, measured at a right angle to, the Westerly line of Lot 13, Block 3, “Woodville Park on Gray’s Bay, Lake Minnetonka” said last described course forming an interior angle of 105 degrees 31 minutes with the center line of said John Street; thence, Northwesterly along the shore of said lake to the Southeasterly corner of that certain tract of land conveyed to the Board of County Commissioners of Hennepin County by Warranty Deed dated July 2, 1897 and recorded in Book 472 of Deeds, page 306, said last described point also being the most Westerly corner of Lot 13, Block 3, “Woodville Park on Gray’s Bay, Lake Minnetonka”; thence Northeasterly along the Southeasterly line of the tract conveyed by the above mentioned Deed 150 feet, more or less, to the Northeasterly corner of said tract, said last described point also being the most Southerly corner of vacated Lot 12 in said Block 3; thence Northwesterly along the Northeasterly line of the tract conveyed to the Board of County Commissioners of Hennepin County, 150 feet to the Easterly line of Lot 9, Block 3, “Woodville Park on Gray’s Bay, Lake Minnetonka”; thence Northeasterly along the Easterly line of said Lot 9, a distance of 96 feet to the most Easterly corner of said Lot 9, in said Block 3; thence Northeasterly in a straight line to the point of intersection of the Northeasterly line of Canal Street as laid out and dedicated in said plat of “Woodville Park on Gray’s Bay, Lake Minnetonka,” with an extension of the Northwesterly line of said Lot 5, Block 2, in said Addition; thence Northeasterly along said extended Northwesterly line of Lot 5, a distance of 20 feet to the point of beginning. All of above described land being in Government Lot 4, Section 8, Township 117, Range 22. All lots or portions of lots as well as all streets or portions of streets in “Woodville Park on Gray’s Bay, Lake Minnetonka,” lying within the bounds of the premises hereinabove described, are now vacated. TOGETHER WITH easements over Lots 8 and 9, Block 3, Woodville Park on Gray’s Bay, Lake Minnetonka, as described in Hennepin County Recorder Document Numbers 3749802 and 3739803.

Also

Outlot B, CROSBY COVE, Hennepin County, Minnesota
EXHIBIT E

Legal Description of Right of Way Parcel

That part of the following described tract lying southwesterly of a line commencing at the
northeasterly corner of that certain tract or parcel of land more particularly described in that
conveyance to the Board of Commissioners of Hennepin County, Minnesota, dated July 2, 1897,
and recorded in Book 472 of deeds, Page 306, Office of the Register of Deeds of and for
Hennepin County, Minnesota lying immediately adjacent and contiguous to said tract herein
described and running northwesterly to the most easterly corner of Lot 9, Block 3, Woodville
Park on Gray’s Bay, Lake Minnetonka, and there terminating, and lying northwesterly of a line
35.00 feet northwesterly of and parallel with the southeasterly line of said land described in that
conveyance to the Board of Commissioners of Hennepin County, Minnesota, and its
northeasterly extension.

All that part of the following described parcel of land lying Southwesterly of a line drawn
parallel to the center line of John Street located and measured 160 feet Southwesterly from
said center line as measured at right angles thereto: Commencing at the Southwesterly or
most Westerly corner of Lot 5 in Block 2, “Woodville Park on Gray’s Bay, Lake
Minnetonka”; thence Northeasterly along the Northwesterly line of said Lot 5 and same
extended, a distance of 130 feet to the center line of John Street as laid out, and dedicated in
said plat of “Woodville Park on Gray’s Bay, Lake Minnetonka;” thence Southeasterly along
the center line of said John Street a distance of 300.6 feet to the point of intersection of said
center line with a line drawn Southwesterly from the most Southerly corner of Lot 1, Block
1, said “Woodville Park on Gray’s Bay, Lake Minnetonka”, said line so drawn being at right
gles to the Northeasterly line of aforesaid John Street; thence Southwesterly in a straight
line 461.4 feet more or less, to a point on the shore of Gray’s Bay, Lake Minnetonka, which
point is distant 300 feet Easterly of, measured at a right angle to, the Westerly line of Lot 13,
Block 3, “Woodville Park on Gray’s Bay, Lake Minnetonka” said last described course
forming an interior angle of 105 degrees 31 minutes with the center line of said John Street;
thence Northwesterly along the shore of said lake to the Southeasterly corner of that certain
tract of land conveyed to the Board of County Commissioners of Hennepin County by
Warranty Deed dated July 2, 1897 and recorded in Book 472 of Deeds, page 306, said last
described point also being the most Westerly corner of Lot 13, Block 3, “Woodville Park on
Gray’s Bay, Lake Minnetonka”; thence Northeasterly along the Southeasterly line of the tract
conveyed by the above mentioned Deed 150 feet, more or less, to the Northeasterly corner of
said tract, said last described point also being the most southerly corner of vacated Lot 12 in
said Block 3; thence Northwesterly along the Northeasterly line of the tract conveyed to the
Board of County Commissioners of Hennepin County, 150 feet to the Easterly line of Lot 9,
Block 3, “Woodville Park on Gray’s Bay, Lake Minnetonka;” thence Northeasterly along the
Easterly line of said Lot 9, a distance of 96 feet to the most Easterly corner of said Lot 9, in
said Block 3; thence Northeasterly in a straight line to the point of intersection of the
Northeasterly line of Canal Street as laid out and dedicated in said plat of “Woodville Park
on Gray’s Bay, Lake Minnetonka,” with the extension of the Northwesterly line of aforesaid
Lot 5, Block 2, in said Addition; thence Northeasterly along said extended Northwesterly line
Exhibit E continued

of Lot 5, a distance of 20 feet to the point of beginning. All of above described land being in Government Lot 4, Section 8, Township 117, Range 22. All lots or portions of lots as well as all streets or portions of streets in “Woodville Park on Gray’s Bay, Lake Minnetonka,” lying within the bounds of the premises hereinabove described, are now vacated.
EXHIBIT F

Legal Description of Strip Parcel

The Southeasterly 35.00 feet of that tract of land conveyed to the City of Minnetonka per Quit
Claim Deed Document No. 6696076, Hennepin County, Minnesota, which is described as
follows:

All that part of Section 8, Township 117 North, Range 22 West of the 5th Principal Meridian,
described as follows: Commencing at a point at low water mark on Lake Minnetonka which
said point is located as follows: Commencing at the 1/4 section corner between Sections 8
and 9, Township 117, Range 22; thence South on section line 644 feet; thence West at right
angles 1012.5 feet to said point of beginning of land to be described; thence North 32 degrees
27 minutes East 150 feet to a point which is 517.4 feet South and 932 feet West of said 1/4
section corner; thence North 57 degrees 33 minutes West 150 feet; thence South 32 degrees
27 minutes West 150 feet; thence Southeasterly to place of beginning.
EXHIBIT G

Legal Description of Vacation Area

That part of the following described tract lying southwesterly of a line commencing at the northeasterly corner of that certain tract or parcel of land more particularly described in that conveyance to the Board of Commissioners of Hennepin County, Minnesota, dated July 2, 1897, and recorded in Book 472 of deeds, Page 306, Office of the Register of Deeds of and for Hennepin County, Minnesota lying immediately adjacent and contiguous to said tract herein described and running northwesterly to the most easterly corner of Lot 9, Block 3, Woodville Park on Gray’s Bay, Lake Minnetonka, and there terminating, and lying southeasterly of a line 35.00 feet northwesterly of and parallel with the southeasterly line of said land described in that conveyance to the Board of Commissioners of Hennepin County, Minnesota, and its northeasterly extension.

All that part of the following described parcel of land lying Southwesterly of a line drawn parallel to the center line of John Street located and measured 160 feet Southwesterly from said center line as measured at right angles thereto: Commencing at the Southwesterly or most Westerly corner of Lot 5 in Block 2, “Woodville Park on Gray’s Bay, Lake Minnetonka”; thence Northeasterly along the Northwesterly line of said Lot 5 and same extended, a distance of 130 feet to the center line of John Street as laid out, and dedicated in said plat of “Woodville Park on Gray’s Bay, Lake Minnetonka”; thence Southeasterly along the center line of said John Street a distance of 300.6 feet to the point of intersection of said center line with a line drawn Southwesterly from the most Southerly corner of Lot 1, Block 1, said “Woodville Park on Gray’s Bay, Lake Minnetonka”, said line so drawn being at right angles to the Northeasterly line of aforesaid John Street; thence Southwesterly in a straight line 461.4 feet more or less, to a point on the shore of Gray’s Bay, Lake Minnetonka, which point is distant 300 feet Easterly of, measured at a right angle to, the Westerly line of Lot 13, Block 3, “Woodville Park on Gray’s Bay, Lake Minnetonka” said last described course forming an interior angle of 105 degrees 31 minutes with the center line of said John Street; thence Northwesterly along the shore of said lake to the Southeasterly corner of that certain tract of land conveyed to the Board of County Commissioners of Hennepin County by Warranty Deed dated July 2, 1897 and recorded in Book 472 of Deeds, page 306, said last described point also being the most Westerly corner of Lot 13, Block 3, “Woodville Park on Gray’s Bay, Lake Minnetonka”; thence Northeasterly along the Southeasterly line of the tract conveyed by the above mentioned Deed 150 feet, more or less, to the Northeasterly corner of said tract, said last described point also being the most southerly corner of vacated Lot 12 in said Block 3; thence Northwesterly along the Northeasterly line of the tract conveyed to the Board of County Commissioners of Hennepin County, 150 feet to the Easery line of Lot 9, Block 3, “Woodville Park on Gray’s Bay, Lake Minnetonka”; thence Northeasterly along the Easterly line of said Lot 9, a distance of 96 feet to the most Easterly corner of said Lot 9, in said Block 3; thence Northeasterly in a straight line to the point of intersection of the Northeasterly line of Canal Street as laid out and dedicated in said plat of “Woodville Park on Gray’s Bay, Lake Minnetonka,” with the extension of the Northwesterly line of aforesaid Lot 5, Block 2, in said Addition; thence Northwesterly along said extended Northwesterly line of Lot 5, a distance of 20 feet to the point of beginning. All of above described land being in
Government Lot 4, Section 8, Township 117, Range 22. All lots or portions of lots as well as all streets or portions of streets in “Woodville Park on Gray’s Bay, Lake Minnetonka,” lying within the bounds of the premises hereinabove described, are now vacated.
Ordinance No. 2015-

An Ordinance authorizing land exchange agreement for property on Crosby Road

The City of Minnetonka Ordains:

Section 1. Pursuant to Section 12.05 of the Minnetonka City Charter, the city council authorizes the sale of the following described land, in accordance with the terms of the land exchange agreement presented to and approved by the city council on October 26, 2015:

The Southeasterly 35.00 feet of that tract of land conveyed to the City of Minnetonka per Quit Claim Deed Document No. 6696076, Hennepin County, Minnesota, which is described as follows:
All that part of Section 8, Township 117 North, Range 22 West of the 5th Principal Meridian, described as follows: Commencing at a point at low water mark on Lake Minnetonka which said point is located as follows: Commencing at the 1/4 section corner between Sections 8 and 9, Township 117, Range 22; thence South on section line 644 feet; thence West at right angles 1012.5 feet to said point of beginning of land to be described; thence North 32 degrees 27 minutes 27 minutes East 150 feet to a point which is 517.4 feet South and 932 feet West of said 1/4 section corner; thence North 57 degrees 33 minutes 27 minutes West 150 feet; thence South 32 degrees 27 minutes West 150 feet; thence Southeasterly to place of beginning.

Section 2. The mayor and city manager are authorized to execute all instruments necessary to effectuate the land exchange agreement.

Section 3. This ordinance is effective upon publication.

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

Terry Schneider, Mayor
Attest:

The stricken language is deleted; the underlined language is inserted.
Ordinance No. 2015-

David E. Maeda, City Clerk

Action on this Ordinance:

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

Date of publication:

I certify that the foregoing is a 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 October 26, 2015

Brief Description
On-sale wine and on-sale 3.2 percent malt beverage liquor licenses for People’s Organic Coffee and Wine Shop, 12934 Minnetonka Boulevard

Recommendation
Open the public hearing and continue to November 23, 2015

Background
People’s Organic Coffee and Wine Shop (see page A1) is currently owned by Anderson Franchise Investments, Inc. (AFI). AFI recently sold the business to Ametrine, Inc.

Business Ownership
Ametrine, Inc. is owned by Stuart and Diane Alexander. Stuart and Diane will be equal owners. Diane was involved with People’s Organic (Jedi J Inc.) when it was first established in Minnetonka. The current manager, Nicole Mondt, will remain as the manager. (See pages A2-A3.) Ametrine, Inc. is also purchasing the location in Wayzata.

A liquor violation did occur under the Anderson Franchise Investments license in which Diane was not involved.

A management agreement has been signed by AFI and Ametrine allowing the operation under the current license until final council approval on November 23, 2015. The agreement terminates upon issuance of a new liquor license to Ametrine.

Business Operations
The change in ownership necessitates the need for a new liquor license. All other operational aspects of the existing restaurant will remain the same including the establishment name.

Application Information
Application information and license fees have been submitted. The police department’s investigative report is pending and will be forwarded to the council prior to the continued public hearing.

Recommendation
Staff recommends that the city council open the public hearing and continue it to November 23, 2015.
Submitted through:
  Geralyn Barone, City Manager
  Julie Wischnack, AICP, Community Development Director

Originated by:
  Kathy Leervig, Community Development Director
LOCATION MAP

Project & Applicant: People's Organic
Address: 12934 Minnetonka Blvd

This map is for illustrative purposes only.
Ametrine Inc, D/B/A Peoples Organic Coffee & Wine Café, 12934 Minnetonka Blvd., Minnetonka, MN 55305

Submits information as requested by the City of Minnetonka in order to apply for a Liquor License:

Hours of Operation are
- Mon-Thursday 6:30am to 9pm
- Friday 6:30am to 9:30pm
- Saturday 7am to 9:30pm
- Sunday 7am to 8pm

The Café plays classical, jazz and pop music at a low volume to allow guests to chat and have business meetings and work without interruption of loud music. When I owned the Café 2 years ago, we had a single musician with guitar or a 3 piece jazz ensemble (Gourmet Jazz) play every other Tuesday from 7-9.

A copy of the menu is attached. Food is available all open hours
- Mon-Thursday 6:30am to 9pm
- Friday 6:30am to 9:30pm
- Saturday 7am to 9:30pm
- Sunday 7am to 8pm

All employees are required to read an alcohol awareness booklet and sign off that they have read and understand its contents. In addition our insurance company provides on sight State approved sessions. We have these scheduled for the week of October 27th and will be mandatory for all employees to attend.

If and when we begin offering music it will be a single musician with guitar or a 3 piece jazz ensemble. We typically move aside a few chairs near the front entrance.

Security Plan – we have a security system with cameras in various places in the restaurant, chef line, terminals, area alcohol is served, area alcohol is poured, by all entrances.

Maintaining an orderly appearance is critical to me and the success of the Café. We will have a person designated to do a thorough clean once a week. Every day the staff is all assigned various side duty lists to cover the ongoing needs to keep Café clean. We have dumpsters on premises, the size is more than adequate to the disposal needs of the Café.

Sound Equipment and amplified music does not apply to our premises.

While I was under ownership/management of Peoples Organic Coffee & Wine Café, 12934 Minnetonka Blvd., Minnetonka, MN 53305, we had several of the visits from City to test our employees and we always passed. They are coached to check all ID’s, we have paperwork in place to complete should we feel a customer should not be
served. If someone arrives at our Café intoxicated, we advise that we will call them a taxi. If they decline, we will alert the authorities of this incident.

We are not the typical "drinking establishment". Our customers come to get healthy, all natural, organic, delicious food. Some enjoy a wine with their meal or a beer with their bison burger. Not a hang out drinking place, more of a hang out drink coffee all day place. The wine and beer sales have never been over 10% of total Café sales.

Best regards,

Diane Alexander
President
Ametrine, Inc.
Brief Description  
Secondhand Dealer license for Best Buy Stores, LP at 12411 Wayzata Blvd

Recommendation  
Continue the public hearing and grant the license

Background

In September, Best Buy announced a partnership with Macy’s department stores to start testing mini-boutiques inside Macy’s. Best Buy plans to test licensed consumer electronics departments in ten Macy stores, slated to open in November 2015. One of those locations will be at the Ridgedale Macy’s.

Best Buy currently holds two secondhand dealer licenses within the city. One license is held at the main Best Buy location at 13513 Ridgedale Drive and also at the Best Buy Mobile store within Ridgedale Mall.

Best Buy employees will staff the 400 square foot space offering smartphones, tablets, smart watches, audio devices such as Bluetooth speakers and headphones, and accessories. The program will also allow for trade-in’s which requires a secondhand dealer license from the city.

Secondhand Dealer License

A secondhand dealer is defined in Minnetonka City Code Section 610 as a person in the business of buying, or receiving as “trade-in,” secondhand items that are in one or both of the following categories: (a) consumer electronics, including peripherals and electronic media, and (b) jewelry and gemstones. A secondhand dealer does not include a person who buys or receives fewer than 25 such items within any period of 12 consecutive months. A secondhand item means tangible personal property that has been previously used, rented, owned, or leased.

Business Ownership

Best Buy entered into a limited partnership agreement in 2004 between BBC Property Co. a Minnesota corporation, as General Partner and BBC Investment Co, a Nevada Corporation, as limited Partner. No police background check will be performed as Best Buy is a publicly traded company and was investigated previously for licenses already issued.
Business Operations

Best Buy will operate in the same manner as the Best Buy Mobile store within Ridgedale Mall. Any transaction in which a trade-in was allowed will create a billable transaction that is reported through the Automated Pawn System (APS).

Best Buy is firmly committed to preventing fraud and not facilitating the sale of stolen property. Best Buy cooperates with the police department with a default recordkeeping and reporting procedure at each store, even when no regulation applies. Best Buy Stores, LP outlined the following store Policy/Rules for their secondhand program:

- Limited number of product types for in store trade-in.
- Program designed to support the sale of NEW products.
- Items purchased from sellers exchanged for Best Buy Gift cards ONLY.
- All purchased items will be shipped out-of-store for processing.
- Cooperation with Law Enforcement in the investigation of theft, etc.
- Sellers must be 18 years of age or older.
- Required Government issued Identification with photo to verify identity.
- Electronic records created and maintained, submitted to APS system.
- No property accepted with obliterated, de-faced, removed serial numbers.
- Serialized items are retained for 30 days beyond the in-store hold period.

Recommendation

Application information and fees for the secondhand dealer license have been submitted to the city. Staff recommends that the city council continue the public hearing from September 28, 2015 and grant the license.

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

Originated by:
Kathy Leervig, Community Development Coordinator
City Council Agenda Item #14A  
Meeting of October 26, 2015

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

**Recommended Action:**  
Adopt the resolution

**Background**

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

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

The deadline to apply for 2016 requests for equipment and facility grants is November 2, 2015. Facility grant applications must include a resolution in support of the project from an LGU. The city of Minnetonka has been approached by Eagle Ridge Academy to serve as the LGU for a grant request to help fund the construction of a new gymnasium at their Minnetonka location scheduled to open in August of 2016. The school’s renovation costs are estimated to be $10 million, of which $118,000 is being requested from the HCYSG program and the school is providing the $5,000 matching funds requirement.

Criteria put in place by the County allows for a private entity such as a charter school to apply for a grant. However, in addition to the resolution, the private landowner must agree to a covenant with the LGU that ensures long-term public access to the facility.

The City Attorney is in the process of discussions with legal representatives of Eagle Ridge Academy to finalize the required covenant, and develop agreements between the City and the County to provide for public use, administer contract processing, use of funds, grant distribution, and various other contract requirements.
Recommendation

Staff recommends adoption of the resolution to serve as the LGA for the Hennepin County Youth Sports Program grant request to Hennepin County from Eagle Ridge Academy, contingent upon the development of a covenant between the city of Minnetonka and the project Declarant Eagle Ridge Academy Affiliated Building Company (ERAABC), owners of the property at 11111 Bren Road in Minnetonka where the school will be operated; and subject to the requirement that ERAABC and the school enter into agreements with the city before the city will disburse any grant funds. The covenant and agreements must be provided in a form that is acceptable to the City Attorney. Serving as the LGU will not require the use of any City funding to support the requested project.

Submitted through:
  Geralyn Barone, City Manager
  Corrine Heine, City Attorney
  Merrill King, Director of Finance

Originated by:
  Dave Johnson, Recreation Services Director
RESOLUTION NO. 2015 -

RESOLUTION AUTHORIZING THE CITY OF MINNETONKA TO SERVE AS THE LOCAL GOVERNMENT UNIT REPRESENTING EAGLE RIDGE ACADEMY IN THEIR APPLICATION FOR A HENNEPIN COUNTY YOUTH SPORTS PROGRAM GRANT APPLICATION

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

Section 1. Background.

1.01. The Hennepin County Board of Commissioners, via the Hennepin Youth Sports Program, provides for capital funds to assist local government units of Hennepin County for the development of sports or recreational facilities.

1.02. The City of Minnetonka (local government unit, hereinafter LGU) desires to develop a gymnasium facility as part of the facility that will be occupied by Eagle Ridge Academy (name of project hereinafter PROJECT).

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

1.04. The PROJECT will be constructed at 11111 Bren Road, Minnetonka 55343 and anticipated for completion in August, 2016.

1.05. The estimate of the total cost for developing the PROJECT is $10,000,000. The LGU is requesting $118,000 from the Hennepin Youth Sports Program and the OWNER will assume responsibility for a matching funds requirement of $5,000.

1.06. Through a covenant with the LGU, the OWNER has agreed to own and assume one hundred (100) percent of operational and maintenance costs for the PROJECT.

1.07. The OWNER will operate the PROJECT for its intended purpose for the functional life of the facility, which is estimated to be 15 years.

1.08. The Owner must enter into the necessary and required agreements with Hennepin County and the city of Minnetonka for the specific purpose of developing the PROJECT and managing its long-term operation.

1.09. Serving as the LGU will not require the use of any LGU funding to support the requested project.
Section 2. Council Action

2.01 The City Council hereby authorizes and directs the City Manager or her designee to execute the application for the Hennepin Youth Sports Program grant, contingent upon the development of a covenant between the LGU and the OWNER and subject to the requirement that the OWNER and Eagle Ridge Academy enter into agreements with the LGU before the LGU will disburse any grant funds.

2.02 The covenant and agreements must be provided in a form that is acceptable to the City Attorney.

Adopted by the City Council of the City of Minnetonka, Minnesota, on October 26, 2015.

__________________________________________________________________________________________
Terry Schneider, Mayor

ATTEST:

__________________________________________________________________________________________
David E. Maeda, City Clerk

ACTION ON THIS RESOLUTION:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on October 26, 2015.

__________________________________________________________________________________________
David E. Maeda, City Clerk
Brief Description: Resolution authorizing the certification of delinquent water and sanitary sewer charges to the Hennepin County Auditor

Recommended Action: Adopt the resolution

Background
The city council is requested to adopt the attached resolution, which will certify this year’s delinquent utility bills for collection with the 2016 property taxes. Consistent with previous city council actions, it is proposed that the certification of delinquent accounts include an interest rate – this year again, recommended to be 10 percent on the total unpaid balance. The interest is calculated from November 1, 2015, to December 31, 2016. A $50 administrative fee is added to delinquent accounts to cover the additional costs associated with the certification process. Hennepin County charges an additional interest rate and administrative fee prior to final certification.

For comparison, the following table presents the certifications over the last ten years at the time of council action.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Accounts</th>
<th>Amount Certified</th>
<th>Average Certification</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>466</td>
<td>$190,045.32</td>
<td>$407.82</td>
</tr>
<tr>
<td>2007</td>
<td>571</td>
<td>$237,547.90</td>
<td>$416.02</td>
</tr>
<tr>
<td>2008</td>
<td>457</td>
<td>$229,904.11</td>
<td>$503.07</td>
</tr>
<tr>
<td>2009</td>
<td>487</td>
<td>$379,783.80</td>
<td>$779.84</td>
</tr>
<tr>
<td>2010</td>
<td>490</td>
<td>$299,409.62</td>
<td>$611.04</td>
</tr>
<tr>
<td>2011</td>
<td>513</td>
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<tr>
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</tr>
<tr>
<td>2014</td>
<td>474</td>
<td>$267,103.63</td>
<td>$563.51</td>
</tr>
<tr>
<td>2015</td>
<td>496</td>
<td>$291,055.75</td>
<td>$586.81</td>
</tr>
</tbody>
</table>
A detailed list of properties and delinquent amounts as of October 26, 2015, is available upon request. All accounts to be certified have been notified in writing of the pending certification and have had at least one month already in which to pay the arrears. Any account which pays the certified amount plus city administration costs before November 20, 2015, will be removed from the list prior to filing with Hennepin County. Therefore, the actual numbers of accounts certified to the county are always less than the amounts indicated here. Accounts to be certified must also have been delinquent for three months or longer.

The drop in number of delinquent accounts from 2007 to 2008 is primarily due to the change in the delinquent threshold from $100 to $250. The jump in the amount certified in 2009 from the previous year is partially associated with some accounts certified for Inflow & Infiltration (I&I) surcharges. All residential inspections for the I&I Program have been completed.

**Late fee**

Although the number of delinquent accounts at this step as a percentage of the total number of accounts (around three percent annually) has remained relatively consistent over time, administration of the notification and certification process is lengthy and manually time-consuming. At the beginning of the annual procedure this year, 820 accounts were notified of the pending certification, and this number has been rising. There were 756 of these accounts last year. Based on past years, less than half of those, e.g. 363 last year, will actually be certified after the city’s utility billing staff has worked with customers to collect arrears. Rough analysis of the delinquent accounts indicate that as many as one-third are “repeat offenders.”

In an effort to reduce staff time and costs to the enterprise and to increase the incentive for timely customer payments from this group of account holders, staff will be recommending a change in the residential late fee from $10.00 per quarter to ten percent of the current late balance per quarter. The city already charges commercial accounts a ten percent late fee against their current late balance per month, and almost no commercial accounts are on the delinquent certification list. Both the current late fees were established in 2005 and have not been changed since that date. Unlike a flat fee, a percentage structure by its nature automatically adjusts with rate increases.

The city of Minnetonka is the only one amongst our comparable cities that charges a flat late fee to residential accounts as opposed to a percentage fee. A proposed late charge of ten percent would apply only to the current late balance and would not be compounded. Many comparable communities – Edina, Maple Grove, Woodbury and Brooklyn Park – have late fees of ten percent using the same structure. Other peer cities -- Eden Prairie, Bloomington, Burnsville, Lakeville and Eagan – charge a lower set percentage that is compounded, sometimes monthly, to a maximum of 18 percent of the total balance due as limited by state law.
The proposed residential late fee modification may be discussed and adopted with ratification of other financial recommendations coming from the utility enterprise discussions at the November budget study session next month.

**Appeals**
In the formal notification of delinquency, customers were informed of their right to request a hearing before the city council to ask that the delinquent amount on their account not be assessed to their property taxes. Although the city has been notified by only one such property owner that he may present his case to the city council this evening, all customers are still afforded the opportunity.

**Recommendation**
Adopt the resolution authorizing the certification of delinquent water and sanitary sewer charges to the Hennepin County Auditor.

Submitted through:
   Geralyn Barone, City Manager
   Perry Vetter, Assistant City Manager

Originated by:
   Merrill King, Finance Director
Resolution No. 2015-

Resolution authorizing the certification of Delinquent Water and Sanitary Sewer Charges to the Hennepin County Auditor

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

Section 1. Background

1.01. The City Council of the City of Minnetonka duly adopted Ordinance No. 1200.030 providing for certification of delinquent water and sanitary sewer charges to the County Auditor for collection pursuant to the provision of Minnesota Statutes 444.075.

Section 2. Findings

2.01 The Finance Department has prepared a list of delinquent charges for water and sanitary sewer services together with the legal description of the premises served, the official copy of which is on file with the City Clerk.

2.02. All parties have been notified by mail of the certification.

2.03. The proposed list of delinquent charges for water and sanitary sewer services, the official copy of which is hereby accepted by the Council, is a true and correct list of delinquent water and sanitary sewer service charges as of the 26th day of October 2015.

Section 3. Authorization

3.01. The City Clerk shall transmit a certified duplicate copy of this resolution and the list of updated delinquent accounts to the County Auditor to be extended on the proper tax list of the County, and such delinquent accounts shall be collected and paid over the same manner as other municipal taxes with interest from the date of this resolution at the rate of 10 percent (10%) per annum and including a $50.00 administrative penalty pursuant to the provisions of Minnesota Statutes 444.075.

Adopted by the City Council of the City of Minnetonka, Minnesota on October 26, 2015.

Terry Schneider, Mayor
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 October 26, 2015.

________________________________________
David E. Maeda, City Clerk
City Council Agenda Item #14C
Meeting of October 26, 2015

**Brief Description**

Items concerning Cherrywood Pointe of Minnetonka at 2004 Plymouth Road:

1) Ordinance rezoning the property from R-1 to PUD;

2) Master development plan; and

3) Site and building plan review.

**Recommendation**

Adopt the ordinance and resolution approving the proposal.

**Introduction**

United Properties is proposing to redevelop the existing three acre residential property at 2004 Plymouth Road. As proposed, a 99-unit Cherrywood Pointe senior rental building would be constructed on the site. Ten of the units, or 10 percent, would be rent and income restricted. The applicant is requesting: (1) a rezoning from R-1, low-density residential, to PUD, planned unit development; (2) approval of master development plan; and (3) approval of final site and building plans.

**Planning Commission Hearing**

The planning commission considered the request on October 15, 2015. The staff report from that meeting is attached and various plans and documents describing the proposed project may be found on pages A1–A59. Staff recommended approval of the request, noting:

- Any redevelopment of the property consistent with its high-density comprehensive guide plan designation would impact natural resources and visually change the site.

- The applicant’s proposal appropriately balances protection of natural resources with height of the building, while providing for affordability.

At the meeting, a public hearing was opened to take comment. Three individuals spoke in opposition to the proposal, noting:

- The extent of tree removal is inappropriate. While 35% of the site’s woodland preservation area (WPA) would be removed as proposed, a smaller building could reduce this impact.
• Staff’s interpretation of city code is flawed. Residents suggest that the PUD ordinance is being incorrectly applied and that, regardless, the city does not have the legal right to rezone the property to PUD. Rather, the property must be zoned PID, planned I-394 district.

• The flawed city code interpretation makes the city and project susceptible to a time consuming lawsuit.

Two individuals, including a representative of the current property owner, spoke in support of the proposal. Both indicated that the property would develop in the future and the proposed development presented a good option.

Planning Commission Discussion

Following the public hearing the commission discussed the proposal and asked staff to address the points made by the group in opposition.

• Staff concurred with area residents that a building with a smaller footprint, appropriately located, may reduce impact to the site’s WPA. Such building may also be taller. As the city’s tree ordinance does not establish a maximum tree removal for redevelopment of a site, the level of acceptable tree impact/removal is a matter of opinion.

• Staff noted that rezoning the property to PUD, rather than PID is reasonable for several reasons:

   1) The PID zoning classification was adopted in 1988. The primary purpose of the district is to “responsibly manage growth,” with a primary emphasis on regulating growth “within the capacity of public facilities.” (City Code 300.31 Subd.1 and Subd.11) The traffic study conducted for the proposal clearly indicates the proposal would not exceed the maximum number of vehicle trips allotted to the property in the PID ordinance.

   2) The city has broad discretion in the zoning of properties. Just as the city may choose, and has chosen, to rezone properties classified as R-1 to PUD in order to realize a public benefit, the city may choose to rezone the subject property to PUD to realize a benefit.

   3) The PUD zoning classification is primarily being requested to allow for reduced setbacks from the north and south property lines. The intent of this reduction is to preserve much of the site’s wooded slope with maintaining a 99-unit building. In addition to this preservation, the proposal includes affordable units which would not be required under PID.
Planning Commission Recommendation

On a 6-0 vote, the commission recommended that the city council approve the project. Meeting minutes may be found on pages A133–A141.

Since Planning Commission Hearing

There have been no changes to the proposal or additional information received since the planning commission’s meeting on this item. However, at the request of area residents:

- Staff has included an email regarding natural resources and various staff-drafted diagrams used at the planning commission meeting. (See pages A124–A131.)

- Staff has been asked to clarify a “recreational space requirement.” Both the R-5 and PID ordinance require that “10 percent of the gross project area in private recreational uses for project residents. This area shall be for active or passive recreational uses suited to the needs of the residents of the project including, but not limited to, swimming pools, trails, nature areas, picnic areas, tot lots and saunas.” If the applicant were requesting R-5 or PID zoning, which they are not, the preserved wooded slope and wetland buffer could be considered passive nature areas suited to the needs of the project residents. These areas, amounting to roughly 20% of the site, would provide a visual natural setting/vistas for the senior residents of the project.

Staff Recommendation

Staff recommends the city council adopt the following:

1. Ordinance rezoning the property from R-1 to PUD and adopting a master development plan. (See pages A88–A91.)

2. Resolution approving final site and building plans. (See pages A92–A101.)

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

Originator: Susan Thomas, AICP, Principal Planner
Supporting Information

At the council introduction a question was raised regarding the southern portion of the site and that façade of the building. Specifically, the question was how grade change would be accommodated and what the visual of this southerly area would be. Based on the submitted plans, a retaining wall would be constructed near the south wall of the building. The retaining wall would range in height from six feet to ten feet. Understory and mature trees, including several large oaks, would be located between the south property line, the wetland, and the retaining wall. Through the growing season, these trees would soften views of the wall and parts of the southerly façade. Though the screen would be significantly less during winter months, the trees would still serve to break up some of the mass of the structure.
Brief Description

Items concerning Cherrywood Pointe of Minnetonka at 2004 Plymouth Road:

1) Ordinance rezoning the property from R-1 to PUD;
2) Master development plan; and
3) Site and building plan review.

Recommendation

Recommend the city council adopt the ordinance and resolution approving the proposal.

Introduction

United Properties is proposing to redevelop the existing three acre residential property at 2004 Plymouth Road. As proposed, a 99-unit Cherrywood Pointe senior rental building would be constructed on the site. Ten of the units, or 10 percent, would be rent and income restricted. A concept for the proposed redevelopment was reviewed by the planning commission in February 2015 and by the city council in March 2015. (See pages A1–A39.)

Proposal Summary

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

- **Existing Site Conditions.**

  The subject property is located on the west side of Plymouth Road, south of its intersection with Ridgedale Drive. The property contains several constructed and natural features. An existing single-family home and various accessory buildings are located in the northeast quadrant, at the highest point of the property. From this point, the property slopes noticeably downward toward two, manage I wetlands to the west and south. Portions of this slope area is classified as “steep” by city code definition. Much of the slope is covered by a woodland preservation area (WPA) of the oak woodland brushland variety. (See page A4.)
• **Existing Zoning and Guide Plan Designation**

The property is currently zoned R-1, low-density residential. However, it has been designated for high-density residential use in the comprehensive guide plan for over 30 years. (See page A2–A3.)

• **Proposed Use.**

Cherrywood Pointe is the “brand” of senior rental housing developed by United Properties and operated by Ebenezer. There are currently three Cherrywood Pointe developments in Minnesota – Forest Lake, Roseville, and Savage. As proposed, the Cherrywood Pointe of Minnetonka would include 71 independent/assisted living units and 28 memory care units.

The proposed Cherrywood Pointe building would have a footprint of just under 26,600 square feet and total area of roughly 117,000 gross square feet, excluding underground garage space. The building would have a four-story appearance from the north and northwest and five story appearance from the south and southwest. As designed, underground parking and some memory care suites would be located on the lowest level. Memory care units and large common spaces would be located on the ground floor, with independent/assisted living units and smaller common space occupying the other floors. The building would be served by 53 parking stalls located in the underground garage and an additional 35 surface parking stalls. Access to the site and building would be shared with the office building to the north. (See pages A19–A27.)

• **Site impacts.**

Construction of the building and parking lot would require grading and tree removal. Some fill would be required on the northeast side of the property to accommodate parking lot access, while excavation would be necessary to provide access to the underground parking garage. A large retaining wall would be constructed, with associated excavation and fill, on the south side of the building. This grading and construction of building and parking areas would result in removal of the majority of trees on the east side of the property. However, in locating the building and parking lot primarily on the east side of the site, much of the wooded slope would be preserved. (See pages A16–A18.)

**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 Cherrywood Pointe and staff’s findings.
Is the proposed high-density residential land use appropriate?

Yes. General land use planning principles suggest that there should be a direct correlation between intensity of land use and levels of roadway infrastructure. In other words, properties in close proximity to major roadways should have a higher level of development intensity than properties distant from major roadways. This principle has been reflected in each of the city’s successive comprehensive guide plans.

The subject property has been guided for high-density residential use since the early 1980s. This was appropriate at that time and continues to be. The site has direct access to a major arterial road and is located in close proximity to a freeway interchange. Further, the site is bordered by existing high-density residential, office, and commercial uses. (See pages A3.)

Is the proposed site and building design reasonable?

Yes. Neither the tree preservation nor steep slope ordinances prohibit high-density development of the subject property. Rather: (1) the tree protection ordinance would require certain mitigation for trees removed; and (2) the steep slope ordinance would require certain construction practices, such as use of retaining walls and location and concentration of development on the least sensitive portion of the site. Though these natural resources would not limit development, the proposed building has been designed and located with reference to the natural features. Based on the submitted plans, less than 35% of the woodland preservation area would be impacted and less than 15% of the steep slope. In addition, all minimum wetland and floodplain setbacks would be met.

What zoning classification is appropriate?

PUD. A rezoning is necessary if the subject property is to develop at its high-density land use designation. There are three rezoning options: (1) R-5, high-density residential; (2) PID, planned I-394 district; or (3) PUD, planned unit development. A building of the proposed size could be constructed under any of the zoning classifications. However, it is staff’s professional opinion that the PUD classification would best balance the property owners’ reasonable, 30+ year expectation of high-density development with the city’s natural resource and housing goals:

R5  Other than being a “traditional zoning district” – within which development parameters are clearly outlined in code – there is no apparent benefit to development under this zoning classification.

As proposed, the Cherrywood Pointe building would not meet the side yard setbacks required in the R-5 district; two variances would be necessary (north and south). However, these could be eliminated and setbacks met by
either “pushing” the building further into the wooded slope or increasing the number of stories. (See page A43.)

**PID**

The PID – planned I-394 district – is a combination of both a “traditional zoning district” and a “flexible zoning district.” The ordinance outlines certain parameters for development – including setbacks and maximum floor area ratio (FAR). However, the ordinance also allows for “modification of development standards for developments providing low and moderate cost housing.” (City Code 300.31 Subd.5h) (For more information about the PID district, please refer to the “Supporting Information” section of this report.)

As proposed, the Cherrywood Pointe building would not meet the required setbacks and would exceed the maximum FAR of the PID district. Either three variances would be required or the city could allow for modification of the setback and FAR standards given that 10% of the proposed units would be rent and income restricted.

The setback variances/modifications could be eliminated by “pushing” the building further into the wooded slope or increasing the number of stories. The FAR variance/modification could be eliminated by removing the rent/income restricted units, memory care units, and amenities such as the fitness center, bistro, and salon from the proposal. (See page A44.)

**PUD**

The PUD – planned unit development – district is a “flexible zoning district” in which flexibility is granted from certain regulations in order that the city may realize public benefits that may not otherwise be achieved through non-PUD development. In using PUD zoning, the city would be granting setback and floor area ratio flexibility from the R-5 and PID regulations. However, the city would realize two important public benefits: (1) greater preservation of the site’s wooded slope than would otherwise be provided under non-PUD development; and (2) provision of affordable housing. The applicant would not have to preserve the wooded slope to the extent proposed or provide affordability if PUD zoning was not used. (See page A45.)

**Summary Comments**

Staff acknowledges that the proposed Cherrywood Pointe of Minnetonka would result in significant physical changes to the subject property. The single-family home would be removed, as would the majority of trees outside of the site’s WPA. These changes would alter the visual character of Plymouth Road in the immediate area. However, such alteration would occur with any redevelopment consistent with site’s the high-density residential land use designation. In the opinion of planning staff, since the concept plan review the developer has improved the location and design of the proposed building specifically to protect the property’s existing wooded slope and wetlands.
Staff Recommendation

Recommend the city council adopt the following:

1. Ordinance rezoning the property from R-1 to PUD and adopting a master development plan. (See page A88–A91.)

2. Resolution approving final site and building plans. (See page A92–A101.)

Originator: Susan Thomas, AICP, Principal Planner
Through: Julie Wischnack, AICP, Community Development Director
Supporting Information

Surrounding Land Uses

Northerly: Office property; guided office
Easterly: Multifamily housing; guided medium-density
Southerly: Multifamily housing; guided high-density
Westerly: Multifamily housing; guided high-density and open space

Planning

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

Concept Plan

In March 2015, the city council conducted concept plan review for redevelopment of the existing residential property. The plan contemplated construction of a four-story, senior rental building. The building would contain approximately 129 units and include a mixture of independent, assisted, and memory care units. The building was proposed to be served by a surface parking lot adjacent to Plymouth Road, as well as underground parking. At that time, the council generally expressed that the land use may be appropriate, but that preservation of the site’s wetlands, woodlands, and slopes would be of significant importance. (See pages A6–A13.)

Introduction

In September 2015, the city council introduced the ordinance rezoning the subject property from R-1 to PUD. At that time, the council generally noted that the formal proposal seems to reflect many of the comments made during the previous concept review. However, the council also noted that the use of PUD zoning and natural resource preservation should be carefully considered during the formal review process.

City Actions

The Cherrywood Pointe proposal necessitates the following applications:

- **Rezoning.** The subject site is currently zoned R-1, low-density residential. The applicant requests that the site be rezoned to PUD, planned unit development. The planning commission makes a recommendation to the city council, which has final authority to approve or deny the rezoning.

- **Master Development Plan.** By city code, review and approval of a master development plan is required in conjunction with a rezoning to PUD. The planning commission makes a recommendation to the city council,
which has final authority to approve or deny the master development plan.

- **Site and Building Plan Review.** By city code, site and building plan review is required in conjunction with construction in a PUD. The planning commission makes a recommendation to the city council, which has final authority to approve or deny the site and building plan.

**Stormwater**

As proposed, drainage from the site would be managed via a “typical” underground chamber facility, as well as a rainwater reuse system. This system would capture rainwater for irrigation reuse. As a condition of approval, a final stormwater management plan and specifications must be submitted prior to issuance of a grading permit. The plans must meet the standards of the city’s Water Resources Management Plan, incorporating rate control, volume control, and water quality treatment.

**Utilities**

Public water, sanitary, and storm sewer facilities are available to the site from Plymouth Road.

**Trails**

As proposed, an internal sidewalk would connect outdoor patios on the south side of the building with the existing sidewalk on Plymouth Road. In addition, as conditions of approval: (1) a secondary, handicap accessible connection must be made to the sidewalk; and (2) a trail easement must be dedicated upland of the large wetland on the west side of the site. This easement could provide future trail connection between the Cherrywood Pointe site – and Regency Woods Apartment building to the south – and the commercial properties to the north.

**Traffic**

The city commissioned a traffic study to understand:

1. Anticipated vehicle trip generation associated with the proposed Cherrywood Pointe;

2. Existing and anticipated intersection operations; and

3. Parking supply and demand.

In evaluating each of these items, the city’s traffic engineering consultants drew on general engineering principles, as well as specific observations of the existing site and existing Cherrywood Pointe projects in the Twin Cities area. (See pages A47–A59.) The study concluded:
1. The proposal is anticipated to generate 25 p.m. peak hour trips and 396 daily drips. This volume of traffic would have little to no impact on the levels of service of area intersections.

2. Minor modifications should be made to parking lot design and signage to reduce on-site vehicular conflicts. However, no changes to Plymouth Road would be necessary.

3. The proposed parking is expected to be adequate to meet parking demand.

Parking

The city code parking requirements do not differentiate between types of senior housing. Specifically, there is no distinction made for assisted living or memory care units. By code, Cherrywood Pointe would be required to provide 99 parking stalls. However, the Institute of Transportation Engineers suggest that 53 parking stalls would meet the demand of Cherrywood Pointe. The proposed 88 stalls are anticipated to exceed demand.

<table>
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<th>Number of Stalls Provided</th>
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<tr>
<td>Surface</td>
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<tr>
<td>TOTAL</td>
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<table>
<thead>
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<th>Number of Stalls Provided</th>
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<tbody>
<tr>
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<tr>
<td>Surface</td>
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<td>53</td>
</tr>
<tr>
<td>35</td>
</tr>
<tr>
<td>88</td>
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Building Design

The proposed Cherrywood Pointe would have a four-story appearance from the north and northwest and five story, with underground garage, appearance from the south and southwest. (See pages A23–A27.) The proposed Cherrywood Pointe building would have a code defined height of 55 feet.

<table>
<thead>
<tr>
<th>Code-Defined</th>
<th>To Peak*</th>
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<tbody>
<tr>
<td>The Ridge</td>
<td>49 ft</td>
</tr>
<tr>
<td>Applewood Pointe</td>
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</tr>
<tr>
<td>Cherrywood Pointe</td>
<td>55 ft</td>
</tr>
<tr>
<td>The Overlook</td>
<td>62 ft</td>
</tr>
<tr>
<td>The Exchange</td>
<td>61.5 ft</td>
</tr>
<tr>
<td>St. Therese</td>
<td>55.5 ft</td>
</tr>
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</table>

* measured from south facade
Building materials would include lap siding with stone accents, and asphalt shingles. As a condition of approval, a final materials and color palate board must be submitted for staff review and approval.

**PID Ordinance**

The PID ordinance was adopted in 1988. The primary purpose of the ordinance was to “responsibly manage corridor growth.” (City Code 300.31 Subd.1) To that end, the ordinance established several traffic analysis districts (TADs). These TADs limit p.m. peak hour traffic generation from individual properties based on roadway capacity. The subject property is located just outside of the PID district. However, due to its proximity to the district and anticipated future redevelopment, it was included in a TAD. The proposed use does not exceed the planned p.m. peak hour trip as described in city code.

The PID ordinance notes that, “the planned I-394 district has been uniquely developed for properties located in the I-394 corridor. This section has been developed to regulate corridor growth within the capacity of public facilities. No property in the traffic analysis districts identified in Subdivision 13 which is designated for a use other than low density residential in the guide plan may be rezoned to a zoning classification other than planned I-394 district. A contrary rezoning will be permitted only if it is demonstrated that the planned I-394 district incorrectly applies to a specific property.” (City Code 300.31 Subd.11b)

In the past, staff has received questions from members of the public regarding this provision. In the case of the subject property, it has been suggested that because of this provision the city cannot rezone the property to PUD. This suggestion is not accurate for two reasons:

1. The provision was adopted by the city council in 1988. The provision essentially attempts to bind the decision-making of current and future councils. The provision is inappropriate as the decisions of one council cannot bind the decisions of another council.

2. Rezoning is a legislative function granted by state statute to the city council. The council has broad discretion in rezoning. Much like PUDs are allowed in place of other traditional zoning districts (R-1, B-1, etc.), the council can choose to allow a PUD in the PID district.
The city has several natural resource protection ordinances, including: shoreland, wetland, and tree protection, and steep slope regulations. These ordinances attempt to balance the community benefit of preserving natural resources with private development rights. The subject property is subject to the regulations of the wetland, tree, and steep slope ordinances.

1. **Wetland.** The ordinance regulates wetland setback and alteration. The proposed building would meet and exceed required setbacks and would not alter the adjacent wetlands.

2. **Trees.** The ordinance regulates tree removal and mitigation. The highest level of protection is provided to WPAs and high priority trees during subdivision of property. In such cases, just 25% of WPA and 35% of high-priority trees may be removed or impacted. The Cherrywood Pointe proposal does not include a subdivision of property. As such, these removal/impact thresholds do not apply. Rather, the ordinance requires mitigation for high priority and significant trees removed outside of the building and parking lot footprints, and a 20 foot and 10 foot perimeter respectively. The ordinance further requires mitigation for WPA and high-priority trees removed for stormwater ponding.

   Based on plans provided, it appears that construction of the building and parking lot would result in removal or significant impact to roughly 35% of the WPA. Further, 15 of 16 high priority trees outside of (north and east) the WPA would be removed and all of the significant trees. For the most part, these high priority and significant trees would be located within the footprint of the building and parking lot or within the 20/10 foot perimeter. The removal would not be prohibited.

3. **Steep Slopes.** The ordinance does not prohibit development on or around steep slopes. However, it does require that:

   - The property is physically suitable for the design and siting of the proposed development. The proposed development must preserve significant natural features by minimizing disturbance to existing topographical forms.
   - The development must not result in soil erosion, flooding, severe scarring, reduced water quality, inadequate drainage control, or other problems.
• The proposed development must provide adequate measures to protect public safety.

Further, the ordinance notes that “the city may require that a property be rezoned and developed as a planned unit development to utilize flexible development standards to preserve steep slopes.” (City Code 300.28 Subd.20(b)1)

**Affordable Housing**

United Properties has agreed to place income and base rent restrictions on 10% of the units within Cherrywood Pointe, as follows:

<table>
<thead>
<tr>
<th>Type of Unit</th>
<th>Number Units</th>
<th>Income Restriction</th>
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<tbody>
<tr>
<td>Studio</td>
<td>3</td>
<td>60% of area median</td>
</tr>
<tr>
<td>1 Bedroom</td>
<td>5</td>
<td>60% of area median</td>
</tr>
<tr>
<td>1+ Den</td>
<td>2</td>
<td>80% of area median</td>
</tr>
</tbody>
</table>

A unit provided at 60% area median income (AMI) would have a monthly rent roughly $700 less than a market rent unit. Similarly, a unit provided at 80% AMI would have a rent $500-$600 less.

**Outside Agencies**

The applicant’s proposal has been submitted to various outside agencies for review, including Hennepin County and Minnehaha Creek Watershed District.

**Motion Options**

The planning commission has four options:

1. Concur with the staff recommendation. In this case a motion should be made recommending the city council adopt the rezoning ordinance and site and building plan resolution.

2. Disagree with staff’s recommendation. In this case, a motion should be made recommending the city council deny the requested rezoning, master development plan, and final site and building plans. This motion must include a statement as to why denial is recommended.

3. Concur with some of staff’s recommendations and disagree with the others. In this case a motion should be made recommending approval of the some and denial of the others. This motion must include a statement as to why denial is recommended.
4. Table the requests. In this case, a motion should be made to table the item. The motion should include a statement as to why the request is being tabled with direction to staff, the applicant, or both.

**Neighborhood Comments**

The city received 19 comments during the concept plan review. At the time of publication of this report, the city has received two comments regarding the formal application. (See pages A61–A86.) Notices were sent to 2,657 Minnetonka property owners.

**Deadline for Action**

December 4, 2015
Project: Cherrywood Point
Applicant: United Properties Residential
Address: 2004 Plymouth Rd
(15002.15b)
EXISTING NATURAL CONDITIONS

Legend
- Streets
- Parcels

Natural Communities
DESCRIPTION
- Floodplain forest
- Lowland hardwood forest
- Maple-basswood forest
- Oak forest mesic subtype
- Oak woodland-brushland
- Willow swamp

Wetlands
- <all other values>

CLASS
- Manage 1
- Manage 2
- Preserve
- Wetlands (NWI)
### Development Summary

**Option 6 / 5 Story U Shape**

- **157,688 Finished SF**
- **27,179 Garage SF**
- **129 Units / 132 Beds**
- **97 Total Parking**
- **1,222 sf/unit Avg.**

**Garage**
- 27,179 sf

**Floor Footprint**
- **LL Floor**: 18,652 sf
- **1st Floor**: 40,528 sf
- **2nd Floor**: 32,508 sf
- **3rd Floor**: 33,000 sf
- **4th Floor**: 33,000 sf

**Unit Summary**

#### Memory Care

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<th>Unit Type</th>
<th>LL</th>
<th>1st</th>
<th>Total</th>
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<tbody>
<tr>
<td>MC Single</td>
<td>10</td>
<td>21</td>
<td>31</td>
</tr>
<tr>
<td>MC Double</td>
<td>1</td>
<td>2</td>
<td>3/6</td>
</tr>
<tr>
<td>Care Suite</td>
<td>5</td>
<td>-</td>
<td>5</td>
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<tr>
<td><strong>Total</strong></td>
<td>16</td>
<td>23</td>
<td>39 Rms / 42 Beds</td>
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#### Assisted Living

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<tr>
<th>Unit Type</th>
<th>1st</th>
<th>2nd</th>
<th>3rd</th>
<th>4th</th>
<th>Total</th>
<th>%</th>
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</thead>
<tbody>
<tr>
<td>1 Bed</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>24</td>
<td>27%</td>
</tr>
<tr>
<td>1 Bed + Den</td>
<td>2</td>
<td>10</td>
<td>12</td>
<td>12</td>
<td>36</td>
<td>40%</td>
</tr>
<tr>
<td>2 Bed</td>
<td>2</td>
<td>7</td>
<td>8</td>
<td>8</td>
<td>25</td>
<td>28%</td>
</tr>
<tr>
<td>Studio</td>
<td>-</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>4</td>
<td>4%</td>
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<td><strong>Total</strong></td>
<td>4</td>
<td>26</td>
<td>30</td>
<td>30</td>
<td>90</td>
<td>100%</td>
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---

**Cherrywood of Minnetonka**

2004 Plymouth Road
Cherrywood of Minnetonka

2004 Plymouth Road

1st Floor Summary

Total SF: 40,528 sf
27 Units

Memory Care
21 - Single Units
2 - Double Units

Assisted Living Units
2 - One Bed + Den Units
2 - Two Bed Units
Garage / LL Floor Summary

Total SF: 45,831 sf
16 Units
73 Garage Parking (.82 AL Ratio)

5 - Care Suites
10 - Single Memory Care
1 - Double Memory Care
only plats half of the lots now. He hoped the same types of analysis that goes into an R1 development would eventually be applied and acted upon.

Reid Schulz, Landform Professional Services, said he was speaking on behalf of the applicant, Lakewest Development. Last year the applicant came forward with a 22 lot proposal for the same seven parcels. The revised 12 lot proposal addressed some of the concerns that were raised. He said at the December neighborhood meeting the neighbors were generally very supportive of the plan based primarily on the reduction of the number of lots.

Bergstedt said the proposal was in his ward and when the concept plan was discussed last year, he thought it was way too dense for the property. He commended the applicant for revising the proposal and listening to comments that were made. He said this was a big step because it was the first time the city used the R1A zoning. He agreed the ordinance may need to be tweaked in the future as necessary but he thought this was a very good first project.

Bergstedt moved, Wiersum seconded a motion to adopt Ordinance No. 2015-08 rezoning portions of the properties at 5290 and 5300 Spring Lane, 5325 Co Rd 101, 5301 and 5311 Tracy Lynn Terrace, and two properties with unassigned addresses from R-1 to R-1A. All voted "yes." Motion carried.

B. Concept Plan for Cherrywood Pointe Senior Cooperative at 2004 Plymouth Road

Gordon gave the staff report.

Brian Carey, United Properties, said there was a tremendous growth in the senior population. The city's seniors are very committed to the city and want to remain living in Minnetonka. By moving into the cooperative, it would free up housing for younger families. The younger families are more apt to invest long term in the homes. By allowing the seniors to turn over their homes the city would be fostering a lot of families with younger kids coming into the city. This would increase the number of school aged children. He showed photos of other Applewood Pointe facilities. Although the facility was not in the Ridgedale visioning area, he said his company very much embraces that vision.

Susan Farr with Ebenezer said the company loved the location and when seniors give up their homes they want to move to a location close to their church and their bank. The proximity of retail and restaurants in the area
makes the location attractive for the cooperative. Seniors want to remain active and give back to the community. The children visiting their parents would also benefit from the businesses in the area.

Carey showed slides indicating the proposed building's proximity to neighboring properties. There would be shared access with the drive to the north to address traffic issues on Plymouth Road. A right turn exit only lane would be added. The building footprint would be 40,500 square feet. There would be a 5,750 square foot courtyard in the center and green space around the building. Neighbors expressed preference for a classical design to the building. He said there were concerns about the natural landscape, the quality of the wetlands and the runoff. Complete below grade stormwater retention would be included. Peak runoff rates would be controlled and sediment and phosphorus removal would be provided. The 25 foot buffer area on the west side of the property would be filled with wetland buffer material.

Wagner said the comments he received indicated an understanding the area was zoned R5 but there also was a woodland preservation area. He asked how that impacted staff's opinion about the project. This would be an issue that would have to be dealt with during the planning commission and council process. Gordon said consideration of any of the site's features would be part of any zoning review. There appeared to be some steep slopes on the property. There was a number of layers of environmental information. There was a tree inventory completed, but city staff had not confirmed all of the trees, the species and the health to be fully informed about a woodland preservation area. All this would have an influence on where the building was sited and how much of the slopes and trees would be impacted. Wagner noted the level of detail would be provided if an application comes forward. Gordon said that was correct.

Wagner said the staff report indicated the zoning would probably be PUD. The city did not have a lot of R5 guided properties that had not been developed. He asked staff what some of the considerations were related to R5 zoning versus a PUD. Gordon said although there was not an application the assumption was the zoning would not be R5 because the building would not fit where the R5 envelope would be on the property. If an application came in, it would be reviewed under R5 zoning. Even with R5 zoning all the environmental factors have to be considered in siting the building. Last year the city adopted a new PUD ordinance that included a public benefits provision that was required to qualify for a PUD. The applicant would have to demonstrate that there was something publically valuable to qualify for a PUD. This had not been defined. Wischnack said a PUD proposal might help protect more of the trees and the wetlands on the site. She said it was sometimes misunderstood that a PUD was used
to help avoid something like setbacks. Typically staff applies a PUD to do as much preservation as possible. This was why staff indicated in its report that a PUD might be possible. Wagner said his biggest concern was the number of steep slopes on the property and how the woodland preservation area would be considered with the R5 zoning.

Wiersum said if the process proceeds he would like some guidance about density in this type of development. There were 39 memory care rooms with a size of 490 square feet including the bathroom. One bedroom units average about 750 square feet. Two bedroom units average about 1,000 square feet. If this was an apartment or condominium proposal the building would likely be twice as big because the square footage for each unit would be much greater. He said he would like to better understand the impact of this type of facility. The number of parking stalls wasn’t very many compared to the number of units. A lot of the residents would not be driving or driving daily. He would like some context when considering the proposal. He believed this type of housing was needed in the city but he wanted to understand the impacts.

Schneider said the idea of having an assisted living facility in the Ridgedale area made good sense. Traffic issues on Plymouth Road are sensitive and he couldn’t think of a lower traffic generator than an assisted living facility. For other senior facilities adequate surface level guest parking was a concern. Having a management plan if the surface level parking wasn’t adequate was important. He said the use was not a big concern for him but the more significant issue was how the building’s footprint would fit into the topography. A much more detailed analysis of the grading, buffer zones, etc. was needed. More time would need to be spent on site impacts, grading, tree preservation and steep slopes. Understanding the tradeoffs would probably be a major focus of the discussion as the plan goes through the planning process.

Allendorf said if the site issues could be addressed he thought the location was a good one for the facility. He agreed with the comments about the benefits of the residents getting out to the nearby amenities. He compared this to the Rowland Road proposal that wasn’t near anything.

Annette Bertelsen, 13513 Larkin Drive, said there was not a lot of discussion at the planning commission meeting about the unique natural features of the property. In addition to the wetlands, there is native oak woodland brushwood on an area of the property. The tree ordinance indicates if the continuous area outside of the subject property is at least two acres it is a woodland preservation area. One and a half acres of the subject property is a woodland preservation area. This is a key thing to consider. The quality of the woodlands should also be considered. There
are at least five different species of trees including two different types of oak. There is a fairly dense understory throughout. Another thing to consider is the slope. The southern part definitely is a steep slope and the western side may qualify under the ordinance. She said it was better to clarify this sooner rather than later. The combination of the oak preservation area adjacent to wetlands and on a steep slope is important to note because there is a lot of references to the interplay in the city’s ordinances. The ordinances also provide a lot of subjectivity for the council to make its decision. She noted the difference between natural and native vegetation. A smaller scale development concentrated on the north and east parts of the property might be more in the city’s best interests.

Kay Johnson, 2227 Platwood Road, said she was very concerned about the natural resources of the site and the density of the plan. The area to the south has about 15 units per acre and this plan would have around 45 units per acre. She questioned what would happen if the assisted living units were not built but became apartments instead. The property is sandwiched between two properties with three story buildings. She would like to see this building be three stories high as well. Wischnack said staff runs the numbers if the building were converted to an apartment building at some point. The reason this is done is to ensure there is enough site area and to consider either parking or amenities if the building transforms someday.

Wagner noted he received a number of letters and a few calls indicating a strong passion about the natural resources.

15. **Appointments and Reappointments:**

   A. **Appointment of advisors for the 2015 Local Board of Appeal and Equalization**

   Schneider moved, Bergstedt seconded a motion to appoint Mr. Powers, Mr. Johnson, Mr. Kriedberg and Ms. Miller as advisors for the 2015 Minnetonka Local Board of Appeal and Equalization. All voted “yes.” Motion carried.

16. **Adjournment**

   Wiersum moved, Wagner seconded a motion to adjourn the meeting at 8:13 p.m. All voted “yes.” Motion carried.

Respectfully submitted,
Cherrywood of Minnetonka

2004 Plymouth Road

4-Story - Site Plan

UNIT SUMMARY

<table>
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<th>LEVEL</th>
<th>UNIT TYPE</th>
<th>COUNT</th>
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<tbody>
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</tr>
<tr>
<td>1st F</td>
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</tr>
<tr>
<td>1st F</td>
<td>2 Bed</td>
<td>2</td>
</tr>
<tr>
<td>1st F</td>
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</tr>
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<td>3rd F</td>
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MC Unit and Suite Mix

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<th>Assisted Living Mix</th>
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FINISHED SF

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<tr>
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<td>Level 2 SF</td>
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<tr>
<td>Total Finished SF</td>
<td>117,260</td>
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UNFINISHED SF

| Garage SF | 20,090 |
| Total SF  | 137,350 |
| Total Units | Approx. 99 |
| Garage Parking | Approx. 53 |
| Surface Parking | Approx. 35 |
| Total Parking | Approx. 88 |

FAR= TOTAL SF / SITE = 117,260 SF / 152,460 SF = 0.77
3.5 ACRES=152,460SF
Cherrywood of Minnetonka
2004 Plymouth Road
4- Story - Woodland Impact | A1.3 | 08/21/15
Cherrywood of Minnetonka
2004 Plymouth Road

LOWER LEVEL SUMMARY

LEVEL | UNIT TYPE | COUNT
--- | --- | ---
0 | Garage | 53 Parking Stalls
1 | Care Suite | 6

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LEVEL 2 SUMMARY

<table>
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<td>1 Bed + Den</td>
<td>6</td>
</tr>
<tr>
<td>2nd</td>
<td>2 Bed</td>
<td>6</td>
</tr>
<tr>
<td>2nd</td>
<td>Guest Suite</td>
<td>1</td>
</tr>
<tr>
<td>2nd</td>
<td>Studio</td>
<td>1</td>
</tr>
</tbody>
</table>

Cherrywood of Minnetonka

2004 Plymouth Road
Cherrywood of Minnetonka
2004 Plymouth Road

2004 Plymouth Road

SCALE 1
PRELIMINARY PERSPECTIVE

SCALE 2
3D View 4

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| 2004 Plymouth Road
| Cherrywood Pointe
| 2004 Plymouth Road

3-D PERSPECTIVE 1 | A6 | 08/21/2015
Cherrywood of Minnetonka

2004 Plymouth Road

Elevations | A9 | 08/21/2015
50 PARKING SPACES

35' Wetland Setback

50' Front Yard Setback

6 STORY W/ GARAGE
22,000 SF FOOTPRINT
87'-2" CALCULATED BUILDING HEIGHT

3 5' Wetland Setback

105'-6" Building Setback

WOODLAND AREA
27,421 S.F.
6% OF TOTAL AREA

GARAGE
R-5 ZONING
6 story with garage

112,000 Finished s.f.
18,000 s.f. Garage

50 surface parking
50 garage parking

Garage 18,000 s.f.
LL Floor 4,000 s.f.
1st Floor 18,000 s.f.
2nd Floor 18,000 s.f.
3rd Floor 18,000 s.f.
4th Floor 18,000 s.f.
5th Floor 18,000 s.f.
6th Floor 18,000 s.f.
Total 130,000 s.f.

112,000 Finished s.f.
18,000 s.f. Garage

50 surface parking
50 garage parking

Garage 18,000 s.f.
LL Floor 4,000 s.f.
1st Floor 18,000 s.f.
2nd Floor 18,000 s.f.
3rd Floor 18,000 s.f.
4th Floor 18,000 s.f.
5th Floor 18,000 s.f.
6th Floor 18,000 s.f.
Total 130,000 s.f.

Cherrywood of Minnetonka
2004 Plymouth Road
**TREE PRESERVATION KEY:**

- **EXISTING TREE TO REMAIN**
- **ALLOWED REMOVALS WITHIN BLDG. FOOTPRINT (+20' BUFFER)**
- **OR PARKING/DRIVE AISLE (+10' BUFFER)**
- **IMPACTED HIGH PRIORITY TREE TO REMAIN (OUTSIDE OF BLDG. / PARKING FOOTPRINTS)**
- **(INCH FOR INCH MITIGATION REQUIRED)**
- **IMPACTED HIGH PRIORITY TREE TO BE REMOVED OUTSIDE OF BLDG. / PARKING FOOTPRINTS**
- **(INCH FOR INCH MITIGATION REQUIRED)**
- **IMPACTED WPA TREE TO REMAIN**
- **(INCH FOR INCH MITIGATION REQUIRED)**
- **WPA TREE TO BE REMOVED**
- **CRITICAL ROOT ZONE (NON-IMPACTED)**
- **CRITICAL ROOT ZONE (IMPACTED)**

**TREE PRESERVATION & REPLACEMENT SUMMARY**

**TOTAL WPA CALIPER INCHES IMPACTED OR REMOVED:** 98 cal. inches

**SUMMARY OF WPA REPLACEMENT TREES (SEE LANDSCAPE PLAN):**

- (6) 3” B&B Quaking Aspen - 18 cal. inches
- (6) 3” B&B Bur Oak - 18 cal. inches
- (8) 3” B&B Red Oak - 24 cal. inches
- (6) 3” B&B Swamp White Oak - 18 cal. inches
- (4) 2.5” B&B Autumn Brilliance Serviceberry
- (4) 2.5” B&B Thornless Hawthorn

**TOTAL HIGH PRIORITY TREE INCHES IMPACTED OR REMOVED:** 66 cal. inches

**SUMMARY OF H.P. REPLACEMENT TREES (SEE LANDSCAPE PLAN):** 66.5 cal. inches

- (1) 3” B&B Red Maple - 3 cal. inches
- (1) 3” B&B Kentucky Coffee Tree - 3 cal. inches
- (10) 3” B&B Quaking Aspen - 30 cal. inches
- (1) 3” B&B Red Oak - 3 cal. inches
- (3) 3” B&B Swamp White Oak - 9 cal. inches
- (4) 3” American Linden (Basswood) - 12 cal. inches
- (1) 2.5” B&B Autumn Brilliance Serviceberry - 2.5 cal. inches
- (1) 2.5” B&B Blue Beech - 2.5 cal. inches
- (1) 1.5” B&B Pagoda Dogwood - 1.5 cal. inches

**TOTAL SIGNIFICANT TREE INCHES IMPACTED:** 0 cal. inches

**WOODLAND PRESERVATION AREA:**

- **TOTAL EXISTING WPA AREA ON SITE:** 57,662.15 SF
- **IMPACTED WPA AREA:** 13,243.14 SF OR 22.97%
- **REMAINING UNDISTURBED WPA AREA:** 44,419.01 SF OR 77.03%

**TREES REMOVED:**

- Cherrywood of Minnetonka
- 2004 Plymouth Road

**Tree Preservation Plan | L1.0 | 08/21/15**
Cherrywood of Minnetonka
2004 Plymouth Road
Overall Landscape Plan | L2.0 | 08/21/15
<table>
<thead>
<tr>
<th>TREE</th>
<th>BOTANICAL NAME / COMMON NAME</th>
<th>CONT</th>
<th>QTY</th>
<th>ANNUAL/SYSTEM</th>
<th>BOTANICAL NAME / COMMON NAME</th>
<th>CONT</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Acer rubrum / Red Maple</td>
<td>2'^0</td>
<td>1</td>
<td></td>
<td>Acer palmatum / Northern Trident Fern</td>
<td>1</td>
<td>1</td>
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<tr>
<td></td>
<td>Gymnocladus dioicus / Kentucky Coffee Tree</td>
<td>2'^0</td>
<td>1</td>
<td></td>
<td>Acer pseudoplatanus / Gold Smoke Lady / Murder</td>
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<td>1</td>
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<tr>
<td></td>
<td>Populus tremuloides / Golden Aspen</td>
<td>2'^0</td>
<td>10</td>
<td></td>
<td>Akebia quinata / Black H&amp; / Deutzianth Angustifolia</td>
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<td>1</td>
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<tr>
<td></td>
<td>Quercus ilicifolia / Shining Oak</td>
<td>3'^0</td>
<td>6</td>
<td></td>
<td>Alpinia x 'Oso Blue' / Green Fern</td>
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<tr>
<td></td>
<td>Quercus macrocarpa / Pin Oak</td>
<td>3'^0</td>
<td>6</td>
<td></td>
<td>Calliandra ericoides / Half-Variegated / Feather Reed Grass</td>
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<tr>
<td></td>
<td>Quercus rubra / Red Oak</td>
<td>3'^0</td>
<td>12</td>
<td></td>
<td>Dicentra spectabilis / Red Beauty / Red Beauty Dicentra</td>
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<tr>
<td></td>
<td>Tilia americana / American Linden</td>
<td>3'^0</td>
<td>4</td>
<td></td>
<td>Dicentra engranig / Black Stem / Autumn Fern</td>
<td>1</td>
<td>1</td>
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<tr>
<td></td>
<td>Aesculus x grandiflora / Autumn Brilliance / Autumn Brilliance / Spirea</td>
<td>2'^0</td>
<td>5</td>
<td></td>
<td>Forsythia x intermedia / Purple Chameleon</td>
<td>1</td>
<td>1</td>
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<tr>
<td></td>
<td>Capitatus buckleyi / American Hornbeam</td>
<td>2'^0</td>
<td>1</td>
<td></td>
<td>Hypericum x 'Alphonse Spire / Alphonse Buck / Dark Ruby</td>
<td>1</td>
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<tr>
<td></td>
<td>Cornus kousa / Japanese Dogwood</td>
<td>1'^0</td>
<td>1</td>
<td></td>
<td>Heuchera x lava / Fireworks / Fireworks / Coral Bell</td>
<td>1</td>
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<tr>
<td></td>
<td>Crape myrtle / Trachelium Rubrum</td>
<td>2'^0</td>
<td>4</td>
<td></td>
<td>Heuchera x '-run-putting' / CoralBells</td>
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<td>1</td>
</tr>
<tr>
<td></td>
<td>BONSAI</td>
<td></td>
<td></td>
<td></td>
<td>Heuchera x 'Guaranteed' / Guaraanteed Miss</td>
<td>1</td>
<td>1</td>
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<tr>
<td></td>
<td>Daphne x intermedia / Butterfly / Southern Bush Magnolia</td>
<td>2'^0</td>
<td>5</td>
<td></td>
<td>Hosta x 'Nebula Blue' / Nebula Blue Hosta</td>
<td>1</td>
<td>1</td>
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<tr>
<td></td>
<td>Hydrangea arborescens / Annabelle / Annabelle Smooth Hydrangeas</td>
<td>2'^0</td>
<td>59</td>
<td></td>
<td>Hosta x 'Rain On A Sunny Day' / Rain On A Sunny Hosta</td>
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<tr>
<td></td>
<td>Roses x 'Double Knockout' / Double Knockout Rose</td>
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<td>21</td>
<td></td>
<td>Hosta x 'Sweet Sublime' / Sweet Sublime Hosta</td>
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<td>Spondias dulcis / Tradescantia / Tradescantia</td>
<td>2'^0</td>
<td>100</td>
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<td>Ageratum x 'Havemeyer' / Peruvian Broom</td>
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<td>Syringa species / Blue Mist / Blue Mist Kwanzan / Mist / Mist</td>
<td>2'^0</td>
<td>39</td>
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<td>Ageratum x 'Ketrof' / Spike Daylilly</td>
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<tr>
<td></td>
<td>Tamarix x fastigiata / Tamarix / Tamarisk</td>
<td>2'^0</td>
<td>77</td>
<td></td>
<td>Nepeta x hexamena / Williamson Low / Williamson Low Center</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Vitex agnus-castus / Honeysuckle</td>
<td>2'^0</td>
<td>6</td>
<td></td>
<td>Pentas x 'sibirica-1' / Siberian Red / Siberian Red Pentas</td>
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<td>1</td>
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<tr>
<td></td>
<td>Lythrum salicaria / Dicentra x Compact / Dicentra Compact American Cranberry Bush</td>
<td>2'^0</td>
<td>5</td>
<td></td>
<td>Redbud x 'Leslie' / Bijou Bonsai</td>
<td>1</td>
<td>1</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>GROUND COVER</th>
<th>BOTANICAL NAME / COMMON NAME</th>
<th>CONT</th>
<th>QTY</th>
<th>AMOUNT</th>
<th>QTY</th>
<th></th>
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<tbody>
<tr>
<td></td>
<td>Persicaria hydropiper / Japanese Sedge</td>
<td>1.5' x 10</td>
<td>1</td>
<td>5</td>
<td>1</td>
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</tr>
</tbody>
</table>

Cherrywood of Minnetonka
2004 Plymouth Road
Landscape Notes | L6.0 | 08/21/15

Tushie Montgomery Architects
United Properties
SHREDDED WOOD MULCH:
SHREDDED WOOD MULCH SHALL BE INSTALLED AT A 4" COMPACTED DEPTH PLACED TO THE EDGE OF THE PLANTING BED. PLANTS NOT IN A PLANTING BED SHALL HAVE A 4' DIA. MULCHED AREA. MULCH SHALL BE PULLED AWAY FROM DIRECT CONTACT WITH THE TREE TRUNK OR PLANT STEM. MULCHED AREA SHALL FORM A WELL AROUND PLANTS OR PLANTING BEDS.

SPRING TO MID-SUMMER PLANTING:
FERTILIZE AT THE TIME OF PLANTING WITH A SLOW-RELEASE, BALANCED FERTILIZER. USE ACCORDING TO MANUFACTURER'S INSTRUCTIONS. MIX FERTILIZER IN WITH BACKFILL OR BROADCAST IN A DIAMETER AROUND THE PLANT.

LATE SUMMER TO FALL PLANTINGS:
USE A FERTILIZER WITHOUT NITROGEN FOR DECIDUOUS TREES. DO NOT APPLY ANY FERTILIZER TO EVERGREEN TREES AND SHRUBS PLANTED IN LATE SUMMER OR EARLY FALL.

CONTAINER STOCK:
DIG THE PLANTING HOLE TWO TO THREE TIMES WIDER THAN THE SIZE OF THE CONTAINER, OR TO THE EDGE OF THE PLANTING BED AS INDICATED ON THE PLANS, AND AT THE SAME DEPTH AT WHICH THEY GREW IN THE NURSERY. SCARIFY THE SIDES AND BOTTOM OF THE PLANTING PIT. PLACE PLANT IN PLANTING PIT AND SET PLANTS VERTICALLY. WHEN MOVING PLANTS, LIFT FROM THE ROOT BALL, DO NOT LIFT BY THE TRUNK AND DO NOT BREAK OR LOOSEN THE ROOTBALL.

SET PLANTS ON SOLID UNDISTURBED SOIL, OR THOROUGHLY COMPACTED BACKFILL SOIL SO THE TOP OF THE SOIL BALL IS SLIGHTLY ABOVE FINISHED GRADE TO EXPOSE ROOTFLAIRS ON ALL B&B TREES TO PREVENT "STEM GIRDLING".

BACKFILL PLANTING PIT WITH ORIGINAL SOIL. BREAK UP CLODS OF SOIL. IF SOILS ARE POOR (IE: HEAVY CLAYS, SAND, OR COMPACTED), BACKFILL CAN BE A MIXTURE OF 1/3 SOIL AMENDMENT MIXED WITH 2/3 ORIGINAL SOIL. DO NOT USEPEAT AS PART OF BACKFILL IN CLAY SOILS. REMOVE ALL ROCKS AND DEBRIS FROM BACKFILL AND THEN WATER PLANT AND BACKFILLED AREA TO SETTLE PLANTS AND FILL VOIDS.

BALLED AND BURLAPPED STOCK:
ROOTS OF ALL BALLED AND BURLAPPED STOCK SHALL FILL THE SOIL BALL, BE FREE OF KINKS, CIRCLING AND GIRDLING, AND THE UPPERMOST ROOTS SHALL NOT BE MORE THAN FOUR INCHES BELOW THE TOP OF THE SOIL BALL. TRANSPORT ROOTS SHALL BE SYMMETRICAL AROUND THE TRUNK / STEM OF THE PLANTS. SOIL BALLS MUST BE CENTERED OR NO MORE THAN 10% OFF CENTER.

DIG THE PLANTING PIT TWO TO THREE TIMES WIDER THAN THE SIZE OF THE ROOTBALL AND AT THE SAME DEPTH AT WHICH THEY GREW IN THE NURSERY. SCARIFY THE SIDES AND BOTTOM OF THE PLANTING PIT. PLACE PLANT IN PLANTING PIT AND SET PLANTS VERTICALLY. WHEN MOVING PLANTS, LIFT FROM THE ROOT BALL, DO NOT LIFT BY THE TRUNK AND DO NOT BREAK OR LOOSEN THE ROOTBALL.

SET PLANTS ON SOLID, UNDISTURBED SOIL, OR THOROUGHLY COMPACTED BACKFILL SOIL SO THE TOP OF THE ROOTBALL IS SLIGHTLY ABOVE FINISHED GRADE TO EXPOSE ROOTFLAIRS ON ALL B&B TREES TO PREVENT "STEM GIRDLING".

CUT AND REMOVE ALL TWINE AROUND THE TRUNK. FULL BURLAP AWAY FROM TRUNK SO THAT NO BURLAP REMAINS IN THE TOP THREE INCHES OF THE SOIL SURFACE. REMOVING BURLAP SHALL BE SLIT AT SIX INCH INTERVALS AROUND THE CIRCUMFERENCE OF THE ROOTBALL.

BACKFILL PLANTING PIT WITH ORIGINAL SOIL. TRENCH TO THE EDGE OF THE PLANTING BED. BREACH UP CLOGS OF SOIL. IF SOILS ARE POOR (IE: HEAVY CLAY, SAND, OR COMPACTED), BACKFILL CAN BE A MIXTURE OF 1/3 SOIL AMENDMENT MIXED WITH 2/3 ORIGINAL SOIL. DO NOT USEPEAT AS PART OF BACKFILL IN CLAY SOILS. REMOVE ALL ROCKS AND DEBRIS FROM BACKFILL.

THOROUGHLY WATER TO SETTLE THE PLANTS AND FILL VOIDS WITHIN TWO HOURS OF PLANTING. INSTALL SPECIFIED MULCH WITHIN 48 HOURS OF THE SECOND WATERING. PROVIDE SUPPORT IF NECESSARY.

WATER THOROUGHLY A SECOND TIME TO SETTLE PLANTS AND FILL VOIDS WITHIN TWO HOURS OF PLANTING. PLACE SPECIFIED MULCH WITHIN 48 HOURS OF THE SECOND WATERING. PROVIDE SUPPORT IF NECESSARY.

CONTAINER STOCK:
DIG THE PLANTING HOLE TWO TO THREE TIMES WIDER THAN THE SIZE OF THE CONTAINER, OR TO THE EDGE OF THE PLANTING BED AS INDICATED ON THE PLANS, AND AT THE SAME DEPTH AT WHICH THEY GREW IN THE NURSERY. FOR ADDITIONAL PLANTING BED PREPARATION, SEE PLANTING NOTES.

REMOVE CONTAINER (BY CUTTING IF NECESSARY) IF ROOTS ARE GROWING IN A SPHERE AROUND THE SOIL MASS, USE A SHARP KNIFE TO SCORE THE OUTSIDE OF THE SOIL MASS VERTICALLY, JUST DEEP ENOUGH TO CUT THE NET OF THE ROOTS, AND MAKE A CRISS-CROSS CUT ACROSS THE BOTTOM OF THE SOIL MASS.

SET PLANT ON SOLID UNDISTURBED SOIL, OR THOROUGHLY COMPACTED BACKFILL SOIL SO THE TOP OF THE SOIL IS AT FINISHED GRADE OR SLIGHTLY ABOVE, NOT TO EXCEED TWO INCHES. BACKFILL PLANTING BED WITH ORIGINAL SOIL. BREACH UP CLOGS OF SOIL. IF SOILS ARE POOR (IE: HEAVY CLAY, SAND, OR COMPACTED), BACKFILL CAN BE A MIXTURE OF 1/3 SOIL AMENDMENT MIXED WITH 2/3 ORIGINAL SOIL. DO NOT USEPEAT AS PART OF BACKFILL IN CLAY SOILS. REMOVE ALL ROCKS AND DEBRIS FROM BACKFILL.

THOROUGHLY WATER TO SETTLE THE PLANTS AND FILL VOIDS WITHIN TWO HOURS OF PLANTING. INSTALL SPECIFIED MULCH WITHIN 48 HOURS OF WATERING.

SPRING TO MIDSUMMER PLANTING:
PRESERVES THE FORM OF PLANTINGS WITH A SLOW RELEASE, BALANCED FERTILIZER. USE ACCORDING TO MANUFACTURER'S INSTRUCTIONS. MIX FERTILIZER IN WITH BACKFILL OR BROADCAST IN A DIAMETER AROUND THE PLANT.

SUMMER TO FALL PLANTING:
MULCH SHALL BE PULLED AWAY FROM DIRECT CONTACT WITH THE TREE TRUNK OR PLANT STEM. MULCHED AREA SHALL FORM A WELL AROUND PLANTS OR PLANTING BEDS.

CONTRACTOR SHALL FIELD STAKE PLANTING ACCORDING TO PLAN. OWNER / LANDSCAPE ARCHITECT SHALL APPROVE ALL PLANT LOCATIONS PRIOR TO INSTALLATION. OWNER RESERVES THE RIGHT TO REVISE PLANTING LAYOUT AT TIME OF INSTALLATION.

5. CONTRACTOR SHALL FIELD STAKE PLANTING ACCORDING TO PLAN. OWNER / LANDSCAPE ARCHITECT SHALL APPROVE ALL PLANT LOCATIONS PRIOR TO INSTALLATION. OWNER RESERVES THE RIGHT TO REVISE PLANTING LAYOUT AT TIME OF INSTALLATION.
STAFF EXHIBITS AND STUDIES
BUILDABLE AREA: PID ZONING

REQUIRED SETBACKS

WETLAND

WPA

STEEP SLOPE

For illustration purposes only
REQUIRED SETBACKS

WETLAND

WPA

STEEP SLOPE

For illustration purposes only
## REQUIREMENTS BY ZONING CLASSIFICATION

<table>
<thead>
<tr>
<th></th>
<th>REQUIRED</th>
<th>PROPOSED</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>R-5</td>
<td>PID**</td>
</tr>
<tr>
<td>Front Yard Setback</td>
<td>50 ft</td>
<td>55 ft</td>
</tr>
<tr>
<td>Side Yard Setback</td>
<td>82.5 ft</td>
<td>55 ft</td>
</tr>
<tr>
<td>Rear Yard Setback</td>
<td>82.5 ft</td>
<td>55 ft</td>
</tr>
<tr>
<td>Parking Lot Setback</td>
<td>20 ft</td>
<td>20 ft</td>
</tr>
<tr>
<td>FAR*</td>
<td>1.0</td>
<td>0.75</td>
</tr>
<tr>
<td>Building Height</td>
<td>Controlled by setbacks and FAR</td>
<td>Controlled by setbacks, FAR and hardsurface coverage</td>
</tr>
<tr>
<td>Floodplain Setback</td>
<td>20 ft</td>
<td>20 ft</td>
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<tr>
<td>Hardsurface Coverage**</td>
<td>n/a</td>
<td>60%</td>
</tr>
<tr>
<td>Floodplain Vertical Separation</td>
<td>2 ft</td>
<td>2 ft</td>
</tr>
<tr>
<td>Wetland Setback</td>
<td>35 feet</td>
<td>35 ft</td>
</tr>
<tr>
<td>Tree Protection</td>
<td>No maximum removal. However, mitigation is required for removal outside of building foot print and 20 ft perimeter and parking lot footprint and 10 ft perimeter.</td>
<td></td>
</tr>
<tr>
<td>Steep Slopes</td>
<td>• The city may require that a property be rezoned and developed as a planned unit development to utilize flexible development standards to preserve steep slopes. • The property must be physically suitable for the design and siting of the proposed development. The proposed development must preserve significant natural features by minimizing disturbance to existing topographical forms. • The development must not result in soil erosion, flooding, severe scarring, reduced water quality, inadequate drainage control, or other problems. • The proposed development must provide adequate measures to protect public safety.</td>
<td></td>
</tr>
</tbody>
</table>

* based on 2.9 acres of upland area.

** Within the PID District: *The city may utilize incentives to encourage the construction of projects which are consistent with the city’s housing goals. Incentives may include modification of development standards for developments providing low and moderate cost housing. Incentives may be approved by the city only after the developer and city have entered into an agreement to ensure that the low and moderate cost units remain available to persons of low and moderate income for a specific period of time.* (City Code 300.31 Subd.5h)
Memorandum

To: Susan M. Thomas, AICP, Principal Planner
   City of Minnetonka

From: Matt Pacyna, Senior Associate, PE
       Emily Gross, Engineer

Date: October 8, 2015

Subject: Cherrywood Pointe Traffic and Parking Study

Introduction

As requested, SRF has completed a traffic study for the proposed Cherrywood Pointe assisted living and memory care development located at 2004 Plymouth Road in the City of Minnetonka (see Figure 1: Project Location). The main objectives of this study are to review existing operations, evaluate potential traffic and parking impacts of the proposed developments, and recommend improvements to provide acceptable traffic operations and safety, if necessary. This study includes an evaluation of existing and future intersection operations, trip generation, site access/circulation, and a review of the proposed parking supply and demand. The following information provides the assumptions, analysis, and study recommendations offered for consideration.

Existing Conditions

The existing conditions were reviewed to establish a baseline to compare and determine future impacts associated with the proposed development. The evaluation of existing conditions includes peak hour intersection turning movement counts, field observations, and an intersection capacity analysis.

Data Collection

Weekday a.m. and p.m. peak period intersection turning movement counts were collected at the following study intersections in September 2015:

1) Plymouth Road and Ridgedale Drive
2) Plymouth Road and Hennepin County Library/NovaCare Access
3) Plymouth Road and Sherwood Place

Observations were completed to identify various roadway characteristics within the study area (i.e. roadway geometry, posted speed limits, and traffic controls). Plymouth Road is primarily a four-lane divided roadway with turn lanes and a posted speed limit of 35 miles per hour (mph). Ridgedale Drive is a three-lane roadway west of Plymouth Road and a four-lane roadway east of Plymouth Road, while Sherwood Place is a two-lane roadway. Both Ridgedale Drive and Sherwood Place have a 30 mph posted speed limit. The Plymouth Road intersections at Ridgedale Drive and Sherwood Place are signalized and the library/NovaCare access is unsignalized with side-street stop control. Existing geometries, traffic controls, and volumes within the study area are shown in Figure 2.
LEGEND
XX - A.M. Peak Hour Volume
(XX) - P.M. Peak Hour Volume
- Side-Street Stop Control
- Traffic Signal Control

Figure 2
Existing Conditions
Cherrywood Pointe Traffic and Parking Study
City of Minnetonka
Cherrywood Pointe
2004 Plymouth Road
**Intersection Operations Analysis**

An operations analysis was conducted to determine how traffic is currently operating at the study intersections. All intersections were analyzed using Synchro/SimTraffic software (V8) and the Highway Capacity Manual (HCM). 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 considered to be acceptable traffic flow conditions in the Twin Cities metropolitan area.

<table>
<thead>
<tr>
<th>LOS Designation</th>
<th>Signalized Intersection Average Delay/Vehicle (seconds)</th>
<th>Unsignalized Intersection Average Delay/Vehicle (seconds)</th>
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<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 side-street approach. 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 side-street approaches. It is typical of intersections with higher mainline traffic volumes to experience high levels of delay (poor levels of service) on the side-street approaches, but an acceptable overall intersection level of service during peak hour conditions.

Results of the existing operations analysis shown in Table 2 indicate that all study intersections currently operate at an acceptable overall LOS C or better during the a.m. and p.m. peak hours with the existing traffic controls and geometric layout. Although the library and NovaCare access approach operates at LOS D during the p.m. peak hour, this delay is common and does not warrant mitigation. No other significant delay or queuing issues were observed in the field or traffic simulation at the study intersections.
### Existing Intersection Capacity Analysis

<table>
<thead>
<tr>
<th>Intersection</th>
<th>A.M. Peak Hour</th>
<th></th>
<th>P.M. Peak Hour</th>
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<tr>
<td></td>
<td>LOS</td>
<td>Delay</td>
<td>LOS</td>
<td>Delay</td>
</tr>
<tr>
<td>Plymouth Road/Ridgedale Drive</td>
<td>B</td>
<td>17 sec.</td>
<td>C</td>
<td>20 sec.</td>
</tr>
<tr>
<td>Plymouth Road/Sherwood Place</td>
<td>A</td>
<td>5 sec.</td>
<td>A</td>
<td>5 sec.</td>
</tr>
</tbody>
</table>

(1) Indicates an unsignalized intersection with side-street stop control, where the overall LOS is shown followed by the worst approach LOS. The delay shown represents the worst side-street approach delay.

### Proposed Development

As currently proposed, the Cherrywood Pointe development located at 2004 Plymouth Road, consists of a 99-unit (121-bed) assisted living center. The development plans to provide a combination of assisted living care (71-units) and memory care (28-units) type services. It should be noted that a single-family residence is currently located at this site, which has driveway access on Plymouth Road south of the library/NovaCare access. However as part of this project, the single-family residence and Plymouth Road driveway access will be removed.

Access to the proposed Cherrywood Pointe development will be provided via a shared-access with the adjacent NovaCare medical office development (see Figure 3). As part of the proposed development, the existing access to Plymouth Road will be widened to include an eastbound right-turn lane. A total of 88 parking spacing are proposed, which includes 35 surface parking spaces and 53 garage parking spaces.

### Traffic Forecasts

The proposed development is expected to be constructed in the year 2016. Therefore, traffic forecasts were developed for year 2017 conditions (one year after construction). To account for general background growth in the area, an annual growth rate of one-half percent was applied to the existing peak hour traffic volumes to develop year 2017 background traffic forecasts. This growth rate is consistent with historical growth rates in the area.

To account for traffic impacts associated with the proposed development, trip generation estimates for the weekday a.m. and p.m. peak hours and a daily basis were developed using the *ITE Trip Generation Manual, 9th Edition*. Driveway counts were also collected at a Cherrywood Pointe facility in Roseville to more accurately identify the expected trip generation for the proposed development. These driveway counts were then compared to the ITE trip generation estimates for validation. A summary of the trip generation comparison is shown in Table 3.
Results of the trip generation comparison between the ITE and locally collected approaches indicate that the local data generates approximately nine (9) additional a.m. peak hour trips and two (2) less p.m. peak hour trips. Therefore, to provide a slightly conservative trip generation estimate, the local trip generation rate was utilized to generate trips for the proposed development. Results of the trip generation estimate, shown in Table 3, indicates that the Cherrywood Pointe development is expected to generate 26 a.m. peak hour, 25 p.m. peak hour, and 369 daily trips.

Trips generated by the proposed redevelopment were distributed throughout the study area based on the directional distribution shown in Figure 4. The directional distribution was developed using a combination of existing travel patterns within the area and engineering judgment. The resultant year 2017 traffic volumes, which account for general background traffic growth and new trips generated by the proposed development are shown in Figure 5.

**Year 2017 Conditions**

**Intersection Operations Analysis**

To determine if the existing roadway network can accommodate the year 2017 traffic forecasts, a detailed traffic operations analysis was completed. Once again, the study intersections were analyzed using the Synchro/SimTraffic software.

Results of the year 2017 operations analysis shown in Table 4 indicate that all study intersections are expected to continue operating at an acceptable overall LOS C or better during the a.m. and p.m. peak hours with the existing geometric layout and traffic control. Average side-street delays at the NovaCare access are only expected to increase by a few seconds due to the proposed development. This marginal increase in delay is primarily a result of the widened driveway, which will reduce the likelihood of right-turning vehicles having to wait for left-turning vehicles to access Plymouth Road. No other significant operational issues are expected within the study area along Plymouth Road.
Figure 4
Directional Distribution
Cherrywood Pointe Traffic and Parking Study
City of Minnetonka
Cherrywood Pointe
2004 Plymouth Road
Figure 5

Year 2017 Conditions
Cherrywood Pointe Traffic and Parking Study
City of Minnetonka

LEGEND
XX - A.M. Peak Hour Volume
(XX) - P.M. Peak Hour Volume
- Side-Street Stop Control
- Traffic Signal Control
Table 3  Year 2017 Intersection Capacity Analysis

<table>
<thead>
<tr>
<th>Intersection</th>
<th>A.M. Peak Hour</th>
<th>P.M. Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LOS</td>
<td>Delay</td>
</tr>
<tr>
<td>Plymouth Road/Ridgedale Drive</td>
<td>B</td>
<td>17 sec.</td>
</tr>
<tr>
<td>Plymouth Road/Sherwood Place</td>
<td>A</td>
<td>5 sec.</td>
</tr>
</tbody>
</table>

(1) Indicates an unsignalized intersection with side-street stop control, where the overall LOS is shown followed by the worst approach LOS. The delay shown represents the worst side-street approach delay.

Although not a significant issue, minor eastbound queues at the shared-access to Plymouth Road are expected, which have the potential to impact the proposed assisted living access. Based on the intersection capacity analysis, eastbound queues in this location are expected to be approximately 35 feet during the a.m. peak hour and 65 feet during the p.m. peak hour (i.e. two to three vehicles). These queues would extend beyond the proposed development driveway. Therefore, to minimize impacts with vehicles entering/exiting from Plymouth Road, shifting the proposed development access at least 50 feet west of Plymouth Road should be considered.

**Site Review**

A review of the proposed development site plan was completed to identify any issues with regard to intersection sight distance, traffic control, and circulation. Based on this review, the site distance at the proposed development access to Plymouth Road is considered adequate. However, special consideration should be made to limit any sight distance impacts from future landscaping and signing, particularly as part of the proposed development.

State law requires vehicles to yield on driveway approaches and does not require traffic controls to be installed. However, installing stop control at both the proposed development access to the shared access, as well as the shared access to Plymouth Road should be considered. This type of signing could minimize driver confusion and provide consistency with the east approach of this intersection.

As noted earlier, minor queuing is expected at the shared access to Plymouth Road. To address this issue and limit potential conflicts, shifting the proposed development access at least 50 feet west of Plymouth Road should be considered. This will help reduce potential conflicts between entering and exiting vehicles at the shared access. By shifting this access, additional site plan modifications to parking, driveway aisles, and retaining walls are likely to be necessary. A summary of the site plan improvements offered for consideration are shown in Figure 6.

Finally, all truck turning movements and parking/loading areas should be reviewed to ensure delivery vehicles have adequate accommodations to prevent impacts to internal circulation.
Parking Review

As previously mentioned, the Cherrywood Pointe development is planning to provide a total of 88 parking spaces. This includes a combination of 35 surface parking spaces and 53 garage parking spaces. The garage spaces are located in a weather controlled structure that is underneath the proposed development. To determine if the proposed parking supply will meet the demand for the site, a detailed parking review was completed using both the Minnetonka City Code as well as the ITE Parking Generation Manual, 4th Edition. The following information summarizes the parking review.

The minimum parking requirement based on Minnetonka City Code (Chapter 3, Section 300.28) states that for a senior citizen housing development, the minimum number of parking spaces required is one space per unit. The code also requires that at least 50 percent of the required parking spaces be provided in an enclosed weather controlled structure connected to the principal structure, such as the proposed parking garage. Additional parking should be provided for visitors based on the “anticipated demand for visitor spaces as determined by the City”. Based on this guidance, the Minnetonka City Code requires 99 spaces, which results in an 11 space deficit. However, the code does not differentiate between senior housing and assisted living land uses. Therefore based on project experience, an assisted living facility is expected to have a lower parking demand than senior housing.

Since the ITE Parking Generation Manual, 4th Edition does differentiate between an assisted living facility and senior housing, this methodology is considered more appropriate given the proposed land use. The ITE Parking Generation Manual method estimates an 85th percentile parking demand based on comparable study sites and includes key inputs such as facility size and travel behavior. The 85th percentile is a statistical measure that represents the point at which 85 percent of the study sites had an observed peak period parking demand equal to or less than the value. ITE estimates the parking demand for the proposed development is 53 spaces, which is a 35 space surplus from the proposed supply. The proposed development parking supply and demand based on these two methodologies is summarized in Table 4.

<table>
<thead>
<tr>
<th>Land Use Code</th>
<th>Size</th>
<th>Rate</th>
<th>Demand</th>
<th>Surplus/ (Deficit)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>City Parking Requirement</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senior Citizen Housing Developments (Ch. 3, Section 300.28)</td>
<td>99-Units</td>
<td>1 space per unit</td>
<td>99 spaces (1)</td>
<td>(-11)</td>
</tr>
<tr>
<td><strong>ITE Parking Demand Rate – 85th Percentile Demand</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assisted Living (254)</td>
<td>99-Units</td>
<td>0.54 space per unit</td>
<td>53 spaces</td>
<td>+35</td>
</tr>
</tbody>
</table>

(1) Does not include additional required parking for visitors.

Although the proposed parking supply does not meet the City Code requirements, the proposed parking supply is expected to be adequate to meet the parking demand of the development based on the comparable parking data from ITE.
Summary and Conclusions

Based on the analysis, the following summary and conclusions are offered for your consideration:

1) Results of the existing operations analysis indicate that all study intersections currently operate at an acceptable overall LOS C or better during the a.m. and p.m. peak hours. Although the library and NovaCare access approach operates at LOS D during the p.m. peak hour, this delay is common and does not warrant mitigation.

2) The proposed development consists of a 99-unit (121-bed) assisted living center, which includes a combination of assisted living care (71-units) and memory care (28-units) type services.

3) Access to the proposed Cherrywood Pointe development will be provided via a shared-access with the adjacent NovaCare medical office development.

4) The proposed development is expected to generate 26 a.m. peak hour, 25 p.m. peak hour, and 369 daily trips.

5) Results of the year 2017 operations analysis indicate that all study intersections are expected to continue operating at an acceptable overall LOS C or better during the a.m. and p.m. peak hours with the existing geometric layout and traffic control. Average side-street delays at the NovaCare access are only expected to increase by a few seconds due to the proposed development.

6) Special consideration should be made to limit any sight distance impacts from future landscaping and signing, particularly as part of the proposed development.

7) Consider installing stop control at both the proposed development access to the shared access, as well as the shared access to Plymouth Road to reduce driver confusion.

8) Shift the proposed development access at least 50 feet west of Plymouth Road to reduce potential conflicts between entering and exiting vehicles at the shared access. By shifting this access, additional site plan modifications to parking, driveway aisles, and retaining walls are likely to be necessary.

9) All truck turning movements and parking/loading areas should be reviewed to ensure delivery vehicles have adequate accommodations to prevent impacts to internal circulation.

10) A total of 88 parking spacing are proposed, which includes 35 surface parking spaces and 53 garage parking spaces.

11) Although the proposed parking supply does not meet the City Code requirements, the proposed parking supply is expected to be adequate to meet the parking demand of the development based on the comparable parking data from ITE.
COMMENTS RECEIVED:
CONCEPT PLAN
Dee Thibodeau
Charter Solutions, Inc.

I want the Cherrywood Pointe proposal to be scaled back to preserve more woodlands is sufficient!!!
This is my home address: 2504 Cherrywood Road, Minnetonka, MN 55305.
I am going to try and make the Mar 2 meeting to make sure this is scaled back, please listen to the neighbors for once! Dee
Is it wise to have a 129 unit building at this location. 
Traffic in the area is all ready congested at times.
Couldn't be scaled back to 40 or less to preserve trees, Wet lands and space

Sent from my jPad
I am writing to ask that this project be scaled BACK to include a smaller number of units to protect the wetlands and woodlands that would be adversely affected by a possible higher number of units proposed.

Respectfully,
-Jennifer Indermaur
3822 Huntingdon Drive
Minnetonka, MN 55305
To: Susan Thomas and Tony Wagner

I am writing to ask that you take all steps possible to limit the size of this development and scale it back from the proposed 129 units - I do NOT support rezoning the property to planned unit development. The current proposal fills the site with structure and parking, leaving only minimal setbacks, especially on the south and west sides.

The wetlands and woodlands that make Minnetonka such a wonderful place to live are a precious resource that should be preserved and protected as much as possible.

I look forward to seeing the results of your negotiations with the developers.

Best regards,

Kurt Indermaur
3822 Huntingdon Drive
Minnetonka, MN 55305
Dear Susan,

I have lived on Cherrywood Road for 37 years, valuing and taking advantage of Meadow Park and the adjacent wetlands. I understand that Cherrywood Pointe qualifies as “high-density residential” housing and accept a development with limited units. The developer’s proposal of 129 units far exceeds the 36 unit “high-density” threshold. I ask that you DO NOT rezone this property to a PUD and that the city council require the developer to scale back the proposal to preserve trees and protect more of the wetland-adjacent woodlands.

Appreciation of our natural resources defines Minnetonka and sets us above and apart from adjacent suburbs!

Pam Kaufman
2505 Cherrywood Road
Minnetonka, MN 55305
February 22, 2015

To: Mayor Schneider and City Council Members

From: Kamel Aossey

Reference: Cherrywood Pointe

I would like to propose that representatives of United Properties meet with some of the residents living west of Ridgedale to discuss the Cherrywood Pointe project, at a date and time agreeable to both parties. I have noted that United Properties is a well respected and reasonable developer. They seem to be open to neighborhood suggestions and concerns with regard to the height, setbacks and preservation of the natural environment such as the wetlands and existing trees which offer a natural buffer.

I am asking the City Council to note the above for the record and to enforce their own stated mission and goals concerning the natural environment of our community. The city’s statement reads, in part, “We will protect and enhance the unique natural environment of our community by carefully balancing growth and development with preservation efforts that protect the highly valued water and woodland resources of our community.”

We, in the community of Minnetonka, want to strategically help guide the redevelopment of the Ridgedale area, particularly the southwest quadrant of Ridgedale Drive and Plymouth Road. Our suggestions and concerns have been well documented and we will continue to positively interact with the city and future developers when we see that the community needs are incorporated in this process.

We believe United Properties will respect our concerns as citizens and neighbors and we very much want them to continue their good stewardship in our area.

CC: Brian Carey, Executive Vice President,
United Properties
3600 American Blvd. West, Suite 750
Minneapolis, MN 55431
I am a Minnetonka resident who is passionate about keeping our city in line with its commitment to wetlands & green space. It is my understanding that this development is wanting to expand as much as possible to take advantage of every square inch available however the wetlands abutting the property line is presenting challenges. As a resident who honest to god has wetlands or rather what I call a bayou (mosquito breeding ground) in my backyard, I ask you to fight to urge to feel the need to develop, develop, develop. I see our city eroding away as I type this. I only moved to Minnesota 5 years ago and am absolutely shocked to see how people here talk about caring for nature, green space and wetlands and seconds after making these remarks, turns around and works towards the opposite goals. I know there is no money in protecting green space and wetlands but I care and so do a lot of people. If protecting wetlands and the surrounding land around them are a priority for you too, please think twice before allowing just another building to encroach upon its uniqueness for ease of construction.

Audra Johnson
Attorney-at-Law

CONFIDENTIAL COMMUNICATION
E-mails from this firm normally contain confidential and privileged material, and are for the sole use of the intended recipient. Use or distribution by an unintended recipient is prohibited, and may be a violation of law. If you believe that you received this e-mail in error, please do not read this e-mail or any attached items. Please delete the e-mail and all attachments, including any copies thereof, and inform the sender that you have deleted the e-mail, all attachments and any copies thereof.
Dear Ms. Thomas,

As project planner for the Cherrywood Pointe development, I would like to address you with concerns regarding the redevelopment and rezoning of the existing property at 2004 Plymouth Road. Please take note that I am opposed to any site and plan that will reduce the woodlands on that property. As you are aware, woodland is essential to the wetland ecosystem. Since there are regulations limiting the negative impact on wetlands in Minnetonka, reduction of woodlands must be considered in the environmental impact on wetlands. In fact, that combined impact is the reason you cannot drain the wetlands to the east of Ridgedale and must develop to the west, as was not the case when Ridgedale was built on wetlands the 1970’s.

Please strongly consider reducing the size of the complex and the number of units/parking so as not to impact the woodlands on land for the proposed Cherrywood Pointe project and register my objection to the potential impact on the ecosystem.

Regards,
Margaret Krieser
13417 Tudor Road
Please forward my comments to the City Council.

Having reviewed the concept plan before you, having watched the Planning Commission meeting on Feb. 19, being a neighbor across the impacted wetland and having been a Minnetonka resident for 24 years, I urge you to direct United Properties to reduce the footprint of this project in order to save more trees adjacent to the wetland as an important buffer. Minnetonka needs to carefully balance growth and development with preserving shared natural resources. A much lower density development, commensurate with neighboring properties, is needed to protect our wetlands.

Gernot Langle
13509 Larkin Dr
I would like to voice my opinion in the concern of the Cherrywood Pointe proposal being too many units. I think it should be scaled back to preserve as much woodlands (and wetlands) as possible. I live in the Larkin Circle neighborhood and would be directly impacted when wildlife/animals are displaced.

Sincerely,

Lesley Doehr
13434 Larkin Circle
Minnetonka, MN 55305
To: Minnetonka City Council  
From: Robert Bertelsen, 13513 Larkin Dr, Minnetonka  
Date Feb 26, 2015  
Subject: Cherrywood Pointe Project

With permission obtained through United Properties, I recently walked the property at 2004 Plymouth Road.

Based on those observations, and my review of the submitted details/plans, I think the footprint for the proposed Cherrywood Pointe development is too big.

- **How much of the property is woodlands? What percentage of the woodlands acreage will be lost?** There is close to one-and-a-half acres of oak woodland-brushland on the property. The concept plan shows removal of about 25 percent of those woodlands.

- **How much additional woodland-brushland acreage will be disturbed?** Since grading and construction typically extend about 20 feet outside of the footprint of the building, the impacted zone is greater than the footprint alone would convey. The concept plan also shows a sidewalk that would disturb the wetland and building setback areas.

- **Does the proposal allow for both the 35-ft wetland setback for the building, and the 25-ft wide wetland buffers required upslope of the two wetlands?** It doesn’t appear that it does.
• **Are the buffer zones large enough to protect all of the trees and vegetation on the property’s steep wetland slopes?** No, much of the western wing of the building would be on a steep slope. Minnetonka’s steep slope ordinance says to “concentrate development on the least sensitive portion of the site to maximize the preservation of significant trees and natural features” and “to design the scale of development so that it does not overwhelm the natural character of the steep slope” (300.28, 20).

• **What is the quality of the native oak woodlands?** The oakwood forest has a mix of trees (which are at the top of the scale for preventing runoff and erosion) as well as a fairly dense understory, including cattails that act as a biological filter for organic pollution (including pollution generated by this type of development).

Please ask the developer to either provide a smaller concept with a different/innovative building configuration that protects the wetlands, woodlands and steep slope on the west end of this property, or to find a less vulnerable site.
Dear Ms. Thomas,

Although I’m not a resident of Minnetonka, I have always admired the beauty of your city because of its natural resources. I think it is probably one of the loveliest suburban cities in the Twin Cities area!

Therefore, I urge you not to vote for the proposal to build 129 units on the Cherrywood Pointe property. Please protect those precious and necessary woodlands.

Sincerely,

Lilly Perry
502 Lanewood Lane North
Plymouth, MN
55447
To: Minnetonka City Council  
From: Jim Olson – 13420 Larkin Drive Minnetonka  
Date: February 26, 2015  
Subject: Cherrywood Pointe Concept Plan

Although I think United Properties has identified a desirable use for the 3+ acre site and has proposed a building footprint that works for them, I don’t think the city should approve their request without careful scrutiny.

Why is PUD zoning necessary? Why doesn’t their concept fit into established residential zoning categories?

Just because the developer wants to provide 129 units, please do not be afraid to tell them to scale back their concept to a smaller number that will better fit the size and sensitive terrain of the parcel.

I have watched the Planning Commission turn down single-family development requests that do not fit residential ordinance requirements with the admonition to come back with a proposal that fits completely within established zoning ordinances. A multi-family project should also comply with multi-family zoning standards.

I understand that PUD zoning provides a proper approval process in cases where traditional zoning may not apply. However, to “fall in love” with a project to such a degree that you are willing to grant variances without regard to the environmental and precedent-setting implications of that action may be short-sighted.

The developer’s site plan diagram shows west side building footprint and sidewalk construction near and in the wetland setback area. Does that also mean some amount of understory would need to be removed on the slope leading to the wetlands themselves? It seems prudent to request the developer to replace and even augment valuable understory plantings to help filter herbicide, pesticide and fertilizer runoff into the wetlands. If understory is removed to make room for wetland views from the lower level living units, then some alternative absorption plantings should be requested, recognizing that they might not function as well as native growth does.

Thank you for addressing these concerns.
To: City Planner, Loren Gordon, Principal Planner, Susan Thomas, Mayor Terry Schneider, Councilpeople, Patty Acomb, Dick Allendorf, Tony Wagner, Bob Ellingson, Brad Wiersum, and Tim Bergstedt

Copy to: Planning Commission: Deborah Calvert, Brian Kirk, David Knight, Mark Magney, Sean O'Connell, Heather Odland, Jim Rettew

From: Kay Johnson, 2227 Platwood Road, Minnetonka, MN 55305

Date: February 27, 2015

I attended the meeting with the neighborhood, Wednesday, February 18, as well as the meeting with the Planning Commission the next day for the Cherrywood proposal on Plymouth road. There was little time to absorb the presentation because it was just a drawing on a piece of paper. We could not see how the building was going to relate to the topography. It was unclear how many trees and what species were going to be saved or destroyed. There was no information on the density of the adjacent property, Regency Woods.

Upon reflection, I now realize that this project is proposed to be 129 units on approximately 2.9 acres or 45 units per acre. It is my understanding that Regency Woods, the next door property that is also guided “high density”, is about 15 units per acre. The two properties on either side of the proposal are 3 stories tall. Therefore, I believe that the proposal should be scaled back to be no more than 15 units per acre and no more than three stories tall so that it fits in with the surrounding development. Also, it should not be zoned “PUD” which seems to be a “back door” way to get around restrictive ordinances to protect the trees and wetlands.

This property consists of steep slopes, wetlands, and mature trees. It borders Meadow Park, a primarily wild life refuge. This wetland is a special amenity for the City of Minnetonka that is part of the Minnehaha Watershed district. As such, any development abutting the wetland has to be done with sensitivity to the environment. The Metropolitan guidelines indicate that steep slopes are to be preserved.

Therefore, I would urge the council to direct the developer to come back with a greatly reduced proposal, not to exceed 15 units per acre and not to be taller than 3 stories. I would request that the developer use sensitivity in preserving the natural amenities on the site as well as protect the surrounding wetlands.

Sincerely,

Kay D. Johnson
Ms Thomas and Mr. Wagner,

Although I have not been able to attend the session about the proposed project, I strongly support the preservation of the woodlands and support of the wildlife that inhabits this area. Please seriously consider reducing the size of this project from 129 units to 80.

The beauty and attractiveness of this part of Minnetonka is at risk of being replaced by increased density. Speaking for myself, one of the reasons I chose to live here was that there was a sense of a neighborhood and community. Little by little that feeling is being replaced by a preponderance of planned buildings that make living here feel more like a city environment.

Thank you for considering my request.

Susan Hayes

12700 Sherwood Pl, #311

Minnetonka, MN 55305
Sorry, I typo'd your address on my first try. I hope that this can make the change memo for Monday 3/2.

Thanks!!

-------- Forwarded message --------

From: Jayme Neary
Date: Sun, Mar 1, 2015 at 12:53 PM
Subject: Cherrywood Pointe Comments
To: Loren Gordon <lgordon@eminnetonka.com>, sthomas@emmintonka.com, tschneider@eminnetonka.com, bellingson@eminnetonka.com, dallendorf@eminnetonka.com, Patty Acomb <pacomb@eminnetonka.com>, bwiersum@eminnetonka.com, tbergstedt@eminnetonka.com, Tony Wagner <twagner@eminnetonka.com>

Since this is a concept review and there is not a lot of detail yet regarding this proposal, I do not have any specific comments yet. However, from the high level information I have seen and talking to neighbors, I may have potential concerns regarding zoning, density, traffic, and natural resource preservation.

Following are some questions I’d like to see staff/the developer answer during the March 2nd city council discussion:

- I understand this area is guided as high density? What all does that entail?
- What are the zoning differences going from R1 to R5? What about R5 to PUD?
- Why is it "likely" that this property will need to be rezoned to PUD? What are the specific reasons for this?
- Based on the preliminary drawings, do the setbacks the developer is proposing fit R5?
- I see setback numbers on the drawings of 10, 40 and 50? Can those be explained further?
- What is the proposed density of this project in comparison to Regency Woods? In comparison to other developments like this? (Units/acre, height, footprint/setbacks, FAR, etc.)
- What will the footprint of the building look like on this lot? What will it look like in comparison to the buildings next to it?
- What is the buildable acreage? I have seen "almost 4 acres", 3.4 and heard 2.9 from staff. Can someone clear this up and talk about the real number and why there are different ones in different documentation?
- What is the height of the building going to be, both in number of stories and number of feet? I have heard rumors that the developer first talked about a 2-3 story building, then a 3-4 story building then now 5 is being discussed?
- Regarding traffic: will a study be done? will the study take into account the increased traffic for the Highland project? is it likely another variance for p.m. trips will be required? what is staff's gut feel on whether the current road infrastructure can handle another project in the area before road improvements are done? Remember, residents, employees, and visitors will be traveling to/from the SW quadrant as a result of this development.
• It looks like two access points off Plymouth Road are being designed. Does this meet Hennepin County standards for proper spacing on a county road?
• Will this development be protecting our natural resources? I understand there are steep slopes involved with this property and might add complications. Can someone explain that further?
• Do we have a preliminary estimate of trees saved vs. trees destroyed? What are the rules?
• How do we ensure that this will adhere to all of Minnetonka's wetland ordinances? Can at a high level the ordinance(s) be explained and a determination made if this abides by our rules or not?
• The developer’s narrative seems more concerned about capturing views for the residents of the new building rather than preserving Minnetonka's wetlands. Can council please direct the developer to pay close attention to Minnetonka's natural resources values if they do a next iteration?

My hope is that if these questions and others are asked and answered then there will be a common sense direction that the developer can be given if they want to move forward with a more detailed proposal.

Thank you for your consideration.

Jayme Neary
13537 Larkin Drive
Minnetonka, MN 55305
Hello,

My property is adjacent to the wetlands and it seems Minnetonka has always been concerned about each and every tree remaining undisturbed. Not only is it important to protect our wetlands, but it is equally critical to protect the woodlands adjacent to those wetlands as they provide a natural filter to keep harmful substances from the wetlands, they help prevent erosion of the wetlands, and they provide critical habitat for the wildlife population of the wetlands.

Please consider scaling back the Cherrywood Pointe proposal to preserve more woodlands.

Sincerely,

Linda Rodrigues
13531 Essex Place
Minnetonka, MN
Folks, I have to voice my opposition to the elements of the 2004 Plymouth Road project that would result in the destruction of the existing woodland preservation area on and around the property. I find it very frustrating that many other projects are stalled or denied when these issues are on the table, yet other ones - such as this - seem to move forward with little concern or opposition from the local zoning and governmental agencies. We believe that it is imperative that the existing woodland and wetland areas be preserved, especially in this area of town where we are so fortunate to have the amount of undeveloped area that currently exists.

We recognize the desire and potential long-term need for a facility such as the one being proposed, but why is it acceptable to approve a project of this size when this level of density is not necessary.....except when a developer says so? I don't need to regurgitate the reasons why the wetlands and natural habitat areas are so important; the City has made this one of their focal points for many years.

I strongly encourage you to reconsider the size of this project, and require that it be scaled back significantly from the proposed plan.

Regards

Rey Freeman
13517 Larkin Drive
Minnetonka
Dear Minnetonka City Council,

Growing up in Minnetonka, my family has for many years appreciated the woodlands and green space the city offers, along with the proximity to conveniences. Minnetonka is a special place! In 2013 my husband and I bought our first home together in Minnetonka and we look forward to raising our 2 boys in this great city.

We are concerned about the size of the proposed senior development at 2004 Plymouth Rd., as it will affect about 1-1/2 acres of woodland preservation area. Our city has ordinances for a reason and we understand there are ordinances in place that require the building be smaller than proposed. We highly recommend this development be scaled back to a building with fewer units to preserve more trees, protecting more of the wetland-adjacent woodlands.

Thanks for your attention,

Tami & Mark Decker
13514 Larkin Drive, Minnetonka
COMMENTS RECEIVED:
FORMAL APPLICATION
Please include in tonight’s addendum. Thanks!

FYI

Tony Wagner
Council Member, Ward 2
Minnetonka, MN
612-382-5212

Sent from my iPhone, please excuse my brevity.

Begin forwarded message:

Your welcome..Yes that would be fine! Thank you janice Docherty

-------- Original message --------
From: Tony Wagner
Date: 09/28/2015 12:29 PM (GMT-06:00)
To: [redacted]
Subject: Re: cherrywood point

Janice ...

Thank you for your note and thoughts on the proposal. Would you like me to share your feedback with staff and the other council members so that is part of the public record?

Tony

Tony Wagner
Sent from my iPhone, please excuse my brevity.

On Sep 28, 2015, at 10:20 AM, wrote:

-----Original Message-----
From: chancerama
To: twager <twager@eminnetonka.com>
Sent: Mon, Sep 28, 2015 10:18 am
Subject: cherrywood point

Dear Tom Wagner
I live in Sherwood court across from the property you plan to build on
I am not able to attend meeting but want you to know that I do not agree with this idea at all.
To increase traffic and also also an increase of fire trucks and ambulances in this area which increase with the elder
would really change the peacefulness of the area which is why we moved here!
Thank you!
Janice Docherty
From: Geralyn Barone  
Sent: Wednesday, September 30, 2015 9:05 AM  
To: Julie Wischnack; Susan Thomas  
Subject: FW: Cherrywood Pointe

Please include with the upcoming reports. Thanks!

Geralyn

From: Tony Wagner  
Sent: Tuesday, September 29, 2015 5:37 PM  
To: Geralyn Barone <gbarone@eminnetonka.com>  
Subject: Fwd: Cherrywood Pointe

Tony Wagner  
Council Member, Ward 2  
Minnetonka, MN  
612-382-5212

Sent from my iPhone, please excuse my brevity.

Begin forwarded message:

From: Robert St.Clair  
Date: September 29, 2015 at 3:27:05 PM CDT  
To: Tony Wagner <twagner@eminnetonka.com>  
Subject: Re: Cherrywood Pointe

We would appreciate your doing that for us.
Thanks,
Joanna and Bob St.Clair

On Sep 28, 2015, at 12:34 PM, Tony Wagner <twagner@eminnetonka.com> wrote:

Robert ...

Thank you for your note and thoughts on the proposal. Would you like me to share your feedback with staff and the other council members so that is part of the public record?

Tony
On Sep 26, 2015, at 3:41 PM, Robert St.Clair wrote:

Dear Mr. Wagner,

We are very interested in the Cherrywood Pointe Project and encourage you to lend it your support. We live very close to that property and rather than being upset by the environmental impact, we are excited by the possibility that we might be able to continue to live in an area that has so many conveniences. The property is situated between a medical building and an apartment complex. We understand that developers have already altered and reduced their plans in consideration of environmental issues. The project as currently designed strikes us as a substantial upgrade to the present site and addresses a growing need in our community. We need to leave our townhoe in the near future because Joanna suffered a stroke last November and is currently learning to deal with dementia.

Thanks for your consideration.

Joanna & Bob St.Clair
ORDINANCE AND RESOLUTION
Ordinance No. 2015-

Ordinance rezoning the existing property at 2004 Plymouth Road from R-1, low density residential, to PUD, planned unit development

The City Of Minnetonka Ordains:

Section 1.

1.01 The property at 2004 Plymouth Road is hereby rezoned from R-1, low density residential, to PUD, planned unit development.

1.02 The property is legally described in EXHIBIT A.

Section 2.

2.01 This ordinance is based on the following findings:

1. The rezoning would provide public benefit, as:

   a) Greater preservation of the site’s wooded slope than would otherwise be provided under non-PUD development; and

   b) Provision of affordable housing.

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

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

Section 3.

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

- Civil site plan, dated August 21, 2015
- Utility plan, dated August 21, 2015
- Grading and Drainage plan, received October 8, 2015
- Building elevations, dated August 21, 2015
- Overall landscape plan, dated August 21, 2015

The above plans are hereby adopted as the master development plan for CHERRYWOOD POINTE OF MINNETONKA.

2. Development must further comply with all conditions as outlined in City Council Resolution No. 2015-XXX, adopted by the Minnetonka City Council on October 26, 2015.

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

Section 5. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on October 26, 2015.

Terry Schneider, Mayor

ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS ORDINANCE:

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

Date of publication:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on October 26, 2015.

________________________
David E. Maeda, City Clerk

Date:
EXHIBIT A

That part of the Northeast Quarter of the Northeast Quarter, Section 10, Township 117, Range 22 described as commencing at the Northeast corner of said Northeast Quarter of the Northeast Quarter; thence on an assumed bearing of South 88 degrees 47 minutes 45 seconds West, along the North line of said Northeast Quarter of the Northeast Quarter, a distance of 118.72 feet; thence South 10 degrees 22 minutes West a distance of 315.75 feet to the actual point of beginning; thence North 10 degrees 22 minutes East, a distance of 256.43 feet; thence Northerly along a tangential curve to the left having a radius of 184.95 feet, a distance of 58.41 feet, more or less to the North line of said Northeast Quarter of the Northeast Quarter; thence South 88 degrees 47 minutes 45 seconds West along said North line a distance of 683.26 feet to a point 711.31 feet West from the Northeast corner of said Northeast Quarter of the Northeast Quarter; thence South 1 degree 12 minutes 15 seconds East, a distance of 310 feet; thence North 88 degrees 43 minutes 25 seconds East, a distance of 529.27 feet, more or less to the point of beginning, located in Hennepin County, Minnesota.

Torrens Property - Certificate of Title No. 457296.
Re:

Resolution No. 2015-

Resolution approving final site and building plans for Cherrywood Pointe of Minnetonka at 2004 Plymouth Road

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

Section 1. Background.

1.01 United Properties has requested approval of final site and building plans for Cherrywood Pointe of Minnetonka.

1.02 The property is located at 2004 Plymouth Road. It is legally described on EXHIBIT A of this resolution.

1.03 On October 15, 2015, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the final site and building plans.

Section 2. Site Plan Standards and Findings.

2.01 City Code §300.28 Subd.20 (b)(3) outlines several findings that must be met for construction on steep slopes. Those findings are incorporated by reference into this resolution.

2.02 City Code §300.27, Subd. 5, outlines several items that must be considered in the evaluation of site and building plans. Those items are incorporated by reference into this resolution.

2.03 The proposal would meet the steep slope findings outlined in the City Code §300.28 Subd.20 (b)(3):
1. The property is physically suitable for the design and siting of the proposed development. Based on submitted plans, the proposal will impact just 15 percent of the steep slope.

2. The development is not anticipated to result in significant soil erosion, flooding, severe scarring, reduced water quality, inadequate drainage control, or other problems.

3. The proposed development provides adequate measures to protect public safety.

2.04 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 high-density residential development consistent with the site’s high-density residential 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 zoning ordinance standards.

3. The proposed building and parking lot would be appropriately located with reference to both existing constructed and natural features. The building and surface parking lot would be located on the eastern portion of the site, adjacent Plymouth Road and the more intense land uses to the north and south. Much of the wooded slope to the west would be preserved.

4. As new construction, the building code would require use of energy saving features. In addition, water reclamation and irrigation sensors would be considered to promote water conservation.

5. The proposal would visually and physically alter the site and Plymouth Road corridor. However, any redevelopment of the subject property consistent with its high-density residential designation would result in such changes.

Section 3. City Council Action.

3.01 The above-described site and building plans, with variances, are hereby approved subject to the following conditions:
1. Subject to staff approval, Cherrywood Pointe of Minnetonka must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:

- Civil site plan, dated August 21, 2015
- Utility plan, dated August 21, 2015
- Grading and Drainage plan, received October 8, 2015
- Building elevations, dated August 21, 2015
- Overall landscape plan, dated August 21, 2015

2. A grading permit is required. 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) Three full size sets of construction drawings and project specifications.

   3) Final site, grading, stormwater management, utility, landscape, tree mitigation, and natural resource protection plans, and a stormwater pollution prevention plan (SWPPP) for staff approval.

   a. Final site plan must:

   1. Include a handicap accessible sidewalk connection from the building to the existing sidewalk on Plymouth Road.

   2. Indicate minimum horizontal and vertical setback from 100-year floodplain.

   3. Incorporate parking lot modifications as outlined on Figure 6 of SRF Cherrywood Pointe Traffic and Parking study dated October 8, 2015.

   4. Include an exhibit illustrating truck turning movements/templates.
b. Final stormwater management plan must meet the requirements of the city’s Water Resources Management Plan, Appendix A. Design. The plan must include a narrative, impervious surface information, soil boring data, and modeling demonstrating rate control and water quality treatment.

c. Final utility plan must:

1. Include a parallel water main connection to provide a back-up feed to the building.

2. Note that the 24-inch trunk water main on Plymouth Road is subject to blackout dates and times. Shut downs must occur after hours and may not occur between May 15 and September 15 without special city permission.

d. Final landscaping and tree mitigation plans must:

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

2. Include an itemized plant material list to illustrate that the landscape value will meet city code requirement.

3. Ensure all deciduous trees are located at least 15 feet from Plymouth Road and conifers at least 20 feet.

4. Include rain sensors on any irrigation systems.

e. Final grading plan must incorporate all proposed changes to the driveway and parking lot on the adjacent property to the north and the 2000 Plymouth Road owner must agree to this plan.
4) A sequencing plan for review and approval of the city engineer. The plan must notate the series of construction events that will occur involving driveway construction and sanitary sewer and water main connections and disconnections. The number of events in which disturbances to the street and utilities occur must be minimized. For example, multiple crews may be required to disconnect water services simultaneously.

5) The following documents for the review and approval of the city attorney:

a. Drainage and utility easements up to and over the 935.8 foot and 942.0 foot elevations.

b. A shared access agreement or easement over the existing driveway at 2000 Plymouth Road. The agreement/easement must state the maintenance responsibilities of each owner. The application is responsible for applying for and obtaining any required driveway permits from Hennepin County.

c. A conservation easement. The easement must cover the site wetlands, required wetland buffers as outlined in city code, and remaining woodland preservation areas. The easement may allow for location of city approved recreational facilities.

d. A trail easement. The easement must cover the woodland preservation area on the west side of the site. This easement will be reduced in total area upon construction of a city approved trail.

e. Stormwater maintenance agreements over all stormwater facilities.

6) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to construct parking lot and utility improvements, comply with grading permit, tree mitigation requirements, landscaping requirements, and to restore the site. One
itemized letter of credit is permissible, if approved by staff.

a. The city will not fully release the letters of credit or cash escrow until:

- A final as-built survey has been submitted;
- An electronic CAD file or certified as-built drawings for public infrastructure in microstation or DXF and PDF format have been submitted;
- Vegetated ground cover has been established; and
- Required landscaping or vegetation has survived one full growing season.

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

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

8) Evidence that an erosion control inspector has been hired to monitor the site through the course of construction. This inspector must provide weekly reports to natural resource staff in a format acceptable to the city. At its sole discretion, the city may accept escrow dollars, in an amount to be determined by natural resources staff, to contract with an erosion control inspector to monitor the site throughout the course of construction.
9) 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.

10) Evidence of closure/capping of any existing wells, septic systems, and removal of any existing fuel oil tanks.

11) All required administration and engineering fees.

12) Park dedication fees in the amount of $495,000. City staff are authorized to reduce this amount commensurate with the cost of providing a trail easement and associated construction.

b) Prior to issuance of the grading permit:

1) Obtain and submit a permit from the Minnesota Department of Health.

2) Obtain and submit a sanitary sewer extension permit from the Minnesota Pollution Control Agency.

3) Obtain and submit a right-of-way permit from Hennepin County.

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

5) Schedule and hold a preconstruction meeting with engineering, planning, and natural resources staff as determined by city staff.

4. Prior to issuance of a building permit:

a) Submit the following documents:

1) Proof of subdivision registration and transfer of NPDES permit.
2) A snow removal and salting application rate plan.

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

b) Submit a final material and color palate board for staff review and approval.

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

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

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

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

d) Submit all required hook-up fees.

e) Enter into a legal agreement with the city providing the following base rent and income controlled units for 15 years.

<table>
<thead>
<tr>
<th>Type of Unit</th>
<th>Number Units</th>
<th>Income Restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio</td>
<td>3</td>
<td>60% of area median</td>
</tr>
<tr>
<td>1 Bedroom</td>
<td>5</td>
<td>60% of area median</td>
</tr>
<tr>
<td>1+ Den</td>
<td>2</td>
<td>80% of area median</td>
</tr>
</tbody>
</table>
Retaining walls over four feet in height must be engineered and must include guard rails.

The city may require installation and maintenance of signs which delineate the edge of any required conservation easement. This signage is subject to the review and approval of city staff.

During construction the street must be kept free of debris and sediment.

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on October 26, 2015.

Terry Schneider, Mayor

ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS RESOLUTION:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on October 26, 2015.
David E. Maeda, City Clerk
EXHIBIT A

That part of the Northeast Quarter of the Northeast Quarter, Section 10, Township 117, Range 22 described as commencing at the Northeast corner of said Northeast Quarter of the Northeast Quarter; thence on an assumed bearing of South 88 degrees 47 minutes 45 seconds West, along the North line of said Northeast Quarter of the Northeast Quarter, a distance of 118.72 feet; thence South 10 degrees 22 minutes West a distance of 315.75 feet to the actual point of beginning; thence North 10 degrees 22 minutes East, a distance of 256.43 feet; thence Northerly along a tangential curve to the left having a radius of 184.95 feet, a distance of 58.41 feet, more or less to the North line of said Northeast Quarter of the Northeast Quarter; thence South 88 degrees 47 minutes 45 seconds West along said North line a distance of 583.26 feet to a point 711.31 feet West from the Northeast corner of said Northeast Quarter of the Northeast Quarter; thence South 1 degree 12 minutes 15 seconds East, a distance of 310 feet; thence North 88 degrees 43 minutes 25 seconds East, a distance of 529.27 feet, more or less to the point of beginning, located in Hennepin County, Minnesota.

Torrens Property – Certificate of Title No. 457296.
Memorandum

To: Planning Commission

From: Susan Thomas, AICP, Principal Planner

Date: October 15, 2015

Subject: Change Memo for the October 15th Planning Commission Agenda

ITEM 8A – Cherrywood Pointe

Please make the following changes to conditions to page 4 of the resolution:

e. Final grading plan must incorporate all proposed changes to the driveway and parking lot on the adjacent property to the north and the 2000 Plymouth Road owner must agree to this plan.

4) A sequencing plan for review and approval of the city engineer. The plan must notate the series of construction events that will occur involving driveway construction and sanitary sewer and water main connections and disconnections. The number of events in which disturbances to the street and utilities occur must be minimized. For example, multiple crews may be required to disconnect water services simultaneously.

The city received several comments following publication of the report. These comments are attached.
Hello-
As a concerned resident and proponent of conserving our woodland preserves in Minnetonka, I am sending you this email asking for you to vote no, against the construction of Cherry Pointe Senior Housing, that would destroy any woodland habitats and trees in our city of Minnetonka.

As, I understand it, the proposed CherryPointe Senior Housing plan, would disrupt and destroy some of our natural habitat in Minnetonka. That would be wrong!

Thank you for your consideration of this concerning matter.
Teresa Weum
1500 Fairfield Rd. S.
Minnetonka, MN 55305

Teresa Gewedik Weum
Ms. Susan Thomas,

As a resident and business owner/operator in Minnetonka, I feel compelled to write this letter regarding the Cherrywood Pointe development. To begin with, I am not originally from Minnesota. I grew up in southern Ohio and only moved here 6 years ago due to my husband’s career. Growing up outside Minnesota, the only thing I knew about the state was that it was cold, had a lot of lakes and that the people were as my mother called them, “outdoorsy”. It’s sad to say but I think most of the US still has this limited perspective of our wonderful state. Minnesota is far better than I had ever imagined it to be! So you can understand how shocked I feel and how ironic it is that Minnesotans are the first to want to destroy that which makes them stand out: the environment which makes us famous!

The proposed Cherrywood Pointe development is located on a relatively small parcel, with the topography sloping down into the nearby wetlands. This didn’t happen overnight and surely the owner of this real estate noticed the limitations. Furthermore, the parcel contains many mature trees which support the habitat of the area.

It is my understanding that the developers want to create a senior living community. That’s great. They also picked a beautiful spot. I hope the elderly individuals who will one day live there enjoy the wonders of nature, which happen to be so close. I also want others living in the area to enjoy the same things. It’s only so nice because a large variety of animals and aquatic life can sustainably live there, otherwise it would be a desolate wasteland which would have been developed by now. These wetlands are protected and mature trees are supposed to be saved if possible but I have seen and heard enough from our City Council to know they’re more than happy to use whatever loopholes & discretion they have to erase these protections for the benefit of a developer. This is so short sighted!

Once those trees are gone and a huge building is built, it will be there for a long time. Once you damage the ecosystem and habitat, it will never be the same.
I’m a lawyer and in my line of work real estate is seen an asset which is elevated above most others. Each parcel of land is seen as so special and unique that courts have declared money damages to be inadequate. Land is finite and no two pieces are alike. No matter the damage to land, nothing can restore or replace what once was. This is the concept of specific performance. It is a call to either do something which should be done or to stop doing something which shouldn’t. No amount of money can make losing or damaging this habitat worth it. These trees shouldn’t be cut down and the building should not be permitted to get built so close to the wetlands. Harming the land will be permanently damaging. We have to stop this in its tracks before it begins.

I am voicing my opinion that Cherrywood Pointe not become high density to begin with and that the building be scaled back to align itself within the standards and limitations set out by the Planned I-394 District as described in the Comprehensive Guide Plan. Eliminate the south wing of this building so that we can save as many trees as possible. The Woodland Preservation Area is a crown jewel in this particular area within Minnetonka. People have built neighborhoods around it and there’s an extensive trail winding around parts of it for a reason- it’s an example of raw nature within reach. By cutting corners and encroaching into its space, we are eroding away a limited and precious resource. I demand specific performance! Do not let them damage the mature trees and Woodland Preservation Area. No money will make it right & no benches or paths will restore it in a meaningful way. This land belongs to all of us in Minnetonka.

Words of protection mean nothing if we’re so willing to make exceptions! Allowing developers to evade the rules everyone else has to abide by is a slippery slope. My neighborhood warned City Council of overindulging in variances and zoning changes when Highland Bank was being proposed. Do not negotiate with our protected and preserved areas.

The development won’t be a failure if we protect what is unique and special about this real estate. The owners and businesspeople backing the plan will boo hoo about the lost revenue but what we lose if we give in is a lot worse. It's our own ability to connect with the natural world that we don’t get to see enough of as it is. Why will kids want to play in the dirt and chase butterflies if we pave and build in a manner which destroys this possibility? Do we really want to build so close to nature, risking the possibility of creating a host of negative unintended consequences?
Do we want these protected wetlands in perpetual shade, surrounded by huge concrete structures? I do not. The residents of this city do not. I want my kids to see a real butterfly, not one on her Ipad. And chances are, if you asked them, I bet the elderly people who will be residents in that building would agree with me. You know I'm right. Do the right thing. Stop overdevelopment before we blur into St. Louis Park & Edina!

Audra Johnson
Attorney-at-Law

The Law Office of Audra Johnson
13419 Larkin Drive
Minnetonka, MN 55305

CONFIDENTIAL COMMUNICATION
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Please include this message in the packet for the Planning Commission Meeting

As a close neighbor of the property at 2004 Plymouth Road, I walk past and enjoy looking at the yard of "Acorn Acres" several times a week. The woods, wetland and wildlife of this stretch of Plymouth Road are what drew me to move to the adjacent property (Regency Woods) at 2200 Plymouth Road after selling my late parents' home on Oakland Road. My parents lived out their lives at home, into their late 80's, very much enriched by the same kind of environment we're talking about here - trees, wetlands and abundant wildlife. As their caregiver for more than six years, I have also toured more than my share of senior living facilities in this area. I feel very strongly that there is an enormous and important value in the quality of life that trees, the wetlands and wildlife bring to the elderly, and to all of us.

I sincerely ask the Planning Commission to vote NO on the Cherrywood Pointe proposal, and to tell the developer to adjust their proposal to eliminate the South wing of the building. This can save about 15-20% of the woodland preservation area on this property. Doing this will save a number of significant and protected trees, help reduce erosion, preserve the wildlife habitat, and improve the quality of daily life for the future residents and staff at Cherry Pointe.

Thank you for your consideration.

Anne Lloyd
2250 Plymouth Road - Apt, 201
Minnetonka, MN 55305
WE ASK THE PLANNING COMMISSION TO VOTE NO ON THE CHERRYWOOD POINTE PROPOSAL AND TO TELL THE DEVELOPER TO ADJUST THEIR PROPOSAL TO ELIMINATE THE SOUTH WING OF THE BUILDING IN ORDER TO SAVE ABOUT 15-20% OF THE WOODLAND PRESERVATION AEA ON THIS PROPERTY. DOING SO WOULD SAVE A NUMBER OF PROTECTED TREES WHILE HELPING REDUCE EROSION AND PRESERVE WILDLIFE HABITAT. Thank you.

Julie and Steve Freie
11900 Live Oak Drive
Minnetonka, MN 55305
We ask the planning commission to vote no on the Cherrywood Pointe Proposal and to tell the developer to adjust their proposal to eliminate the south wing of the building in order to save approximately 15-20% of the woodland preservation area on the property. Doing so would save a number of protected trees while helping reduce erosion and preserve wildlife habitat.
Thank you,
Angie Voigt
13748 Green Briar Drive

Sent from my iPad
I am very concerned about the trees that are being taken for this project. I request that you reject this project until and unless protected trees and parkland can be saved. Living in Minnetonka for almost 30 years I have been grateful and proud of the way protection of important wild lands and wildlife habitat has been a priority. Please honor this tradition and deny this development under it’s current condition. Thank you for your consideration. Charlie Greenman
11421 Live Oak Drive

Sent from my iPhone
Please include this note in the Planning Commission packet. Please vote “no” on the Cherry Pointe development. If the southern wing is deleted many of the trees would be preserved. I believe the density is too high for this sensitive wooded steep slope property.

Kay D. Johnson
2227 Platwood Road
Minnetonka, MN 55305
As a concerned neighbor I'm less than pleased with the news that the Cherrypoint Retirement community would destroy such a beautiful and historic forest within our Minnetonka community. We only have so much space left within Minnetonka and I strongly believe that we've forever removed enough forest within the Ridgedale area. Please consider relocating this establishment.

- Jessica Toledo
2219 Platwood Rd
Minnetonka, MN 55305
October 15, 2015 comments to Minnetonka Planning Commission on Cherrywood Pointe Proposal – from Essex Hills resident group (presented by Annette Bertelsen, 13513 Larkin Drive, Minnetonka)

PROPOSED USE
Our neighborhood group thanks United Properties for its interest in bringing senior care housing to this area of Minnetonka. High-density residential follows the comprehensive guide plan for this property and senior housing would be a good addition for the neighborhood.

FINDING THE RIGHT BALANCE
As Commissioner Odland pointed out during the concept stage, we need to make sure “that we are not overpopulating this very protected area.”
- A Woodland Preservation Area (native oakwood brushland)
- Two Slopes – one is “Steep Slope”
- 33 High Priority or Significant Trees
- Two Wetlands

PUD ZONING REQUESTED
The developer is asking that the property be rezoned to Planned Unit Development (PUD).

The guidelines for PUD are the SAME numbers as the standards for R-5 zoning. Therefore the developer is asking the City to give them permission to depart from all the yard and parking lot setbacks (5) under PUD/R5 guidelines/standards, as well as to not follow the minimum outdoor recreational area.

City Code Section 300.22 (6a): “The standards outlined in the following code sections serve as development guidelines for structures within PUDs:”

<table>
<thead>
<tr>
<th>PUD Land Use</th>
<th>Development Guidelines</th>
</tr>
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<tbody>
<tr>
<td>low-density residential</td>
<td>R-1, section 300.10</td>
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<tr>
<td>medium-density residential</td>
<td>R-3, section 300.12</td>
</tr>
<tr>
<td><strong>high-density residential</strong></td>
<td><strong>R-5, section 300.14</strong></td>
</tr>
<tr>
<td>commercial</td>
<td>B-2, section 300.18</td>
</tr>
</tbody>
</table>
ZONING STANDARDS/GUIDELINES COMPARISON

<table>
<thead>
<tr>
<th>REQUIRED GUIDELINES</th>
<th>PROPOSED</th>
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</thead>
<tbody>
<tr>
<td><strong>R-5</strong></td>
<td><strong>PID</strong></td>
</tr>
<tr>
<td>Front Yard Setback</td>
<td>50 ft</td>
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<tr>
<td>Side Yard Setback</td>
<td>8.25 ft</td>
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<tr>
<td>Rear Yard Setback</td>
<td>82.5 ft</td>
</tr>
<tr>
<td>Parking Lot Setback</td>
<td>20 ft</td>
</tr>
<tr>
<td>FAR*</td>
<td>1.0</td>
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<tr>
<td>Building Height</td>
<td>Controlled by setbacks and FAR</td>
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<tr>
<td>Floodplain Setback</td>
<td>20 ft</td>
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<td>Hardsurface Coverage**</td>
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<td>Floodplain Vertical Separation</td>
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<tr>
<td>Wetland Setback</td>
<td>35 feet</td>
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<tr>
<td>Outdoor Recreational Area</td>
<td>10%</td>
</tr>
</tbody>
</table>

*(Section 300.14, 5h): “outdoor recreational area: minimum of 10 percent of the gross project area shall be in private recreational uses for project residents.” We’ve been told by medical experts that outdoor recreation is very important to senior physical and mental health – so for some of us who are in the market for a senior care facility for our loved ones, the miniscule outdoor recreation area would definitely remove the proposed facility from our consideration set.

SITE IMPACTS OF PROPOSED BUILDING DEPARTURING FROM STANDARDS
The proposed building, which does not follow PUD/R5 guidelines/standards results in the destruction of:
- 35% of the Woodland Preservation Area
- 100% of the High Priority trees
- 100% of the Significant trees
- 12% of the Steep slope
COMPARISON TO A PUD- OR R5-COMPLIANT BUILDING

The Minnetonka Natural Resource Department estimates that if the building complied with PUD/R-5 guidelines/standards, it would:

- SAVE 15-20% of the Woodland Preservation Area

Note that on the side that faces the Meadow Park trail system and our single family homes, the building would then be 6 stories rather than 5 stories, but it’s a much smaller “building face” in that direction than the proposed building. The larger setbacks on the south side would also mitigate the height appearance for the adjacent residential property.
ACCORDING TO MINNETONKA ORDINANCE, PID IS THE ALLOWED REZONING
The developer is asking for permission to NOT follow two parts of the Planned I-394 (PID) ordinance, the primary purpose of which is to “responsibly manage corridor growth” in Minnetonka.

City Code: “All property in a traffic analysis district which is not yet zoned Planned I-394 distribute shall become part of the associated separate zoning district upon rezoning.”

City Code 300.31 subd. 11b. “No property in the traffic analysis districts identified in Subdivision 13 which is designated for a use other than lower density residential in the comprehensive guide plan may be rezoned to a zoning classification other than planned I-394 district. A contrary rezoning will be permitted only if it is demonstrated that the planned I-394 district incorrectly applies to a specific property.”

Not following the ordinances presents several risks:
- If someone challenges this rezoning in court, the court could rule against the city, as it has in at least one other lawsuit.
- Regardless of final decision, city resources would be wasted.
- If a credible legal issue is presented, the court can issue an injunction, disrupting the project timeline.

A PID-COMPLIANT BUILDING WOULD HAVE DIFFERENT SETBACKS AND SCALE
The primary difference between the PID standards and the PUD/R-5 standards/guidelines is that the PID setbacks are smaller (giving the developer more room to strategically place the building to minimize impact on natural features) and the maximum floor area ratio (FAR) is 0.75.

The proposed building, under PID zoning, would mean the developer is asking the City to give them permission to depart from all the yard and parking lot setbacks (5) under PUD/R5 guidelines/standards AND to exceed the FAR by 20%, as well as to not follow the minimum outdoor recreational area.

The proposed building results in the destruction of:
- 35% of the Woodland Preservation Area
- 100% of the High Priority trees
- 100% of the Significant trees
- 12% of the Steep slope
REZOEING PID COULD SAVE SIGNIFICANT WOODLAND PRESERVATION AREA

Under the standards for PID, the building FAR would need to be reduced 20%.

The Minnetonka Natural Resource Department estimates that if the south wing was removed, we would:

-SAVE 15-20% of the Woodland Preservation Area

This option would require the city to grant the developer some setback variances.

In consideration for those setbacks, the city could ask the developer to: a) look for creative solutions for saving some of the High Priority or Significant trees (feasible since parking needs decrease) , b) agree to a conservation/trail easement and/or c) provide some low-income housing units.
CONCLUSION
We are very excited about the prospect of having senior housing in our neighborhood.

We ask the Planning Commission to:

- **Vote to deny the current proposal.**
- **Direct the developers to bring back a proposal requesting PID zoning, in accordance with Minnetonka Code.**
- **Ask them to remove the south wing of the building, in order to preserve 15-20% of a Woodland Preservation Area on a Steep Slope adjacent to wetlands and to the Meadow Park area.**
- **Include wording in the trail easement that prohibits building a private access to the trail in this very protected area.**

Doing so will save trees and understory in a Woodland Preservation Area, preserve wildlife habitat, reduce erosion, control runoff quality and protect a Steep Slope – which follows the principles outlined in the 2030 Minnetonka Comprehensive Guide Plan (Natural Resources Plan chapter VI and Land Use Plan chapter VI).

Thank you.
ADDENDUM B – IMPACT OF PROPOSAL

Cherrywood of Minnetonka
REQUESTED FOR INCLUSION
Annette:

I attached a copy of the updated grading plan that was recently submitted showing the expected areas of impact within the Woodland Preservation Area (WPA) highlighted in brown. The lighter brown is areas where no direct grading is shown on the plans but where we would expect some tree impacts within the WPA due to the adjacent grading. The total impact is about 35% of the WPA on the site. We would expect all the Significant trees and at least 15 of 16 High-Priority trees to be removed.

I also estimated a grading and construction limit for the R-5 drawing submitted. I drew the limits 20 feet south of the building, about 25 feet west of the building, and about 15-18 feet west of the parking lot as the building would extend farther into the slope to the west, but this may even be slightly optimistic. Please note that these are my estimates only as this plan is not actually being proposed. Additional space (more tree impacts) may be needed if this actual plan were to be proposed, but I am doubtful it could be constructed with less space due to the size of the building footprint, parking lot, and existing slopes. The estimated impact within the WPA is about 15-20% (there is slightly more impact to the west, but notably less to the south). We would expect all 16 High-Priority trees and all but one significant tree to be removed.

I also attached a plan showing the High-Priority (green) and Significant trees (yellow) on the site. The remainder of the site is Woodland Preservation Area.

Please note that the R-5 Plan shown indicates that it would be a 6-story building. If they are attempting to maintain the same numbers of units and floor space, the trade-off of a smaller footprint to save trees is a possible increase in the height of the building to avoid the loss of floor space.

If you have questions, I can be reached by phone or e-mail.

Aaron Schwartz
Natural Resource Specialist
Public Works Department
City of Minnetonka
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Minnetonka, MN 55305
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Cherrywood of Minnetonka
2004 Plymouth Road

R-5 ZONING
6 story with garage

112,000 Finished s.f.
18,000 s.f. Garage

50 surface parking
50 garage parking

Garage 18,000 s.f.
1st Floor 18,000 s.f.
2nd Floor 18,000 s.f.
3rd Floor 18,000 s.f.
4th Floor 18,000 s.f.
5th Floor 18,000 s.f.
6th Floor 18,000 s.f.
Total 130,000 s.f.
TREE PRESERVATION KEY:
- Existing tree to remain
- Impacted high priority tree to remain (outside of building/parking footprints)
- Impact high priority tree to be removed (outside of building/parking footprints)
- Critical root zone (non-impacted)
- Critical root zone (impacted)

TREE PRESERVATION & REPLACEMENT SUMMARY

TOTAL WPA CALIPER INCHES IMPACTED OR REMOVED: 98 cal. inches
SUMMARY OF WPA REPLACEMENT TREES (SEE LANDSCAPE PLAN):
- (6) 3" B&B Quaking Aspen - 18 cal. inches
- (6) 3" B&B Bur Oak - 18 cal. inches
- (8) 3" B&B Red Oak - 24 cal. inches
- (6) 3" B&B Swamp White Oak - 18 cal. inches
- (4) 2.5" B&B Autumn Brilliance Serviceberry
- (4) 2.5" B&B Thornless Hawthorn
TOTAL HIGH PRIORITY TREE INCHES IMPACTED OR REMOVED: 66 cal. inches
SUMMARY OF H.P. REPLACEMENT TREES (SEE LANDSCAPE PLAN):
- (1) 3" B&B Red Maple - 3 cal. inches
- (1) 3" B&B Kentucky Coffee Tree - 3 cal. inches
- (10) 3" B&B Quaking Aspen - 30 cal. inches
- (1) 3" B&B Red Oak - 3 cal. inches
- (3) 3" B&B Swamp White Oak - 9 cal. inches
- (4) 3" American Linden (Basswood) - 12 cal. inches
- (1) 2.5" B&B Autumn Brilliance Serviceberry - 2.5 cal. inches
- (1) 2.5" B&B Blue Beech - 2.5 cal. inches
- (1) 1.5" B&B Pagoda Dogwood - 1.5 cal. inches

TOTAL SIGNIFICANT TREE INCHES IMPACTED: 0 cal. inches

WOODLAND PRESERVATION AREA:
TOTAL EXISTING WPA AREA ON SITE: 57,662.15 SF
IMPACTED WPA AREA: 13,243.14 SF OR 22.97%
REMAINING UNDISTURBED WPA AREA: 44,419.01 SF OR 77.03%
BUILDABLE AREA: PROPOSED PUD ZONING

- REQUIRED SETBACKS
- WETLAND
- WPA
- STEEP SLOPE

For illustration purposes only
For illustration purposes only
BUILDABLE AREA: R-5

For illustration purposes only

- REQUIRED SETBACKS
- WETLAND
- WPA
- STEEP SLOPE

Cherrywood Pointe
2004 Plymouth Road
**FOR ILLUSTRATION PURPOSES ONLY**

**REQUIRED SETBACKS**

- Wetland
- WPA
- Steep slope

**BUILDABLE AREA: PID**

- 4 STORY
- 23,625 SQ.FT. FOOTPRINT
- 94,500 SQ.FT. TOTAL excluding underground garage

**Cherrywood Pointe**

2004 Plymouth Road
8. Public Hearings

A. Items concerning Cherrywood Pointe of Minnetonka at 2004 Plymouth Road.

Acting Chair Odland 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.

Mark Nelson, of United Properties, applicant, introduced others involved in the project.

Susan Farr, of Ebenezer, stated that:

- Ebenezer is part of Fairview Hospitals and the U of M by providing care for seniors and memory care patients. Ebenezer has been the top work place four years in a row and is the top senior housing management company in Minnesota operating 60 properties.
- The site is an A+ location because it would be easy to walk to nearby places, like the library, grocery store, and mall. Seniors need more things to do.
- She is available for questions.

Mr. Nelson stated that:

- The use would create a very low level of traffic and have low impact from an operational-use standpoint.
- United Properties is a local company that has been around for 100 years.
- United Properties developed Centennial Lakes in Edina which helped them be recognized as the National Developer of the Year a few years ago.
- United Properties has focused on senior housing with services for 12 years now. Minnetonka Mills is its 11th cooperative.
- He provided a rendering of the proposed building. It would be a very nice place for visitors. It would have a homey, residential feel. It would not feel institutional at all. There would be a library, parlor, craft area, and family gathering areas.
The previous proposal was modified to protect the slopes and create a woodland preservation area. It is a complicated puzzle to put together.

Affordable units were added and some units were eliminated. The number of memory care units decreased to 21.

The plan is better for the site and the building that the concept plan. The footprint was reduced by 30 percent from 40,000 square feet to 28,000 square feet. The building was shifted to the east.

Garage access would be located on the main drive on the north side to save trees on the southeast corner.

The building owner on the north has been accommodating by agreeing to widen the driveway to provide two lanes out and one lane in. It would be regraded to eliminate dips and improve access.

Rainwater would be captured for a reuse system.

He pointed out where the trail easement and conservation easement would be located.

It is a good plan consistent with the land-use designation.

The traffic study concluded that this use would have the lowest impact of any use.

There would be a buffer of trees on the west before reaching the wetland that would remain substantial and significant. The view from surrounding properties would not change.

He pointed out what trees would be preserved. It is an amazing oasis of a site. The common areas would be oriented to the views. There would be numerous decks and patios.

The site would be very well landscaped.

Evan Jacobson and Matt Arndt, architects for the project, introduced themselves. Mr. Jacobson stated that:

- He worked on the initial concepts for the project. Mr. Arndt has taken over the work on the exterior.
- He was available to answer questions regarding site, layout, or orientation.

Mr. Arndt stated that:

- He focused on creating a welcoming, home-like setting for seniors.
- The roofs would be gabled.
- The site is natural. Natural materials would be used. Stone would be used at the base of the building.
• The radial design would allow the views to be captured.
• The design would benefit seniors and fit into the natural setting.
• He provided 3-D perspectives.

The public hearing was opened.

Annette Bertelsen, 13513 Larkin Drive, stated that:

• She thanked United Properties for wanting to develop senior housing in the area. It would be great to have senior housing in the neighborhood. It is a great use of the property.
• This is the first proposal.
• She wants to do everything to protect the natural features. The comprehensive guide plan contains a natural resources management plan that tells us that a steep slope with trees next to a wetland is more important than a steep slope.
• The numbers for a PUD are the same as an R5 district.
• Thirty-five percent of the woodland preservation area would be eliminated. Some of this would happen no matter what would be constructed. Fifteen to 20 percent of the woodland preservation area would be saved if the guidelines were followed.
• The property is supposed to be rezone to PID, Planned I-394 District.
• If citizens would challenge the proposal in court, it would be a long process.
• She preferred following the city code and rezoning the site to PID.
• An R-5 concept plan showed what could be constructed following zoning requirements. The same amount of woodland preservation area would be saved.
• She favored removing the south wing and meeting the floor area ratio (FAR) standard.
• The proposal would not be a “PID-compliant building.” The setbacks would need a variance.
• She favored reducing the wetland preservation area impact by 50 percent and having the ability to negotiate on the setback variances.
• Sherwood Point has 70 units.
• She requested the proposal be denied and the site be rezoned to PID. She supports a proposal that would comply with PID zoning and the FAR standard.
Kay Johnson, 2227 Platwood Road, stated that:

- She supported denial of the proposal.
- The concept plan included 99 units. That density would be too high for the environmentally sensitive site with steep slopes and wetlands.
- Her husband was in a nursing home and it was difficult to find parking spots. Visitors and staff drive. When the staff changes overlap, parking can be difficult.

David Height, 2000 Plymouth Road, stated that:

- He supports what the developer has done over the last year. The proposal has reduced the size and footprint of the building.
- His office building is fully occupied. Employees of tenants in the building live in Regency Woods and other areas of Minnetonka nearby. He cares about how the development would look. The tree removal would impact his property more than the other sides. He made a lot of demands on United Properties concerning what would have to be done in order to share the driveway including improving and creating a U-shaped drive. United Properties agreed with every demand and improvement requested. The driveway would be graded, widened, and dips would be removed.
- He reviewed the traffic study and plan details. The property will be developed at some point. This proposal is a very good use of the property as it relates to his adjacent property. It would create less traffic than any other high-density residential use. The number of drivers who would share his office building’s drive is very important to him. There would be an increase, but, by widening the driveway, it would alleviate most of that. He was thankful for that.
- He cares about the trees. The proposal would be a major physical change to the east part of the property. He was comfortable with the number of trees that would be saved.
- The applicant is also willing to deal with changing the site lines for signage for both buildings.
- He saw what the city is requiring of the applicant in the developer’s proposal. There would be an easement for a trail. That is a real positive for the entire neighborhood. He has employees and tenants who use the trails to reach Plymouth Road and the Regency Woods area. He would be willing to continue the trail through his property to the Ridge Square area.
• He supports the proposal. He has owned the fully-occupied office building for 15 years.
• He supports the developer who he has seen make major strides to deal with the wetlands and wooded areas.

Bob Bertelsen, 13513 Larkin Drive, stated that:

• He wants to know the age of the oldest tree.
• There is no shortage of retirement homes in the area.
• Removing the south wing would help save trees.
• The vegetation is only there in the spring and fall.

Paulette Shrutt, representing the Carlson family, 2004 Plymouth Road South, stated that:

• The buyer was chosen with great care. The site belonged to her grandparents and her dad planted the trees.
• She respects the guidelines to preserve the woodland and wetland. Cherrywood Pointe of Minnetonka is a great choice. The seniors and their families would be able to enjoy the woods, wetlands, and animals.
• The residents would be able to value their home just as her grandparents did.

No additional testimony was submitted and the hearing was closed.

Magney asked about the difference between PUD and PID zoning. Thomas explained that a PUD has some flexibility. An 82.5-foot setback would be required for R5 zoning, but not for a PUD. The city attorney has reviewed staff’s recommendation. The city council as the authority to rezone properties.

In response to Powers’ question, Colleran explained that the concept plan that followed R-5 regulations would cause removal of 15 percent to 20 percent of the woodland preservation area. Thomas noted that the R-5 diagram was for a 6-story building with a smaller footprint compared to the current plan for a 4-story building with a slightly larger footprint.

Powers asked why the applicant could not go ahead with the R-5 plan. Thomas stated that the applicant could.
Calvert asked what effect removal of part of the steep slope would have on the wetland. Colleran explained that the building would be 100 feet away from the wetland on the northwest side. The southwest wing would be 60 feet away from the wetland. Excavation for the building would be done at the top of the grade. Erosion control would be required to ensure that sediment would not erode down the hill. There would be construction limits. The remaining trees on the slope would remain. There would be no dirt piled in the area. The root systems and integrity would remain. There would be no wetland fill. Based on the plans, there would be no wetland impact. The foundation wall would act as a retaining wall. There would be impact further away from the building to get the grades to work and provide drainage.

Thomas provided that a steep slope is defined as a slope that rises at least 25 feet, has an average grade higher than 20 percent, and a width wider than 100 feet. Construction practices must be followed to build into a steep slope. There is an ordinance that allows the city to prohibit construction on a slope with a grade higher than 30 percent, but this slope ranges from 21 percent to a small section of 27 percent located near the north end of the property.

Calvert noted that there will be construction going on in the Ridgedale area from the Highland Bank project. She asked if construction times would overlap for the proposed project. Thomas said that would be looked at during the creation of a construction management plan. County engineers would also provide input since the road is a county road.

Knight asked if a taller building would require more land for the foundation. Thomas estimated that there would be no difference in the grading.

Acting Chair Odland asked what percent of the trees are at the 30-foot line and how many are high-priority trees. Thomas explained that natural resource staff evaluates the trees and makes sure that the tree survey is accurate. The 30-foot line designates the woodland preservation area. The city has specific counts for trees of the 30-foot grading limit, but not specific counts for the woodland preservation area.

Acting Chair Odland asked for the age of the oldest tree. Colleran explained that educated estimates show the oldest tree to be a 44-inch oak on the north side that has a defect. Those oaks are over 200 years old. Oaks trees can live about 300 years. There are many trees that are 24 to 38 inches in diameter. Those are common in remnant oak forests throughout the city. The tree protection ordinance protects remnant ecosystems during subdivision of land. There are many trees across Minnetonka that are just as old. The ash and poplar on the
site are 10 to 15 years old. Oaks normally grow slower. A woodland preservation area is looked at as a unit. It is difficult from a forester’s perspective to look at one tree, because it is really about the ecosystem functioning as a whole. Individual, high-priority trees located outside of the woodland preservation area are 15 inches in diameter and 20 feet or taller except for certain species like Norway, maple, and silver maple. Any tree 8 inches in diameter or larger are classified as significant trees. A 10-inch oak would be considered significant if located outside of a woodland preservation area. A 20-inch oak would be considered a high-priority tree if located outside of a woodland preservation area.

Acting Chair Odland asked about the amount of adequate parking. Thomas reviewed the traffic study. Staff is comfortable with the amount of parking and overflow parking.

In response to Acting Chair Odland’s question, Thomas estimated that a 6-story building would be 25 to 30 feet taller than a 4-story building.

Acting Chair Odland asked if the reduction from 129 units to 99 units would be an “overbuild” of the site. Thomas stated that staff recommends approval of the application as presented with the conditions provided.

Powers asked if the height of the building would make a difference for future residents. Ms. Farr stated that there would be elevators. Removal of a wing would impact common areas such as the eating area, craft room, and meeting room. It is nice to provide different views in different areas.

Powers confirmed with Ms. Farr that the setting would be ideal for seniors. Spouses could live in the apartments and walk over to the memory care units. There are a lot of couples whose health do not mirror each other.

Powers asked for the ideal size. Ms. Farr said that the ideal size would be 100 units to 110 units to provide for adequate staffing. There is a labor shortage right now.

Mr. Nelson provided illustrations showing cross sections of the site. During concept review neighbors communicated that four stories would be the desired maximum height to keep the vast majority of the building within the trees. Four stories is the perfect balance between the height and the footprint. He was not in favor of making the building five or six stories. There is an operational reality to the building. One hundred homes is perfect. The market study supports 200 homes at the site. The applicant worked with staff to balance impact to the site with providing affordable units and the design of the building. It would be a nice
building. The opportunity to concentrate common areas together diminishes by adding height and reducing the footprint.

Acting Chair Odland confirmed with Mr. Nelson that there would be a tradeoff between the impact to the trees and height of the building.

Mr. Nelson said that the site would have more parking stalls than provided at its other properties that are functioning very well. The office property would not be used on weekends and allow overflow parking if needed. There would be 53 stalls in the underground garage for staff.

O’Connell supports the project. It would be a good use of the site. It fits the comprehensive guide plan by providing density, affordable housing, and a need for an aging population. A benefit is that the developer is local, very well respected, and is partnering with a great manager.

Magney supports staff’s recommendation. Staff did a great job presenting the proposal. That piece of property is ripe for redevelopment. It is sandwiched between commercial and high density residential. It is guided for high-density residential. The developer has done a nice job since the concept plan by reducing the scale of the building.

Calvert was glad the footprint had been reduced significantly. Some of the trees are not terribly healthy. She was bothered by digging into the steep slope that leads into a wetland, but it is a tradeoff between that and reducing the visual impact.

Knight agrees with O’Connell and Magney. The proposed building would be appropriate for the site. The fact that the footprint was reduced is a benefit. It would be a very attractive building. The owner and architect being local is nice. He supports staff’s recommendation.

Calvert appreciated the goal of preserving amenities for the residents. Common areas are very important for making the building like a home for the residents.

Powers supports the proposal. He is distressed by the loss of trees, but he is more concerned with providing opportunities for residents with real needs. He understands that the neighbors do not want the building to be six stories tall. He liked what the developer is thinking and what Ms. Farr said.

Acting Chair Odland noted that the tree loss would be notable to the neighbors. She suggested looking at St. Therese when balancing the visual impact of the building’s height with the removal of a few more trees to expand the footprint.
She supports the proposal as currently presented. Staff and the applicant have worked very well together. It is so easy to support staff’s recommendation because it is so well thought out.

Knight stated that he lives two blocks from the St. Therese building. He is not bothered by the size of it. He has friends who live across the street from it and he has never heard them complain about the building. He would prefer the proposed building to be taller. St. Therese is right on the road, but is not that objectionable to him.

Magney moved, second by O’Connell, to recommend that the city council adopt the ordinance rezoning the property from R-1 to PUD and adopt a master development plan (see pages A88-A91 of the staff report) with modifications provided in the change memo dated October 15, 2015.

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

Magney moved, second by O’Connell, to recommend that the city council adopt the resolution approving final site and building plans (see pages A92-A101 of the staff report) with a modification provided in the change memo dated October 15, 2015.

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

The city council is tentatively scheduled to review this item at its October 26, 2015 meeting.

9. **Adjournment**

Knight moved, second by Magney, to adjourn the meeting at 8:36 p.m. Motion carried unanimously.

By: ____________________________

Lois T. Mason
Planning Secretary