Agenda
Minnetonka City Council
Regular Meeting, Monday, November 23, 2015
6:30 P.M.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Acomb-Wiersum-Bergstedt-Wagner-Ellingson-Allendorf-Schneider
4. Approval of Agenda
5. Approval of Minutes: October 12, 2015 council meeting
6. Special Matters:
   A. Election electronic pollbook presentation
      Recommendation: None - informational only
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases: None
10. Consent Agenda - Items Requiring a Majority Vote:
    A. Resolution approving agreement with MnDOT
    B. Resolutions concerning no parking signs on Marlborough Court and Dynasty Drive
    C. Resolution approving a conditional use permit for an accessory apartment at 3514 Sunrise Drive West
    D. Resolution approving a conditional use permit for a fast food restaurant with drive-up facility and site and building plan review for Dunn Brothers Coffee at 14525 State Highway 7
    E. Resolution authorizing the certification of delinquent fire alarm response fees to the Hennepin County Auditor

Minnetonka City Council meetings are broadcast live on channel 16.
Replays of this meeting can be seen during the following days and times: Mondays, 6:30 pm, Wednesdays, 6:30 pm, Fridays, 12:00 pm, Saturdays, 12:00 pm. The city’s website also offers video streaming of the council meeting.
For more information, please call 952.939.8200 or visit eminnetonka.com
11. Consent Agenda - Items Requiring Five Votes: None

12. Introduction of Ordinances: None

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

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

14. Other Business:
   A. Concept Plan for Highview Villas, a residential development of properties at 4301 Highview Place and an adjacent, unaddressed parcel

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

   B. Items concerning the Pagel Activity Center at Minnetonka High School, 18313 State Highway 7:
      1) Conditional use permit; and
      2) Site and building plan review

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

   C. Concept Plan for redevelopment of the TCF Bank site at 1801 Plymouth Road

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

   D. Professional services agreement for the Shady Oak Site Redevelopment Study

      Recommendation: Approve the agreement (4 votes)

15. Appointments and Reappointments:
   A. Appointment of student representative to park board and amend Planning Commissioner John Powers’ term of office

      Recommendation: Approve the recommended appointment to the park board and amend John Powers’ term of office

16. Adjournment
Minutes
Minnetonka City Council
Monday, October 12, 2015

1. Call to Order

Schneider called the meeting to order at 6:30 p.m.

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

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

4. Approval of Agenda

Wiersum moved, Allendorf seconded a motion to accept the agenda, with an addendum to item 14C. All voted “yes.” Motion carried.

5. Approval of Minutes: September 14 and 28, 2015

Wagner moved, Bergstedt seconded a motion to approve the September 14, 2015 minutes. All voted “yes.” Motion carried.

Wiersum moved, Bergstedt seconded a motion to approve the September 28, 2015 minutes. Wagner, Ellingson, Allendorf, Wiersum, Bergstedt and Schneider voted “yes.” Acomb abstained. Motion carried.

6. Special Matters:

A. Proclamation declaring October 20, 2015 as Inclusive Playground Day

Wiersum read the proclamation.

St. David’s Center Executive Director Julie Sjordal thanked the council for its support.

B. Metropolitan Airport Commission Presentation

Barone said the city had received a number of complaints from residents regarding aircraft noise leading to a meeting with members of the Metropolitan Airport Commission. She said the information shared at that
meeting was helpful so she thought it would be beneficial to share that information with the council.

Wagner said during his 12 years on the council he received one complaint. This year he has received around 20 complaints. He thought the information presented at the meeting would be helpful for residents.

District B Commissioner Rick King and MAC Director of Environment Chad Leqve gave the presentation.

Allendorf asked what the council should tell a resident who has asked that the city council act to stop planes from flying over their neighborhood. King said one option for residents would be to contact the MAC who will provide the map information shown in the presentation. He said he would be happy to talk with residents who have concerns.

Wiersum noted the presentation included information about wind patterns as well as changes in airline operations to more night flights. He asked which was more responsible for causing the increase in complaints. Leqve said the number of successive days and nights with flights arriving on the runways that impact Minnetonka was unique in terms of historical operations at the airport.

Wagner said the level of detail the MAC has was impressive. They can pinpoint the time and the actual aircraft flying over a residence.

Schneider noted he served on several committees with other mayors and for a while there was a lot of buzz about technology that would increase capacity and narrow down flight patterns. This appears to have been put on hold for the time being. He asked if the technology moved forward how more flights in a tighter pattern might impact noise issues for cities like Minnetonka. Leqve said there had been a lot of discussion about the technology and there were many concerns raised by the communities around the airport. As a result of the concerns the MAC decided not to support the FAA’s desire to implement the departure procedures to the northwest of the airport. The cities input was invaluable.

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on upcoming meetings and events.

Schneider noted that at the recent city council candidates’ forum, a question was asked about a presentation he participated in about how to get a project approved by a city council. The implication was there was
some type of conflict of interest involved. He clarified that in the fall of 2014 the Minnesota Bar Association was conducting its annual conference. He participated in a panel discussion that was well received by the attorneys. The program was tweaked and given at the Sensible Land Use Coalition this year.

8. Citizens Wishing to Discuss Matters not on the Agenda

Paul Kralovec, 15213 Holdridge Road East, said he was interested in installing solar power into his house. Ideally to do this the best spot to put the panels would be in the wetlands behind his house. Staff had informed him this wasn’t part of their work plan and his best option was to ask the council to direct the staff to look at the issue. He said he had no interest in degradation of the wetlands. His proposal would place the solar panels about 15 feet into the wetlands, high enough where the wetlands would not be impacted from a solar standpoint. The panels would not be intrusive to neighbors due to the tree line. Any other location on his property would require a substantial increase in the number of panels, or a decrease in the power that could be generated. He would like to reduce his carbon footprint and is willing to make the investment but needs the council to help him with the placement of the panels to maximize their efficiency. He said he would like to do this in 2016 because the tax credit was going away.

Schneider said the process for review would likely be similar to the process used to approve putting a boardwalk through a wetland. Community Development Director Julie Wischnack said while the process would be similar the city has not allowed solar panels to be placed in wetlands in the past and to do so would be a pretty big departure from the current wetland policy and regulations. She said if the council wanted to delve into changing the policy, there likely would be a significant amount of research on how this would impact other areas of the city. Schneider said the city has been pretty stringent on the wetland criteria.

Kralovec said he was asking that staff be directed to evaluate the idea.

Allendorf asked if there were other solar panels in the city to help provide information about the physical structures themselves. He questioned if the council thought solar panels in wetlands would become more prevalent in the city so that the investment of time and effort to research would pay off in the future.

Wischnack said the solar panels in the city she was aware of were located on buildings. Barone said staff stays on top of emerging issues like this one and in this case the idea seemed to be in conflict with the city’s long
standing tradition of touching the wetlands. She said there were a couple of options. The city could wait to see what other communities do or it could devote staff time to research the topic.

Acomb said the environmental impacts on wetlands were not known. Minnetonka has a lot of mature trees creating situations where rooftops of homes were not always an option for solar panels. This was an emerging industry that in other parts of the country was much more widely used for residential purposes. She thought the state was moving quickly in the solar direction. As an environmentalist she didn’t want negative impacts to something that the community values but she didn’t know enough to understand the potential impacts. She would favor getting some information.

Kralovec said there was definite interest from others in the city to do what he was looking to do. By allowing residents to do this, multiple things would be accomplished. The values of homes would increase. It would help the community’s image.

Wiersum asked if staff provided any rationale to Kralovec about why the city currently does not allow solar panels in wetlands. He said providing the rationale for current policies along with some information for the council to consider would be worthwhile. He didn’t want staff putting in a lot of work however. Barone said she would check with the staff Kralovec had made the request to in order to provide the council more information.

Allendorf said it would be helpful if Kralovec could provide information about what would be physically required to do in order to install the solar panels. Schneider said currently the solar panels were not a permitted use in the wetlands so the ordinance would need to be amended. He thought it would be more useful to have the resident check with other communities that allow solar panels to be placed in wetlands to see how those communities’ ordinances were written.

Bergstedt said he appreciated Kralovec coming forward with the request. He said it was important to take a big picture view at this point. He suggested staff do a cursory search to see if other communities have dealt with this issue. This would help inform the next steps.

9. **Bids and Purchases: None**
10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolution adopting the 2016 meeting schedule for the Minnetonka City Council

Allendorf moved, Bergstedt seconded a motion to adopt resolution 2015-102 adopting the 2016 meeting schedule for the Minnetonka city council voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances:

A. Ordinance regarding appeals from fire marshal decisions

Barone gave the staff report.

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

13. Public Hearings:

A. Resolution vacating drainage and utility easements at 307 and 303 Bellwether Path

Wischnack gave the staff report.

Schneider opened the public hearing at 7:40 p.m. No one spoke. He closed the public hearing at 7:40 p.m.

Wiersum moved, Wagner seconded a motion to adopt resolution 2015-103 approving the vacation of easement. All voted “yes.” Motion carried.

B. Temporary on-sale liquor license for Episcopal Parish of St. David, 13000 St. David Road

Barone gave the staff report.

Schneider opened the public hearing at 7:41 p.m.

Bill Jacobs, 4771 Hamilton Road, provided information about the event.

Schneider closed the public hearing at 7:43 p.m.
Wagner moved, Allendorf seconded a motion to grant the temporary liquor license for the annual gala at St. David’s. All voted “yes.” Motion carried.

14. Other Business:

A. Resolution approving a conditional use permit for an educational institution at 5605 Green Circle Drive

Wischnack gave the staff report.

Allendorf noted the city had an innovative trip generation fee that helped pay for the Bren Road upgrades and bridge. Because this educational institution and others in the area would generate fewer trips, he asked how this would impact the trip generation revenue. Wischnack said there would be no credit if the trip generation was less than originally calculated. Allendorf said the city anticipated some trip generation enhancements to generate the needed revenue. He said he was assuming this proposal would not negatively impact the trip generation revenue enough that the city would need to take another look at it. Wischnack indicated that was correct.

Todd Kaufman from Wellington Management said his company has one other property in Minnetonka and this would be its fifth charter school.

Diane Halpin, executive director of Lionsgate Academy, said the charter school started in 2008 with the mission to serve students on the Autism spectrum. Currently they serve around 165 students between two campuses. The students come from 58 different communities. There are 165 students on the waiting list.

Wagner said the city had put a lot of focus for this area on density and change in the intensity of use. He didn’t have any problem with this application but it was the third or fourth charter school in the area. He asked staff to provide recommendations to the council about the impacts and changes to the overlay district. The trip generation fee ordinance was cash flowing the bridge. With the density focus for the Southwest Light Rail it gave him pause that there were not a lot of offices building being built because of the lack of demand for office use. He didn’t want this area to become charter school central, not because he did not want charter schools, but because the city had economics tied to the Opus area.

Schneider said Wagner raised a valid concern not only because of the economics but because of the vision for the area. The city wanted the area to be dynamic with higher density because it would be difficult to get higher density in other areas of the city. Wagner said he recognized the
proposal wasn’t in perpetuity because things change but the point he raised was something the city should look at given the discussion over the past decade.

Wiersum agreed with Wagner. This was the third school likely to be approved. The fourth school would be a less good idea than the first school was. The city should be sensitive to that. This was not intended to be a special school area but was intended to be a mixed use area. Schneider noted this proposal could have been for a church or another use that didn’t match the vision for the Opus area.

Wiersum moved, Bergstedt seconded a motion to adopt resolution 2015-104 approving a conditional use permit for an educational facility at 5605 Green Circle Drive. Ellingson, Allendorf, Acomb, Wiersum, Bergstedt, and Schneider voted “yes.” Wagner voted “no.” Motion carried.

B. Resolution amending the conditional use permit for Redstone American Grill at 12401 Wayzata Boulevard

Wischnack gave the staff report.

Schneider said he thought the change was a big improvement.

Wagner moved, Acomb seconded a motion to adopt resolution 2015-105 repealing and replacing Resolution No. 2015-057 approving a conditional use permit for a restaurant at Ridgedale Center at 12401 Wayzata Boulevard. Voted “yes.” Motion carried.

C. Resolution for the 2016 street rehabilitation project for the Libb’s Lake Area

City Engineer Will Manchester gave the staff report.

Schneider said the area was complex to get in and out of even without road reconstruction. The challenge will be staging the project to minimize as much as possible something that will be impactful for the neighborhood.

Wiersum said the work was necessary and was something he generally supported. The decision about the speed humps was a challenging one for him. He had received a number of calls and emails and he was hoping the project could be approved but with more work on the speed hump issue. He wasn’t advocating for the speed humps to stay, but he wanted a little more due diligence and discussion. He was unable to attend the October 1 neighborhood meeting. He got an update from staff on October
2 and was told it was a cordial meeting with very little discussion of the speed humps. He said this was the only area in the city where speed humps exist, and there were a lot of negatives associated with them. He received a call from a resident who attended the meeting and felt the decision about removing the speed humps had already been made. The resident felt neighbors would speak in support of keeping the speed humps if given the opportunity. Wiersum said he would like to have a plan for speed mitigation in lieu of speed humps and allow for public input about the plan. He supported the project but would likely have to vote against it if removing the speed humps was part of the approval.

Wagner said this year had been a very challenging road construction year for residents. His ward has had a massive reconstruction project in the Deaverdale area and he shared the neighbors’ pain associated with communication. As the city looks at broader scale full water and sewer replacements in cul-de-sac streets, communication was critical. This might even require compensating for the contractors given the high demand for construction in the metro area. He thought the city had to go above and beyond with communication.

Bergstedt said no matter how the projects are staged, issue will arise. He agreed with Wagner that the communication piece was key. Providing residents with a contact person was important. He said during his time on the council the most frequent complaints he gets from residents relate to traffic speed in neighborhoods. Everybody wants speed humps but as the staff report indicated, speed humps create a lot of issues. If the speed humps were put back in for this project, he wasn’t sure how the city could justify not installing them in other areas. He agreed with Wiersum that if the speed humps were not replaced the city should look at anything that could be done for mitigation.

Schneider said he never had been a fan of speed humps and believed he did not support originally putting them on this road because of the precedence it would set. A few years after the speed humps were put in he was receiving numerous calls from residents complaining about the noise caused by boat trailers going over the speed humps. The boat launch has since been removed but the overall strategy is that speed humps are not a very good speed control mechanism. Some of the other things like the feel of a narrower road through striping are effective. He would not support keeping speed humps on the table. He also suggested evaluating the actual traffic speeds in the area. There have been other areas in the city where this has been done only to discover the violations on average were only a few miles per hour over the limit.
Allendorf remembered when the speed humps went it was done as a pilot. Shortly after they were installed the city engineer reported the neighbors did not like them. People were speeding up after the speed hump to make up for lost time. He noted in the area where he lives fog striping is used where there are blind corners. This directs drivers to stay on the correct side. He said in this area judiciously placed double stripes could work well. He agreed with Wiersum that the neighbors deserve to hear the city was studying the issue but he couldn’t support the speed humps.

Barone said staff would continue to work with the neighborhood on the mitigation issues.

Wiersum agreed with Wagner that it had been a very challenging year in terms of road construction. He had a resident beg him to get the construction of her street moved up because of all the water main breaks and the poor condition of the street. The same person later complained about the impacts of the construction. She was appreciative but was really struggling. He thought something could be done perfectly but if the communication was not done well, then a positive could quickly be turned into a negative. Anything that could be done to add a face to the communication and let people feel like they had been heard was important.

Barone said that the communication issues that occurred pointed to the need to look at other ways to communicate with residents in a much timelier manner.

Allendorf moved, Bergstedt seconded a motion to adopt resolution 2015-106 receiving the feasibility report, ordering the improvements, authorizing preparation of plans and specifications, and authorizing easement acquisition for the 2016 Street Reconstruction – Libb’s Lake Area Project No. 16401. Wagner, Ellingson, Allendorf, Acomb, Bergstedt, and Schneider voted “yes.” Wiersum voted “no.” Motion carried.

D. Resolution amending the Glen Lake contract allowing for a time extension

Wischnack gave the staff report.

Bergstedt said the item had been before the council nearly on an annual basis. Last year the council hinted that it would be the last time an extension would be approved. All the extensions in the past involved a vacant piece of land with no proposals. Subsequently a great project involved with a great team has been put together.
Allendorf noted that in a letter included in the council packet, Julie Murray from OneTwoOne Development wrote, “…sales efforts should result in meeting the HUD presale requirements of 36 units prior to Christmas (2015) so that construction can begin at that time.” He asked how many units had currently been sold and what led to the optimism expressed in the letter.

Murray said currently there were 34 presales with quite a few other interested parties. Tim Nichols from OneTwoOne Development said with the opening of the sales center this past summer, a track record had been started. The thought that this would be a neighborhood cooperative has come to fruition. Many people buying into the cooperative are not only from the Glen Lake area but are also people moving back to the neighborhood.

Ellingson said this was a reasonable request but looking at what has been done in the past, there really was no deadline for the project.

Schneider said this was an important element of the redevelopment area to get resolved.

Bergstedt moved, Wiersum seconded a motion to adopt resolution 2015-107 amending the contract to extend the time period for one year. Wagner, Allendorf, Acomb, Wiersum, Bergstedt, and Schneider voted “yes.” Ellingson voted “no.” Motion carried.

15. Appointments and Reappointments:

A. Appointment to planning commission

Schneider moved, Allendorf seconded a motion to appoint John Powers to the planning commission to serve a two-year term effective October 12, 2015 and expiring on October 31, 2017. All voted “yes.” Motion carried.

16. Adjournment

Bergstedt moved, Wiersum seconded a motion to adjourn the meeting at 8:41 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
City Council Agenda Item #6A  
Meeting of November 23, 2015

Brief Description:  Election electronic pollbook presentation

Recommended Action:  None - informational only

Background

Hennepin County is moving ahead with a countywide purchase of electronic rosters for use in the 2016 elections. This technology, used for the first time in the state in Minnetonka in 2009, and for subsequent elections in the city, will greatly improve election processes for voters, election judges, and election administrators throughout the county.

Electronic rosters, or “e-pollbooks,” use computers in place of paper for voter check-in, and election day registration processes. This not only leads to elimination of common mistakes, but also to efficiency and shorter lines at the polling place. It also saves money after election day when the statewide voter registration system is updated by counties.

As part of the Hennepin County’s purchasing process, vendors were required to supply their product for use in an election. The county asked Minnetonka to allow use of the pollbooks in our November 3, 2015 Municipal Election. Four precincts used the technology from two different vendors. The county will use information collected during the city’s election from our election judges, voters, and city staff to make a final decision on a vendor.

Recommendation
Staff will provide a very brief presentation on the use of the pollbook technology. No action is required by the city council, as this is informational only.

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

Originated by:
David Maeda, City Clerk
Brief Description: Resolution approving agreement with MnDOT

Recommended Action: Adopt the resolution

Background

On January 10, 2011, the city council approved a master partnership agreement with the Minnesota Department of Transportation (MnDOT). The master partnership agreement is essentially a housekeeping agreement related to services between MnDOT and the city of Minnetonka. The agreement is needed to allow MnDOT to work on various services for the city, and then invoice the city for their work. An example of this work arrangement would include MnDOT's maintenance operations for a number of our traffic signal systems throughout the city.

The attached agreement simply replaces and supersedes the existing master contract agreement with updated language modifications and does not impact existing practices, procedures, or costs which are currently in place. The agreement has been approved by the city attorney.

Recommendation

Adopt the attached resolution authorizing a master partnership contract with the Minnesota Department of Transportation.

Submitted through:
   Geralyn Barone, City Manager

Originated by:
   Will Manchester, P.E., Director of Engineering
BE IT RESOLVED by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. The city of Minnetonka and the Minnesota Department of Transportation (MnDOT) wish to cooperate closely to coordinate the delivery of transportation services and maximize the efficient delivery of such services at all levels of government.

1.02. MnDOT and local governments are authorized by Minnesota Statutes sections 471.59, 174.02, and 161.20, to undertake collaborative efforts for the design, construction, maintenance and operation of state and local roads.

1.03. The city and MnDOT wish to be able to respond quickly and efficiently to such opportunities for collaboration, and have determined that having the ability to write “work orders” against a master contract would provide the greatest speed and flexibility in responding to identified needs.

Section 2. Council Action.

2.01. The city council of the city of Minnetonka determines that it is in the best interests of the city to enter into a Master Partnership Contract with the Minnesota Department of Transportation, a copy of which was presented to the council at its meeting on November 23, 2015.

2.02. The mayor and city manager are authorized to execute this Contract.

2.03. The city engineer is authorized to negotiate work order contracts pursuant to the Master Partnership Contract, which may provide for payment to or from MnDOT, and the city engineer may execute such work order contracts on behalf of the city without further approval by this council if the amount of the work order does not exceed $100,000.

Adopted by the City Council of the City of Minnetonka, Minnesota, on November 23, 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 November 23, 2015.

___________________________________________
David E. Maeda, City Clerk
STATE OF MINNESOTA
AND
CITY OF MINNETONKA
MASTER PARTNERSHIP CONTRACT

This master contract is between the State of Minnesota, acting through its Commissioner of Transportation hereinafter referred to as the “State” and the City of Minnetonka, acting through its City Council, hereinafter referred to as the “Local Government”.

Recitals

1. The parties are authorized to enter into this agreement pursuant to Minnesota Statutes §§15.061, 471.59 and 174.02.
2. Minnesota Statutes Section 161.20, subdivision 2 authorizes the Commissioner of Transportation to make arrangements with and cooperate with any governmental authority for the purposes of constructing, maintaining and improving the trunk highway system.
3. Each party to this Contract is a “road authority” as defined by Minnesota Statutes §160.02 (subd. 25).
4. Minnesota Statutes Section 161.39, subdivision 1, authorizes a road authority to perform work for another road authority. Such work may include providing technical and engineering advice, assistance and supervision, surveying, preparing plans for the construction or reconstruction of roadways, and performing roadway maintenance.
5. Minnesota Statutes §174.02 (subd. 6) authorizes the Commissioner of Transportation to enter into agreements with other governmental entities for research and experimentation; for sharing facilities, equipment, staff, data, or other means of providing transportation-related services; or for other cooperative programs that promote efficiencies in providing governmental services, or that further development of innovation in transportation for the benefit of the citizens of Minnesota.
6. Each party wishes to occasionally procure services from the other party, which the parties agree will enhance the efficiency of delivering governmental services at all levels. This Master Partnership Contract provides a framework for the efficient handling of such requests. This Master Partnership Contract contains terms generally governing the relationship between the parties hereto. When specific services are requested, the parties will (unless otherwise specified herein) enter into a “Work Order” contracts.
7. Subsequent to the execution of this Master Partnership Contract, the parties may (but are not required to) enter into “Work Order” contracts. These Work Orders will specify the work to be done, timelines for completion, and compensation to be paid for the specific work.
8. The parties are entering into this Master Partnership Contract to establish terms that will govern all of the Work Orders subsequently issued under the authority of this Contract.

Master Contract

1. Term of Master Contract; Use of Work Order Contracts; Survival of Terms

1.1. Effective Date: This contract will be effective on the date last signed by the Local Government, and all State officials as required under Minn. Stat. § 16C.05, subd. 2.

1.2. A party must not accept work under this Contract until it is fully executed.

1.3. Expiration Date. This Contract will expire on June 30, 2017.
1.4. **Work Order Contracts.** A work order contract must be negotiated and executed (by both the State and the Local Government) for each particular engagement, except for Technical Services provided by the State to the Local Government as specified in Article 2. The work order contract must specify the detailed scope of work and deliverables for that engagement. A party must not begin work under a work order until such work order is fully executed. The terms of this Master Partnership Contract will apply to all work orders issued hereunder, unless specifically varied in the work order. The Local Government understands that this Master Contract is not a guarantee of any payments or work order assignments, and that payments will only be issued for work actually performed under fully-executed work orders.

1.5. **Survival of Terms.** The following clauses survive the expiration or cancellation of this master contract and all work order contracts: 12. Liability; 13. State Audits; 14. Government Data Practices and Intellectual Property; 17. Publicity; 18. Governing Law, Jurisdiction, and Venue; and 22. Data Disclosure. All terms of this Master Contract will survive with respect to any Work Order issued prior to the expiration date of the Master Contract.

1.6. **Sample Work Order.** A sample work order contract is available upon request from the State.

2. **Technical Services**

2.1. **Technical Services** include repetitive low-cost services routinely performed by the State for the Local Government. These services may be performed by the State for the Local Government without the execution of a work order, as these services are provided in accordance with standardized practices and processes and do not require a detailed scope of work. Technical services are limited to the following services:

2.1.1. Pavement Striping, Sign and Signal Repair, Bridge Load Ratings, Bridge and Structure Inspections, Minor Bridge Maintenance, Minor Road Maintenance (such as guard rail repair and sign knockdown repair), Pavement Condition Data, Materials Testing and Carcass Removal.

2.1.2. Every other service not falling under the services listed in 2.1.1 will require a Work Order contract.

2.2. The Local Government may request the State to perform Technical Services in an informal manner, such as by the use of email, a purchase order, or by delivering materials to a State lab and requesting testing. A request may be made via telephone, but will not be considered accepted unless acknowledged in writing by the State.

2.3. The State will promptly inform the Local Government if the State will be unable to perform the requested Technical Services. Otherwise, the State will perform the Technical Services in accordance with the State’s normal processes and practices, including scheduling practices taking into account the availability of State staff and equipment.

2.4. **Payment Basis.** Unless otherwise agreed to by the parties prior to performance of the services, the State will charge the Local Government the State’s then-current rate for performing the Technical Services. The then-current rate may include the State’s normal and customary labor additives. The State will invoice the Local Government upon completion of the services, or at regular intervals not more than once monthly as agreed upon by the parties. The invoice will provide a summary of the Technical Services provided by the State during the invoice period.

3. **Services Requiring A Work Order Contract**

3.1. **Work Order Contracts:** A party may request the other party to perform any of the following services under individual work order contracts.
3.2. **Professional and Technical Services.** A party may provide professional and technical services upon the request of the other party. As defined by Minnesota Statutes §16C.08 (subd. 1) professional/technical services “means services that are intellectual in character, including consultation, analysis, evaluation, prediction, planning, programming, or recommendation; and result in the production of a report or completion of a task”. Professional and technical services do not include providing supplies or materials except as incidental to performing such services. Professional and technical services include (by way of example and without limitation) engineering services, surveying, foundation recommendations and reports, environmental documentation, right-of-way assistance (such as performing appraisals or providing relocation assistance, but excluding the exercise of the power of eminent domain), geometric layouts, final construction plans, graphic presentations, public relations, and facilitating open houses. A party will normally provide such services with its own personnel; however, a party’s professional/technical services may also include hiring and managing outside consultants to perform work provided that a party itself provides active project management for the use of such outside consultants.

3.3. **Roadway Maintenance.** A party may provide roadway maintenance upon the request of the other party. Roadway maintenance does not include roadway reconstruction. This work may include but is not limited to snow removal, ditch spraying, roadside mowing, bituminous mill and overlay (only small projects), seal coat, bridge hits, major retaining wall failures, major drainage failures, and message painting. All services must be performed by an employee with sufficient skills, training, expertise or certification to perform such work, and work must be supervised by a qualified employee of the party performing the work.

3.4. **Construction Administration.** A party may administer roadway construction projects upon the request of the other party. Roadway construction includes (by way of example and without limitation) the construction, reconstruction, or rehabilitation of mainline, shoulder, median, pedestrian or bicycle pathway, lighting and signal systems, pavement mill and overlays, seal coating, guardrail installation, and channelization. These services may be performed by the Providing Party’s own forces, or the Providing Party may administer outside contracts for such work. Construction administration may include letting and awarding construction contracts for such work (including state projects to be completed in conjunction with local projects). All contract administration services must be performed by an employee with sufficient skills, training, expertise or certification to perform such work.

3.5. **Emergency Services.** A party may provide aid upon request of the other party in the event of a man-made disaster, natural disaster or other act of God. Emergency services includes all those services as the parties mutually agree are necessary to plan for, prepare for, deal with, and recover from emergency situations. These services include, without limitation, planning, engineering, construction, maintenance, and removal and disposal services related to things such as road closures, traffic control, debris removal, flood protection and mitigation, sign repair, sandbag activities and general cleanup. Work will be performed by an employee with sufficient skills, training, expertise or certification to perform such work, and work must be supervised by a qualified employee of the party performing the work. If it is not feasible to have an executed work order prior to performance of the work, the parties will promptly confer to determine whether work may be commenced without a fully-executed work order in place. If work commences without a fully-executed work order, the parties will follow up with execution of a work order as soon as feasible.

3.6. When a need is identified, the State and the Local Government will discuss the proposed work and the resources needed to perform the work. If a party desires to perform such work, the parties will negotiate the specific and detailed work tasks and cost. The State will then prepare a work order contract. Generally, a work order contract will be limited to one specific...
project/engagement, although “on call” work orders may be prepared for certain types of services, especially for “Technical Services” items as identified section 2.1.2. The work order will also identify specific deliverables required, and timeframes for completing work. A work order must be fully executed by the parties prior to work being commenced. The Local Government will not be paid for work performed prior to execution of a work order and authorization by the State.

4. Responsibilities of the Providing Party

The party requesting the work will be referred to as the “Requesting Party” and the party performing the work will be referred to as the “Providing Party”. Each work order will set forth particular requirements for that project/engagement.

4.1. Terms Applicable to ALL Work Orders. The terms in this section 4.1 will apply to ALL work orders.

4.1.1. Each work order will identify an Authorized Representative for each party. Each party’s authorized representative is responsible for administering the work order, and has the authority to make any decisions regarding the work, and to give and receive any notices required or permitted under this Master Contract or the work order.

4.1.2. The Providing Party will furnish and assign a publicly employed licensed engineer (Project Engineer), to be in responsible charge of the project(s) and to supervise and direct the work to be performed under each work order. For services not requiring an engineer, the Providing Party will furnish and assign another responsible employee to be in charge of the project. The services of the Providing Party under a work order may not be otherwise assigned, sublet, or transferred unless approved in writing by the Requesting Party’s authorized representative. This written consent will in no way relieve the Providing Party from its primary responsibility for the work.

4.1.3. If the Local Government is the Providing Party, the Project Engineer may request in writing specific engineering and/or technical services from the State, pursuant to Minnesota Statutes Section 161.39. The work order may require the Local Government to deposit payment in advance or may, at the State’s option, permit payment in arrears. If the State furnishes the services requested, the Local Government will promptly pay the State to reimburse the state trunk highway fund for the full cost and expense of furnishing such services. The costs and expenses will include the current State labor additives and overhead rates, subject to adjustment based on actual direct costs that have been verified by audit.

4.1.4. Only the receipt of a fully executed work order contract authorizes the Providing Party to begin work on a project. Any and all effort, expenses, or actions taken by the Providing Party before the work order contract is fully executed is considered unauthorized and undertaken at the risk of non-payment.

4.1.5. In connection with the performance of this contract and any work orders issued hereunder, the Providing Agency will comply with all applicable Federal and State laws and regulations. When the Providing Party is authorized or permitted to award contracts in connection with any work order, the Providing Party will require and cause its contractors and subcontractors to comply with all Federal and State laws and regulations.

4.2. Additional Terms for Roadway Maintenance. The terms of section 4.1 and this section 4.2 will apply to all work orders for Roadway Maintenance.

4.2.1. Unless otherwise provided for by agreement or work order, the Providing Party must obtain all permits and sanctions that may be required for the proper and lawful performance of the work.
4.2.2. The Providing Party must perform maintenance in accordance with MnDOT maintenance manuals, policies and operations.

4.2.3. The Providing Party must use State-approved materials, including (by way of example and without limitation), sign posts, sign sheeting, and de-icing and anti-icing chemicals.

4.3. **Additional Terms for Construction Administration.** The terms of section 4.1 and this section 4.3 will apply to all work orders for construction administration.

4.3.1. Contract(s) must be awarded to the lowest responsible bidder or best value proposer in accordance with state law.

4.3.2. Contractor(s) must be required to post payment and performance bonds in an amount equal to the contract amount. The Providing Party will take all necessary action to make claims against such bonds in the event of any default by the contractor.

4.3.3. Contractor(s) must be required to perform work in accordance with the latest edition of the Minnesota Department of Transportation Standard Specifications for Construction.

4.3.4. For work performed on State right-of-way, contractor(s) must be required to indemnify and hold the State harmless against any loss incurred with respect to the performance of the contracted work, and must be required to provide evidence of insurance coverage commensurate with project risk.

4.3.5. Contractor(s) must pay prevailing wages pursuant to applicable state and federal law.

4.3.6. Contractor(s) must comply with all applicable Federal, and State laws, ordinances and regulations, including but not limited to applicable human rights/anti-discrimination laws and laws concerning the participation of Disadvantaged Business Enterprises in federally-assisted contracts.

4.3.7. Unless otherwise agreed in a Work Order, each party will be responsible for providing rights of way, easement, and construction permits for its portion of the improvements. Each party will, upon the other’s request, furnish copies of right of way certificates, easements, and construction permits.

4.3.8. The Providing Party may approve minor changes to the Requesting Party’s portion of the project work if such changes do not increase the Requesting Party’s cost obligation under the applicable work order.

4.3.9. The Providing Party will not approve any contractor claims for additional compensation without the Requesting Party’s written approval, and the execution of a proper amendment to the applicable work order when necessary. The Local Government will tender the processing and defense of any such claims to the State upon the State’s request.

4.3.10. The Local Government must coordinate all trunk highway work affecting any utilities with the State’s Utilities Office.

4.3.11. The Providing Party must coordinate all necessary detours with the Requesting Party.

4.3.12. If the Local Government is the Providing Party, and there is work performed on the trunk highway right-of-way, the following will apply:

4.3.12.1 The Local Government will have a permit to perform the work on the trunk highway. The State may revoke this permit if the work is not being performed in a safe, proper and skillful manner, or if the contractor is violating the terms of any law, regulation, or permit applicable to the work. The State will have no
liability to the Local Government, or its contractor, if work is suspended or stopped due to any such condition or concern.

4.3.12.2 The Local Government will require its contractor to conduct all traffic control in accordance with the Minnesota Manual on Uniform Traffic Control Devices.

4.3.12.3 The Local Government will require its contractor to comply with the terms of all permits issued for the project including, but not limited to, NPDES and other environmental permits.

4.3.12.4 All improvements constructed on the State’s right-of-way will become the property of the State.

5. **Responsibilities of the Requesting Party**

5.1. After authorizing the Providing Party to begin work, the Requesting Party will furnish any data or material in its possession relating to the project that may be of use to the Providing Party in performing the work.

5.2. All such data furnished to the Providing Party will remain the property of the Requesting Party and will be promptly returned upon the Requesting Party’s request or upon the expiration or termination of this contract (subject to data retention requirements of the Minnesota Government Data Practices Act and other applicable law).

5.3. The Providing Party will analyze all such data furnished by the Requesting Party. If the Providing Party finds any such data to be incorrect or incomplete, the Providing Party will bring the facts to the attention of the Requesting Party before proceeding with the part of the project affected. The Providing Party will investigate the matter, and if it finds that such data is incorrect or incomplete, it will promptly determine a method for furnishing corrected data. Delay in furnishing data will not be considered justification for an adjustment in compensation.

5.4. The State will provide to the Local Government copies of any Trunk Highway fund clauses to be included in the bid solicitation and will provide any required Trunk Highway fund provisions to be included in the Proposal for Highway Construction, that are different from those required for State Aid construction.

5.5. The Requesting Party will perform final reviews and/or inspections of its portion of the project work. If the work is found to have been completed in accordance with the work order contract, the Requesting Party will promptly release any remaining funds due the Providing Party for the Project(s).

5.6. The work order contracts may include additional responsibilities to be completed by the Requesting Party.

6. **Time**

In the performance of project work under a work order contract, time is of the essence.

7. **Consideration and Payment**

7.1. **Consideration.** The Requesting Party will pay the Providing Party as specified in the work order. The State’s normal and customary labor additives will apply to work performed by the State, unless otherwise specified in the work order. The State’s normal and customary labor additives will not apply if the parties agree to a “lump sum” or “unit rate” payment.

7.2. **State’s Maximum Obligation.** The total compensation to be paid by the State to the Local Government under all work order contracts issued pursuant to this Master Contract will not exceed $50,000.00.
7.3.  **Travel Expenses.** It is anticipated that all travel expenses will be included in the base cost of the Providing Party’s services, and unless otherwise specifically set forth in an applicable work order, the Providing Party will not be separately reimbursed for travel and subsistence expenses incurred by the Providing Party in performing any work order contract. In those cases where the State agrees to reimburse travel expenses, such expenses will be reimbursed in the same manner and in no greater amount than provided in the current “MnDOT Travel Regulations” a copy of which is on file with and available from the MnDOT District Office. The Local Government will not be reimbursed for travel and subsistence expenses incurred outside of Minnesota unless it has received the State’s prior written approval for such travel.

7.4.  **Payment.**

7.4.1.  **Generally.** The Requesting Party will pay the Providing Party as specified in the applicable work order, and will make prompt payment in accordance with Minnesota law.

7.4.2.  **Payment by the Local Government.**

7.4.2.1.  The Local Government will make payment to the order of the Commissioner of Transportation.

7.4.2.2.  **IMPORTANT NOTE: PAYMENT MUST REFERENCE THE “MNDOT CONTRACT NUMBER” SHOWN ON THE FACE PAGE OF THIS CONTRACT AND THE “INVOICE NUMBER” ON THE INVOICE RECEIVED FROM MNDOT.**

7.4.2.3.  Remit payment to the address below:

MnDOT
Attn: Cash Accounting
RE: MnDOT Contract Number 1001359 and Invoice Number #######
Mail Stop 215
395 John Ireland Blvd
St. Paul, MN 55155

7.4.3.  **Payment by the State.**

7.4.3.1.  **Generally.** The State will promptly pay the Local Government after the Local Government presents an itemized invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services. Invoices must be submitted as specified in the applicable work order, but no more frequently than monthly.

7.4.3.2.  **Retainage for Professional and Technical Services.** For work orders for professional and technical services, as required by Minn. Stat. § 16C.08, subdivision 2(10), no more than 90 percent of the amount due under any work order contract may be paid until the final product of the work order contract has been reviewed by the State’s authorized representative. The balance due will be paid when the State’s authorized representative determines that the Local Government has satisfactorily fulfilled all the terms of the work order contract.

8.  **Conditions of Payment**

All work performed by the Providing Party under a work order contract must be performed to the Requesting Party’s satisfaction, as determined at the sole and reasonable discretion of the Requesting Party’s Authorized Representative and in accordance with all applicable federal and state laws, rules, and regulations. The Providing Party will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal or state law.
9. **Local Government’s Authorized Representative and Project Manager; Authority to Execute Work Order Contracts**

9.1. The Local Government’s Authorized Representative for administering this master contract is the Local Government’s Engineer, and the Engineer has the responsibility to monitor the Local Government’s performance. The Local Government’s Authorized Representative is also authorized to execute work order contracts on behalf of the Local Government without approval of each proposed work order contract by its governing body.

9.2. The Local Government’s Project Manager will be identified in each work order contract.

10. **State’s Authorized Representative and Project Manager**

10.1. The State’s Authorized Representative for this master contract is the District State Aid Engineer, who has the responsibility to monitor the State’s performance.

10.2. The State’s Project Manager will be identified in each work order contract.

11. **Assignment, Amendments, Waiver, and Contract Complete**

11.1. **Assignment.** Neither party may assign or transfer any rights or obligations under this Master Contract or any work order contract without the prior consent of the other and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this Master Contract, or their successors in office.

11.2. **Amendments.** Any amendment to this master contract or any work order contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original contract, or their successors in office.

11.3. **Waiver.** If a party fails to enforce any provision of this master contract or any work order contract, that failure does not waive the provision or the party’s right to subsequently enforce it.

11.4. **Contract Complete.** This master contract and any work order contract contain all negotiations and agreements between the State and the Local Government. No other understanding regarding this master contract or any work order contract issued hereunder, whether written or oral may be used to bind either party.

12. **Liability.**

Each party will be responsible for its own acts and omissions to the extent provided by law. The Local Government’s liability is governed by Minnesota Statutes chapter 466 and other applicable law. The State’s liability is governed by Minnesota Statutes section 3.736 and other applicable law. This clause will not be construed to bar any legal remedies a party may have for the other party’s failure to fulfill its obligations under this master contract or any work order contract. Neither party agrees to assume any environmental liability on behalf of the other party. A Providing Party under any work order is acting only as a “Contractor” to the Requesting Party, as the term “Contractor” is defined in Minnesota Statutes §115B.03 (subd. 10), and is entitled to the protections afforded to a “Contractor” by the Minnesota Environmental Response and Liability Act. The parties specifically intend that Minnesota Statutes §471.59 subdivision 1a will apply to any work undertaken under this Master Contract and any work order issued hereunder.

13. **State Audits**

Under Minn. Stat. § 16C.05, subd. 5, the party’s books, records, documents, and accounting procedures and practices relevant to any work order contract are subject to examination by the parties and by the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Master Contract.


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14.1. **Government Data Practices.** The Local Government and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State under this Master Contract and any work order contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Local Government under this Master Contract and any work order contract. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this clause by either the Local Government or the State.

14.2. **Intellectual Property Rights**

14.2.1. Intellectual Property Rights. The Requesting Party will own all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents created and paid for under work order contracts. Works means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the Providing Party, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this master contract or any work order contract. Works includes “Documents.” Documents are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Providing Party, its employees, agents, or contractors, in the performance of a work order contract. The Documents will be the exclusive property of the Requesting Party and all such Documents must be immediately returned to the Requesting Party by the Providing Party upon completion or cancellation of the work order contract. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be “works made for hire.” The Providing Party Government assigns all right, title, and interest it may have in the Works and Documents to the Requesting Party. The Providing Party must, at the request of the Requesting Party, execute all papers and perform all other acts necessary to transfer or record the Requesting Party’s ownership interest in the Works and Documents. Notwithstanding the foregoing, the Requesting Party grants the Providing Party an irrevocable and royalty-free license to use such intellectual property for its own non-commercial purposes, including dissemination to political subdivisions of the state of Minnesota and to transportation-related agencies such as the American Association of State Highway and Transportation Officials.

14.2.2. **Obligations with Respect to Intellectual Property.**

14.2.2.1. *Notification.* Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Providing Party, including its employees and subcontractors, in the performance of the work order contract, the Providing Party will immediately give the Requesting Party’s Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure thereon.

14.2.2.2. *Representation.* The Providing Party must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of the Requesting Party, and that neither Providing Party nor its employees, agents or contractors retain any interest in and to the Works and Documents.

15. **Affirmative Action**
The State intends to carry out its responsibility for requiring affirmative action by its Contractors, pursuant to Minnesota Statutes §363A.36. Pursuant to that Statute, the Local Government is encouraged to prepare and implement an affirmative action plan for the employment of minority persons, women, and the qualified disabled, and submit such plan to the Commissioner of the Minnesota Department of Human Rights. In addition, when the Local Government lets a contract for the performance of work under a work order issued pursuant to this Master Contract, it must include the following in the bid or proposal solicitation and any contracts awarded as a result thereof:

15.1. **Covered Contracts and Contractors.** If the Contract exceeds $100,000 and the Contractor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principle place of business, then the Contractor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. Parts 5000.3400-5000.3600. A Contractor covered by Minn. Stat. § 363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, must certify that it is in compliance with federal affirmative action requirements.

15.2. **Minn. Stat. § 363A.36.** Minn. Stat. § 363A.36 requires the Contractor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights (“Commissioner”) as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.

15.3. **Minn. R. Parts 5000.3400-5000.3600.**

15.3.1. **General.** Minn. R. Parts 5000.3400-5000.3600 implement Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor’s compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. Parts 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and 5000.3552-5000.3559.

15.3.2. **Disabled Workers.** The Contractor must comply with the following affirmative action requirements for disabled workers:

15.3.2.1. The Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

15.3.2.2. The Contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

15.3.2.3. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes Section 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights.
Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

15.3.2.4. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

15.3.2.5. The Contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Minnesota Statutes Section 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

15.3.3. Consequences. The consequences for the Contractor’s failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this contract by the Commissioner or the State.

15.3.4. Certification. The Contractor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36 and Minn. R. Parts 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

16. Workers’ Compensation

Each party will be responsible for its own employees for any workers compensation claims. This Master Contract, and any work orders issued hereunder, are not intended to constitute an interchange of government employees under Minnesota Statutes §15.53. To the extent that this Master Contract, or any work order issued hereunder, is determined to be subject to Minnesota Statutes §15.53, such statute will control to the extent of any conflict between the Contract and the statute.

17. Publicity

17.1. Publicity. Any publicity regarding the subject matter of a work order contract where the State is the Requesting Party must identify the State as the sponsoring agency and must not be released without prior written approval from the State’s Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Local Government individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from a work order contract.


18. Governing Law, Jurisdiction, and Venue

Minnesota law, without regard to its choice-of-law provisions, governs this master contract and all work order contracts. Venue for all legal proceedings out of this master contract or any work order contracts, or the breach of any such contracts, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

19. Prompt Payment; Payment to Subcontractors
The parties must make prompt payment of their obligations in accordance with applicable law. As required by Minn. Stat. § 16A.1245, when the Local Government lets a contract for work pursuant to any work order, the Local Government must require its contractor to pay all subcontractors, less any retainage, within 10 calendar days of the prime contractor's receipt of payment from the Local Government for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one-half percent per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).

20. **Minn. Stat. § 181.59.** The Local Government will comply with the provisions of Minn. Stat. § 181.59 which requires: Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the Contractor agrees: (1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; (2) That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color; (3) That a violation of this section is a misdemeanor; and (4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

21. **Termination; Suspension**

21.1. **Termination by the State for Convenience.** The State or commissioner of Administration may cancel this Master Contract and any work order contracts at any time, with or without cause, upon 30 days written notice to the Local Government. Upon termination, the Local Government and the State will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

21.2. **Termination by the Local Government for Convenience.** The Local Government may cancel this Master Contract and any work order contracts at any time, with or without cause, upon 30 days written notice to the State. Upon termination, the Local Government and the State will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

21.3. **Termination for Insufficient Funding.** The State may immediately terminate or suspend this Master Contract and any work order contract if it does not obtain funding from the Minnesota legislature or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination or suspension must be by written or fax notice to the Local Government. The State is not obligated to pay for any services that are provided after notice and effective date of termination or suspension. However, the Local Government will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the master contract or work order is terminated because of the decision of the Minnesota legislature or other funding source, not to appropriate funds. The State must provide the Local Government notice of the lack of funding within a reasonable time of the State’s receiving that notice.

22. **Data Disclosure**

Under Minn. Stat. §270C.65, subd. 3, and other applicable law, the Local Government consents to disclosure of its federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the...
payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Local Government to file state tax returns and pay delinquent state tax liabilities, if any.

23. **Defense of Claims and Lawsuits**

If any lawsuit or claim is filed by a third party (including but not limited to the Local Government’s contractors and subcontractors), arising out of trunk highway work performed pursuant to a valid work order issued under this Master Contract, the Local Government will, at the discretion of and upon the request of the State, tender the defense of such claims to the State or allow the State to participate in the defense of such claims. The Local Government will, however, be solely responsible for defending any lawsuit or claim, or any portion thereof, when the claim or cause of action asserted is based on its own acts or omissions in performing or supervising the work. The Local Government will not purport to represent the State in any litigation, settlement, or alternative dispute resolution process. The State will not be responsible for any judgment entered against the Local Government, and will not be bound by the terms of any settlement entered into by the Local Government except with the written approval of the Attorney General and the Commissioner of Transportation and pursuant to applicable law.

24. **Additional Provisions**

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LOCAL GOVERNMENT

The Local Government certifies that the appropriate person(s) have executed the contract on behalf of the Local Government as required by applicable ordinance, resolution, or charter provision.

By: ____________________________
Title: __________________________
Date: __________________________

COMMISSIONER OF TRANSPORTATION

By: ____________________________
(with delegated authority)
Title: Division Director
Date: __________________________

COMMISSIONER OF ADMINISTRATION

As delegated to Materials Management Division

By: ____________________________
Title: __________________________
Date: __________________________
City Council Agenda Item #10B  
Meeting of November 23, 2015

**Brief Description:** Resolutions concerning no parking signs on Marlborough Court and Dynasty Drive

**Recommended Action:** Adopt the resolutions

**Background**

Property owners along Marlborough Court, south of Lake Street Extension, and Dynasty Drive, north of Lake Street Extension, independently approached city staff with concerns about on-street parking along their respective roadways. Both areas provided a petition to the city for the installation of “No Parking” signs.

The source of the parking concerns is due to traffic generated by activities at Minnetonka Middle School East, located at 17000 Lake Street Extension. In the case of Marlborough Court, the roadway is being used as a waiting area prior to pick up of students from school property. On Dynasty Drive, traffic is using the roadway as overflow parking during after school activities and special events. In both situations, cars are parked along both sides of the roadway and therefore limit access and site lines through the area.

Engineering and police department staff reviewed the concerns and worked with residents to find a solution that met the intent of the petition. On Marlborough Court, signs are recommended to create a “No Parking” zone Monday through Friday from 3 p.m. to 5 p.m. The restricted parking area is proposed to extend approximately 450 feet south of Lake Street Extension on the west side of the road and approximately 30 feet south of Lake Street Extension on the east side of the road. The proposed parking restriction will provide safe travel of passing vehicles in the area by restricting parking on the west side of the Marlborough Court during this time period, while continuing to allow parking for student pickup at all times on the east side. It will also provide clear site line visibility at the intersections of Lake Street Extension/Marlborough Court and Marlborough Court/Marlborough Circle.

On Dynasty Drive, “No Parking” signs are recommended on the east side of the roadway, south of the cul-de-sac. Parking will still be allowed on the west side of the road, however residential traffic will not be restricted by parking on both sides of the road.

All adjacent property owners signed the petition on Marlborough Court and all but one property owner signed the petition on Dynasty Drive. The property owner that did not sign the Dynasty Drive petition lives on the bulb of the cul-de-sac and the parking restriction does not abut this property. Staff also discussed these potential changes to on-street parking with the school district.
Recommendation

Adopt the attached resolution authorizing a “No Parking” zone on Marlborough Court on “Monday through Friday from 3 p.m. – 5 p.m.” and the installation of signs as needed in the following areas:

- East side: Lake Street Extension to 30 feet south of Lake Street Extension
- West side: Lake Street Extension to 450 feet south of Lake Street Extension

Adopt the attached resolution authorizing a “No Parking” zone on Dynasty Drive and installation of signs as needed in the following area:

- East side: Lake Street Extension to the south end of the Dynasty Drive cul-de-sac.

Submitted through:
   Geralyn Barone, City Manager
   Will Manchester, P.E., Director of Engineering

Originated by:
   Phil Olson, P.E., Engineering Project Manager
RESOLUTION AUTHORIZING A NO PARKING ZONE MONDAY THROUGH FRIDAY FROM 3:00 PM TO 5:00 PM AND THE INSTALLATION OF NO PARKING SIGNS ON MARLBOROUGH COURT

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

Section 1. Background.

1.01. Through staff recommendation, a no parking zone is requested from Monday through Friday from 3 p.m. to 5 p.m. at the following location:

   a. The east side of Marlborough Court from Lake Street Extension to 30 feet south.
   b. The west side of Marlborough Court from Lake Street Extension to 450 feet south.

Section 2. Council Action.

2.01. The request and recommendation is hereby received and the City Council does authorize the installation of "No Parking" signs at the following location:

   c. The east side of Marlborough Court from Lake Street Extension to 30 feet south.
   d. The west side of Marlborough Court from Lake Street Extension to 450 feet south.

Adopted by the City Council of the City of Minnetonka, Minnesota, on November 23, 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:

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 November 23, 2015.

______________________________
David E. Maeda, City Clerk
RESOLUTION NO. 2015-
RESOLUTION AUTHORIZING A NO PARKING ZONE AND THE INSTALLATION OF
NO PARKING SIGNS ON DYNASTY DRIVE

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

Section 1. Background.

1.01. Through staff recommendation, a no parking zone is requested at the following location:

   a. The east side of Dynasty Drive from Lake Street Extension to the south edge of the cul-de-sac on Dynasty Drive.

Section 2. Council Action.

2.01. The request and recommendation is hereby received and the City Council does authorize the installation of “No Parking” signs at the following location:

   a. The east side of Dynasty Drive from Lake Street Extension to the south edge of the cul-de-sac on Dynasty Drive.

Adopted by the City Council of the City of Minnetonka, Minnesota, on November 23, 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:
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 November 23, 2015.

______________________________
David E. Maeda, City Clerk
MARLBOROUGH CT

No Parking
M-F from 3:00-5:00 pm

This map is for illustrative purposes only.
We, the undersigned residents of the City of Minnetonka, do hereby petition the City of Minnetonka to install permanent no parking signs on Marlborough Ct in the area of Lake St Ext to prevent MME parking during school days and during school events. Signs would read something similar to: "No parking during school days and school events." No school parking M-F 3:30-4:30
No school parking M-F from here to corner

<table>
<thead>
<tr>
<th>Name (printed)</th>
<th>Signature</th>
<th>Address</th>
<th>Phone No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Christian Heeb</td>
<td></td>
<td>4201 Marlborough Ct.</td>
<td></td>
</tr>
<tr>
<td>Hedy Heeb</td>
<td></td>
<td>4201 Marlborough Ct.</td>
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<tr>
<td>Bill Light</td>
<td></td>
<td>4208 Marlborough Ct.</td>
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<tr>
<td>Brynna Woodbury</td>
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<td>4224 Marlborough Ct</td>
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<tr>
<td>Larry Lundberg</td>
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<td>4209 Marlborough Ct</td>
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<tr>
<td>Bobbi Francis</td>
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<td>4217 Marlborough Ct</td>
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<tr>
<td>Mary Francis</td>
<td></td>
<td>4200 Marlborough Ct</td>
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<tr>
<td>Helen Jackson</td>
<td></td>
<td>4200 Marlborough Ct</td>
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</tbody>
</table>
Mr. Will Manchester
Engineer, City of Minnetonka

The residents of the properties from 4100 to 4171 Dynasty Drive, hereby petition for updated signs to read as follows:

NO EVENT OR SCHOOL PARKING THIS SIDE OF STREET

4100 Dynasty Drive

4101 Dynasty Drive

4120 Dynasty Drive

4121 Dynasty Drive

4130 Dynasty Drive

4131 Dynasty Drive

4141 Dynasty Drive

4151 Dynasty Drive

4161 Dynasty Drive

4171 Dynasty Drive
City Council Agenda Item #10C  
Meeting of November 23, 2015

**Brief Description**  
Resolution approving a conditional use permit for an accessory apartment at 3514 Sunrise Drive West

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

**Proposal**  
The property owners, Matt and Jen Danielson, are proposing to construct an addition onto the existing home at 3514 Sunrise Drive West. The 560 square foot addition would include an accessory apartment. The proposal requires a conditional use permit for the accessory apartment.

**Planning Commission Hearing**  
The planning commission considered the request on the November 5, 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:

- Accessory apartments are consistent with the housing goals of the comprehensive plan as they add to the diversity of housing types, sizes and prices within the community.

- The accessory apartment would not adversely impact surrounding properties. The addition would be located in the rear of the home and would be primarily screened from the adjacent right-of-way by the existing garage. The apartment would be architecturally consistent and would maintain the single family residential character of the existing home.

- Adequate off-street parking is available on the existing and proposed parking area. Parking is currently available in the driveway and existing garage. Additional parking is proposed via a driveway extension to the proposed covered parking under the addition.

- The proposed accessory apartment would meet all minimum conditional use permit standards.

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

On a 7-0 vote, the commission recommended that the city council approve the proposal. Meeting minutes may be found on page A17.

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 for an accessory apartment at 3514 Sunrise Drive West. (Pages A12-A16.)

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

Originator:  Ashley Cauley, Senior Planner
Brief Description  A conditional use permit for an accessory apartment at 3514 Sunrise Drive West

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

Project No.  150031.15a

Property  3514 Sunrise Drive West

Applicants  Matt and Jen Danielson

Proposal  The property owners are proposing to construct an addition on the rear of the existing house. The addition would consist of an accessory apartment. (See narrative and plans on pages A2-A11.)

Proposal Requirements  The proposal requires a conditional use permit for an accessory apartment.

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

Site Features  The property is improved with a walk-out rambler constructed in 1966. The existing house is 2,700 square feet in size and has an attached two-car garage. The rear of the property is encumbered by a Manage 1 wetland and associated floodplain. More information on the wetland and floodplain is in the “Supporting Information” section of this report. (See survey on page A7.)

Proposed Addition  The proposed addition would be 560 square feet in size and would be located on the northwest corner of the home. A portion of the addition would be cantilevered to allow for additional covered parking space below. The addition would meet all required setbacks and would be architecturally consistent with the existing house. An unenclosed deck would wrap around the proposed addition.
The addition would include an accessory apartment. The apartment would include one bedroom, bathroom, kitchen and living area. Access to the apartment would be provided by interior connections to the existing house and garage.

Staff Analysis

Staff finds that the applicant’s proposal is reasonable.

- Accessory apartments are consistent with the housing goals of the comprehensive plan as they add to the diversity of housing types, sizes, and prices within the community.

- The accessory apartment would not adversely impact surrounding properties. The addition would be located in the rear of the home and would be primarily screened from the adjacent right-of-way by the existing garage. The apartment would be architecturally consistent and would maintain the single family residential character of the existing home.

- Adequate off-street parking is available on existing and proposed parking area. Parking is currently available in the driveway and existing garage. Additional parking is proposed via a driveway extension to the proposed covered parking under the addition.

- The proposed accessory apartment would meet all minimum conditional use permit standards. These specific standards are outlined in the “Supporting Information” section of this report.

Staff Recommendation

Recommend that the city council adopt the resolution on pages A12-A16. This resolution approves a conditional use permit for an accessory apartment at 3514 Sunrise Drive West.

Originator: Ashley Cauley, Senior Planner
Through:  Susan Thomas, AICP, Principal Planner
Supporting Information

**Surrounding Land Uses**

Properties to the north, south and east are improved with single family residential homes, zoned R-1 and guided for low density residential.

The property to the west is owned by the city for stormwater purposes.

**Planning**

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

**Wetland and Floodplain**

The rear of the property is encumbered by a Manage 1 wetland. Rather than requiring a formal wetland delineation, city staff met with the property owner onsite to determine an approximate and conservative wetland boundary. For purposes of this proposal, wetland setbacks and buffer areas are determined from this boundary. Included as conditions of approval the property owner must: (1) file a conservation easement over the 25-foot wetland buffer area prior to issuance of a building permit; and (2) establish native vegetation within the buffer area prior to final inspection.

Additionally, the property is encumbered by 100-year floodplain. The 100-year elevation of the wetland is 935.2 feet. Any additions to the existing house would need to maintain a 20-foot horizontal setback and 2-foot vertical separation from the established floodplain elevation. Decks and patios have lesser setback requirements and must maintain a minimum 10-foot horizontal setback and a 1.5-foot vertical separation.

Staff finds that the proposed addition and deck comply with the city’s wetland and floodplain setbacks.

**CUP Standards**

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

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

The proposal would meet the general conditional use permit standards as outlined in City Code §300.16 Subd. 3(d):

1. To be 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 is proposed for the property.

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 in which the permit is valid;

   **Finding:** Per the applicant’s narrative, the property owners would continue to reside in the main home. Nonetheless, this has been added 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:** The existing home has an attached two-car garage with additional parking available in the driveway. As proposed, the accessory apartment would be cantilevered to provide additional covered parking below.

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

   **Finding:** The accessory apartment would be an addition to the existing home. As such, the apartment would not be created by the conversion of existing living or garage space.

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 larger
areas where the additional size would not substantially impact the surrounding neighborhood;

**Finding:** The proposed accessory apartment is 560 square feet. This would be less than what would be allowed by ordinance. By ordinance, the maximum apartment size for the subject property would be 950 square feet.

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

**Finding:** The proposed addition would appear residential in character and would complement the existing architectural features of the existing home. Further, the apartment would be in the rear of the home and but for a small portion of the addition would be screened from the adjacent right-of-way.

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

**Finding:** This has been added as a condition of approval.

8. To be permitted only where it can be 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:** The proposed addition would not have any adverse impacts on adjacent properties and would not alter the residential character of the neighborhood. The addition meets all applicable setback and zoning requirements. The addition is designed such that it would maintain the single-family character of the existing house and would not have the exterior appearance of a separate dwelling unit. Further, the parking for the accessory apartment would be accommodated within the existing garage and driveway and proposed carport.

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

**Finding:** The property would comply with all other ordinance requirements. Nonetheless, this has been added as a condition of approval.
### Natural Resources
Best management practices must be followed during the course of site preparation and construction activities. This would include installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing. As a condition of approval the applicant must submit a construction management plan detailing these management practices.

### Neighborhood Comments
The city sent notices to 26 area property owners and received no comments to date.

### Deadline for Decision
January 12, 2016
September 12, 2015

Jen & Matt Danielson
3514 Sunrise Drive West,
Minnetonka, MN 55345
(c) 612.803.9295
(e) matt@greenliomedr.com

Ashley Cauley, Planning Technician
Julie Wischnack, Community Development Director
Planning Department
City of Minnetonka
14600 Minnetonka Blvd,
Minnetonka, MN 55345

O: 952-939-8200
E: acauley@eminnetonka.com
E: jwischnack@eminnetonka.com

Julie Wischnack,
Ashley Cauley,

RE: CONDITIONAL USE PERMIT APPLICATION, WRITTEN STATEMENT;
3514 SUNRISE DRIVE WEST, MINNETONKA, MN 55345
PID: 15-117-22-32-0012

Dear Ms. Wischnack and Ms. Cauley,

We are pleased to bring to your attention a conditional use permit application for an elderly accessory apartment we are planning to build at: 3514 Sunrise Drive West, Minnetonka, MN 55345. We believe that the proposed accessory apartment is consistent with the general and specific standards and intent of the residential zoning district ordinances. We respectfully seek staff support and City Council approval of this conditional use permit application.

We would also like to thank Aaron Schwartz, Natural Resource Specialist Minnetonka, for taking the time to stake out the wetlands behind our house and to ensure that we would be in compliance with both wetland setback and buffer requirements.

The planned addition would be used for the living area for both of our parents (initially by my 86 year old mother). There would be no direct exit to the outside and she would use our home’s main entrance to gain access to her apartment. There would also be common shared usage of space in the existing home (kitchen, bathtub, laundry room, piano room, etc..)
This planned use is consistent with Section 300.16 Conditional Use Permit Standards for Residential District: 3.) Specific Standards d) Accessory Apartments: (1) Accessory apartments shall be allowed for the following purposes:

a) more efficient utilization of the existing single family housing stock in the city

c) provision of housing which allows privacy and independence for older family members.

This addition will be attached to the home behind the existing attached garage and care was taken to ensure that the character and style of the existing home was not changed, that the addition would only be partially visible from the street and would be aesthetically pleasing and consistent with the quality of the neighborhood.

The living area of the addition would be at the same level as the main floor of our existing home. We have designed this to minimize the use of stairs. The level below the addition would be used for storage. The plan calls for building an additional parking area and we have designed a car-port that is situated under part of the new accessory apartment. The storage area below the addition will also free up space in our existing garage, allowing us to park 2 vehicles in the existing garage, helping to tidy up the appearance.

Improvements include, but are not limited to, some minimal excavating to allow access to the car-port and positioning the addition foundation and main floor to be at the same level of the existing house foundation and main floor. The exterior façade will be in the same style as the existing home, and the new roof will tie attractively into the existing roof. The interior of the addition will contain attractive cabinets, quality windows, flooring, a bathroom, efficiency kitchen area and a wrap around deck. It is understood that landscaping improvements will be a part of this project and the plan is to remove the sod and establish a 25' wetlands buffer consistent with the requirements as outlined by the City of Minnetonka Environmental Services.

We are pleased to be making a substantial investment in this property and are confident that this project will help to appreciate the value of our neighboring homes and the community.
The following is an assessment of how the proposed addition complies with the Conditional Use Permit Evaluation Criteria:

### Conditional Use Permit Evaluation Criteria

<table>
<thead>
<tr>
<th>No accessory apartment shall be created or used except in conformity with the following:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) To be created only on property zoned for single family detached dwellings and no more than one apartment to be created in any dwelling.</td>
</tr>
<tr>
<td>Yes in compliance. The existing home is zoned a single family detached dwelling and there is no other apartment in this house.</td>
</tr>
<tr>
<td>b) Structure 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.</td>
</tr>
<tr>
<td>Yes. The existing home is our principal and only residence. We have deep stakes in the Minnetonka community and have no plans to change.</td>
</tr>
<tr>
<td>c) 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.</td>
</tr>
<tr>
<td>Yes. The plan involves building a car-port. The addition would also contain a storage area on the ground floor which would free up space in our existing garage allowing vehicles to be parked inside.</td>
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</tr>
<tr>
<td><strong>d)</strong> 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.</td>
</tr>
<tr>
<td><strong>e)</strong> An accessory apartment must be no more then 35 percent of the gross living area of the house or 950 square feet, whichever is smaller.</td>
</tr>
<tr>
<td><strong>f)</strong> Exterior changes to the house must not substantially alter the single family character of the structure.</td>
</tr>
<tr>
<td><strong>g)</strong> No apartment to be created except in compliance with all applicable building, housing, electrical, plumbing, heating and related codes of the city</td>
</tr>
</tbody>
</table>
h) To be permitted only where it is demonstrated that the accessory unit will not have an undue impact on adjacent properties and where there will not be a substantial alteration of the character of the neighborhood.

Yes in compliance. Much care is being given to ensure that the look and feel of the addition will enhance the value of the property (and neighboring properties). We have ensured that we are well within side setback requirements and have buffered this with with an additional 7'. Care is being given to the quality selection of Minnesota wetland plants and landscaping, that will further enhance the value of the property. The roofline height of the home will not change and the addition is situated primarily behind the home and out of site of the street.

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

Noted and agreed to.

We sincerely appreciate your efforts and feedback on our plans to enhance our property with the proposed Accessory Apartment. We also look forward to enhancing the value of the immediate neighborhood as well as an improvement to the appearance and functionality of our property.

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

Sincerely,

Matt Danielson, (cell) 612.803.9295: matt@greenhomedr.com
Jen Danielson (cell) 952.540.7510: matt@greenhomedr.com

Encl: Conditional Use Permit Application & Owners Statement
$400 Application Fee
Legal Description Certificate of Survey, with Wetland Delineation
Building Rendering Floor Plan
Letter from Aaron Schwartz, Natural Resource Specialist
CERTIFICATE OF SURVEY

PROPERTY ADDRESS: #3514 SUNRISE DRIVE WEST, MINNETONKA, MN

LEGAL DESCRIPTION
LOT 2, BLOCK 3, SUNRISE RIDGE, HENNEPIN COUNTY, MINNESOTA.

I hereby certify that this plan, survey 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.

REV. 09/12/15, UPDATE NOTES
ERIC R. VICKARYOUS
Date: SEP 11TH, RM Reg. No. 44125

NOTES
- Field survey conducted on 09/01/15.
- This survey was prepared without the benefit of titlework. Easement, appurtenances and encumbrances may exist in addition to those shown hereon. This survey is subject to revision upon receipt of a title insurance commitment or attorney's title opinion.
- PROPOSED GRADES BY HOME OWNER. TO BE VERIFIED AT TIME OF CONSTRUCTION.
- ADDITIONAL FIELD WORK REQUIRED TO VERIFY NORTHWEST AND SOUTHWEST PROPERTY CORNERS. NOT ENOUGH PROPERTY CORNERS WERE FOUND ALONG WEST LINE WHILE CONDUCTING SURVEY ON 09/01/15 TO DETERMINE LOCATIONS OF THOSE CORNERS WITH CERTAINTY.
Preliminary Design for Bidding and Review Purposes. Do Not Use for Construction.
Preliminary Design
For Bidding and Review Purposes Only
Do Not Use for Construction

DANIELSON RESIDENCE
3514 Sunrise Dr W
15031.15a

Existing

Scale: 1/4" = 1' 0"
Resolution No. 2015-

Resolution approving a conditional use permit for an accessory apartment at 3514 Sunrise Drive West

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

Section 1. Background.

1.01 Matt and Jennifer Danielson have requested a conditional use permit for an accessory apartment. (Project 15031.15a)

1.02 The property is located at 3514 Sunrise Drive West. It is legally described as:

Lot 2, Block 3, Sunrise Ridge, Hennepin County, Minnesota

1.03 On November 5, 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 general standards that must be met for granting a conditional use permit. These standards are incorporated into this resolution by reference.

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

1. Allowed 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 may not substantially alter the single family character of the structure;

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

8. 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.

Section 3. Findings.

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

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

1. The subject property is zoned R-1; just one accessory apartment is proposed for the property.
2. Per the applicants’ narrative, the property owners would continue to reside in the main home. Nonetheless, this has been included as a condition of this resolution.

3. The existing home has an attached two-car garage with additional parking in the driveway. As proposed, the accessory apartment would be cantilevered to provide additional covered parking below.

4. The accessory apartment would be an addition to the existing home. As such, the apartment would not be created by the conversion of existing living or garage space.

5. The proposed accessory apartment is 560 square feet. This would be less than what would be allowed by ordinance. By ordinance, the maximum accessory apartment size for the property would be 950 square feet.

6. The proposed addition would appear residential in character and would complement the existing architectural features of the existing home. Further, the apartment would be in the rear of the home and but for a small portion of the addition, would be screened from the adjacent right-of-way.

7. A condition of this resolution ensures compliance with all applicable building, housing, electrical, plumbing, heating and related codes of the city.

8. The proposed addition would not have any adverse impact on the adjacent properties and would not alter the residential character of the neighborhood. The addition meets all applicable setback and zoning requirements. The addition is designed such that it would maintain the single-family character of the existing house and would not have the exterior appearance of a separate dwelling unit. Further, the parking for the accessory apartment would be accommodated within the existing garage and driveway and proposed carport.

9. The property would comply with all other ordinance requirements. Nonetheless, this has been added as a condition of this resolution.

Section 4. City Council Action.

4.01 The above-described conditional use permit is approved, subject to the following conditions:
1. Subject to staff approval, the property must be developed and maintained in substantial conformance with the following:

   • Survey dated September 11, 2015
   • Plans dated September 8, 2015

2. Prior to issuance of a building permit:

   1. This resolution must be recorded with Hennepin County.

   2. A conservation easement must be filed over the 25-feet wetland buffer area. Prior to recording, the easement document must be submitted and reviewed for approval by city staff.

   3. The 25-foot buffer upland from the wetland edge must be established with native vegetation or an escrow deposit must be submitted to the city prior to the final inspection of the addition.

   4. Proposed construction must meet floodplain setbacks. The 100-year flood elevation of the wetland is 935.2 feet. Additions to the house must maintain a 20-foot horizontal setback and a two-foot vertical separation from the flood elevation. Attached decks and patios must be setback a minimum of 10 feet and be 1.5 feet above the flood elevation.

   5. The unenclosed deck surrounding the accessory apartment cannot be enclosed unless it is shown to meet the required wetland and floodplain setbacks.

   6. The property owner must reside in either unit on a continuous basis except for temporary absences throughout the period in which the permit is valid.

   7. The accessory apartment must comply with applicable building, housing, electrical, plumping, heating, and related codes of the city.

   8. All other provisions of the city ordinances related to single family dwellings unit must be met.

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

   10. 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 November 23, 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 November 23, 2015.

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

No item was removed from the consent agenda for discussion or separate action. Odland moved, second by O'Connell, to approve the item listed on the consent agenda as recommended in the respective staff report as follows:

A. A conditional use permit for an accessory apartment at 3514 Sunrise Drive West.

Recommend that the city council adopt the resolution on pages A12-A16 of the staff report. This resolution approves a conditional use permit for an accessory apartment at 3514 Sunrise Drive West.

Calvert, Knight, Magney, O'Connell, Odland, Powers, and Kirk voted yes. Motion carried and the item on the consent agenda was approved as submitted.
City Council Agenda Item #10D  
Meeting of November 23, 2015

**Brief Description**  
Resolution approving a conditional use permit for a fast food restaurant with drive-up facility and site and building plan review for Dunn Brothers Coffee at 14525 State Highway 7

**Recommendation**  
Adopt the resolution approving the proposal

**Background**

In 2013, the city received a request to convert the existing, three-story Woodhill Plaza office building into a mixed-use building containing retail, service commercial and office uses. The city approved the request, amending the site’s comprehensive guide plan designation to commercial and rezoning the property to B-3/General Business. Several new tenants have since occupied the long vacant building, including: Rock & Bella, Sakada Studios, and Snap Fitness.

**Proposal**

Dunn Brothers Coffee is proposing to occupy a first floor tenant space in the building. To accommodate the coffee shop and associated drive-up window, various changes would be made to both the site and building. The proposal requires approval of a conditional use permit and final site and building plans. (See pages A1–A13.)

**Planning Commission Hearing**

The planning commission considered the request on November 5, 2015. The staff report from that meeting is attached and various plans and documents describing the proposed project may be found on pages A1–A13. Staff recommended approval of the request, noting the proposed coffee shop, with drive-up window, would meet all conditional use permit and site and building plan standards.

At the commission meeting, a public hearing was opened to take comment. The property owner and Dunn Brothers franchise owners addressed the commission in support of the proposal. No other comments were received.

**Planning Commission Recommendation**

On a 7-0 vote, the commission recommended that the city council approve the proposal. Meeting minutes may be found on pages A20–A21.
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, staff has since noted a reference error in the report. In evaluating parking demand, staff used the Institute of Transportation Engineers Parking Generation 3rd Addition manual. The report incorrectly references Institute of Transportation Engineers Trip Generation 8th Addition manual

Staff Recommendation

Adopt the resolution approving the conditional use permit, and final site and building plans, for a fast food restaurant with drive-up facility at 14525 State Highway 7. (See pages A14–A19.)

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

Originator: Susan Thomas, AICP, Principal Planner
Brief Description
Items concerning Dunn Brothers Coffee at 14525 State Highway 7:

1) Conditional Use Permit for a fast food restaurant with drive-up facility; and

2) Site and Building Plan Review

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

Project No. 06054.15a

Property 14525 State Highway 7

Background
In 2013, the city received a request to convert the existing, three-story Woodhill Plaza office building into a mixed-use building containing retail, service commercial and office uses. The city approved the request, amending the site’s comprehensive guide plan designation to commercial and rezoning the property to B-3/General Business. Several new tenants have since occupied the long vacant building, including: Rock & Bella, Sakada Studios, and Snap Fitness.

Proposal
Dunn Brothers Coffee is proposing to occupy a first floor tenant space in the building. In addition to serving walk-in customers, the coffee shop would include a drive-up window. To accommodate the coffee shop and associated drive-up window, various changes would be made to both the site and building. (See pages A1–A13.)

Proposal Requirements
The proposal requires:

- **Conditional Use Permit:** By city code a coffee shop is defined as a “fast food restaurant.” Fast food restaurants with drive-up facilities are conditionally permitted uses in the B-3 zoning district.

- **Site and Building Plan Review:** By city code, site and building plan review is required for any modification to a building or
land feature which results in a different intensity of use. The drive-up facility may result in a different intensity of use.

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

**Existing Site and Building**
The 3.5-acre subject property is located within the Highway 7/Williston/Highwood Drive village center, which is defined as “special purpose village center” in the comprehensive plan. The site is accessed via two driveways onto the Highway 7 south frontage road. The existing three-story building was constructed in 1980 and is 59,000 square feet in total size.

**Proposed Building Changes**
As proposed, a roughly 1,950 square foot tenant space in the southwest corner of the building would be significantly remodeled to accommodate Dunn Brothers Coffee. New entries to the space would be constructed on the south and east facades, and a drive-up window would be installed on the west façade. (See page A9.)

**Proposed Site Changes**
To maintain orderly vehicular circulation while providing access to the new drive-up window, the site’s westerly driveway would be converted to a one-way, “entry only.” The drive lane closest to the building would be designated for the coffee shop drive-up and the other would be used for general traffic. The site change would require minimal grading and bituminous resurfacing. (See page A9.)

**Staff Analysis**
Staff finds that the proposal is reasonable.

- The comprehensive guide plan notes that “special purpose village centers” are intended to offer limited commercial uses to neighborhoods and drive-by traffic, rather than attracting customers from a larger area. The proposed Dunn Brothers Coffee is consistent with the purpose of this type of village center. It would serve the local neighborhood – including the building’s tenants and visitors – as well as the commuting public.

- The proposed Dunn Brothers Coffee would meet all conditional use permit standards. These standards are outlined in the “Supporting Information” section of this report.
• The proposed Dunn Brothers Coffee would meet all site and building plan standards. These standards are outlined in the “Supporting Information” section of this report.

Staff Recommendation

Recommend that the city council adopt the resolution approving the conditional use permit, and final site and building plans, for a fast food restaurant with drive-up facility at 14525 State Highway 7. (See pages A14–A19.)

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

**Surrounding Land Uses**
- Northerly: State Highway 7
- Easterly: Edina Realty building, guided commercial
- Southerly: city-owned property, guided parks
- Westerly: Famous Dave’s, guided commercial

**Planning**
- Guide Plan designation: commercial
- Zoning: B-3/General Business

**Parking**
- By City Code §300.28 Subd. 12(c)(1)(d): “For mixed-use buildings, parking requirements shall be determined by the city based on the existing and potential uses of the building.” By City Code §300.28 Subd. 12(c)(4): “The parking requirement for uses not listed in [the ordinance] may be established by the city based on the characteristics of the use and available information on parking demand for such use.”

Given city code allowances and the mixed-use nature of the building, staff evaluated the required parking using the Institute of Transportation Engineers Trip Generation Manual, 8th Addition. Based on this analysis, 184 parking stalls would be required to accommodate the uses of the building. This is met by the site’s existing 227 stalls.

<table>
<thead>
<tr>
<th>Floor</th>
<th>Use</th>
<th>Area*</th>
<th>Rate</th>
<th>Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>General Office</td>
<td>7,108 SF</td>
<td>2.84/1000 SF</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>General Service</td>
<td>3,901 SF</td>
<td>1/250 SF**</td>
<td>16</td>
</tr>
<tr>
<td></td>
<td>Fitness</td>
<td>5,163 SF</td>
<td>5.19/1000 SF</td>
<td>27</td>
</tr>
<tr>
<td></td>
<td>Coffee Shop</td>
<td>1,956 SF</td>
<td>9.9/1000 SF</td>
<td>19</td>
</tr>
<tr>
<td>2nd</td>
<td>General Office</td>
<td>18,128 SF</td>
<td>2.84/1000 SF</td>
<td>51</td>
</tr>
<tr>
<td>3rd</td>
<td>General Office</td>
<td>18,128 SF</td>
<td>2.84/1000 SF</td>
<td>51</td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td><strong>184</strong></td>
</tr>
</tbody>
</table>

* excludes common stairwell/restroom space
**city code rate as no ITE comparable

**CUP Standards**

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

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

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

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

The proposal would meet the general conditional use permit standards as outlined in City Code §300.21 Subd.4(f):

1. Shall be located only on sites having direct access to minor arterial streets or service roads;

   **Finding:** The only access to the property is directly from the Highway 7 service/frontage road.

2. Public address systems shall not be audible from any residential parcel;

   **Finding:** The closest single-family residential property is located over 500 feet to the south and is further separated from the site by significant topography. Nevertheless, this has been included as a condition of approval.

3. Stacking for a minimum of six cars per aisle shall be provided within applicable parking lot setbacks;

   **Finding:** As proposed, six vehicles could be stacked in the proposed drive-up aisle. To prevent stacking onto the frontage road, a condition has been included moving the menu/order board further to the south.

4. Shall not be permitted when traffic studies indicate significant impacts on the levels of service as defined by the institute of traffic engineers of adjacent streets and intersections; and

   **Finding:** The building is currently occupied by a variety of uses. The proposed coffee shop would present yet another type of use. As a general land use and traffic principle, mixed and varying uses on a site disperse traffic throughout the day rather than concentrating it during peak periods. No adverse traffic or access issues are anticipated as a result of the proposed fast food restaurant.
5. Building shall be set back at least 100 feet and screened from any adjacent property designated in the comprehensive plan for residential use.

**Finding:** The closest single-family residential property is located over 500 feet to the south and further separated from the site by significant topography.

**SBP Standards**

The proposal would meet the general site and building plan standards as outlined in City Code §300.27 Subd.5:

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

   **Finding:** The proposed coffee shop has been reviewed by the city’s building, engineering, planning, natural resources, and fire staff. Staff finds the proposal to be generally consistent with the city’s development guides.

2. Consistency with this ordinance;

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

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

   **Finding:** The proposed coffee shop would occupy space in an existing building on a fully developed site. Just a small area of green space would be disturbed to accommodate reconfiguration of the drive-up facility.

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

   **Finding:** The proposed coffee shop would occupy space in an existing building on a fully developed site. Just a small area of green space would be disturbed to accommodate reconfiguration of the drive-up facility.

5. Creation of a functional and harmonious design for structures and site features, with special attention to the following:
a. an internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors and the general community;

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

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

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

**Finding:** To provide access to the new drive-up window, the site’s westerly driveway would be converted to a one-way, “entry only.” The drive lane closest to the building would be designated for the coffee shop drive-up and the other would be used for general traffic. This would allow for continued, orderly circulation through the site.

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

**Finding:** Interior renovations would meet current building code requirements, including those pertaining to energy efficiency.

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

**Finding:** The proposed coffee shop, occupying space in an existing building, is not anticipated to negatively impact adjacent and neighboring properties.
<table>
<thead>
<tr>
<th>Neighborhood Comments</th>
<th>The city sent notices to 10 area property owners and received no comments to date.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deadline for Decision</td>
<td>January 28, 2016</td>
</tr>
</tbody>
</table>
Location Map
Project: Dunn Brother's Coffee
Applicant: Lake West Development
Address: 14252 State Hwy 7
(06054.15a)
RE: CONDITIONAL USE PERMIT APPLICATION, WRITTEN STATEMENT;
LAKE WEST DEVELOPMENT
14525 State Highway No. 7, Minnetonka, MN 55345
PID: 2111722440032

Dear Ms. Thomas,

Lake West Development is pleased to bring to your attention a conditional use permit application for a Dunn Brother’s Coffee, located in the Lake West Building at 14525 State Highway No. 7, Minnetonka, MN 55345. We believe that the proposed use for the Lake West Building will add to the Highway 7 and Highwood/Williston “Special Purpose” Village Center by adding a desirable amenity for the residents of Minnetonka. We respectfully seek staff support and City Council approval of this conditional use permit application for a Fast Food Restaurant with a Drive-Thru Lane in the B-3 General Business District zoning area.

Lake West Development and the proposed tenant are in final discussions to bring a first-class coffee shop to the Southwest corner of the Lake West Building. Dunn Brothers Coffee started their specialty coffee operation in Saint Paul, Minnesota, 28 years ago. With nearly 85 shops in 9 states, Dunn Brothers Coffee has a strong brand that coffee lovers go out of their way to find. The Dunn Brothers Coffee hours of operations are seven days a week, from 6:00am-10:00pm.

(CONTINUED ON NEXT PAGE)
We sincerely appreciate your efforts in reviewing and providing feedback on the consideration of the Conditional Use Permit to add a Coffee Use with a Drive Lane to the vitality of the “Special Purpose” Village giving the City of Minnetonka residents a new and desirable amenity to enjoy.

Enclosed is our completed Conditional Use Permit application, per previous staff discussions with Civil Site Group, a landscaping plan is not necessary and a storm water management plan is not required due to site grading improvements being less than the required 5,000 square feet of improvement and less than the 50 cubic yards of grading or removal activity. As no addition to the building is being proposed, a building rendering is not included.

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

Sincerely,

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

Cc: Curt Fretham, Lake West Development
Kayla Mack, Lake West Development

Encl: Conditional Use Permit Application
$800 Application Fee
Legal Description
Certificate of Survey
Grading and Drainage Plan
Floor Plan
The following is an assessment of the application to permit evaluation criteria:

<table>
<thead>
<tr>
<th>Conditional Use Permit Evaluation Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Section 300.21.2. General Standards</strong></td>
</tr>
<tr>
<td>a) Is the use consistent with the intent of this ordinance?</td>
</tr>
<tr>
<td>Yes. The purpose of the B-3 district is to provide a district for general commercial development in areas so designated in the comprehensive plan and which are removed from residential areas. The intensity of development permitted in this district shall be determined by the city's assessment of the quality of the site and building plan and upon the ability to mitigate off-site impacts. A coffee shop, classified as a fast food restaurant per city code, which is conditionally permitted in the B-3 district, meets the intent by providing a low intensity service amenity necessary for a “Special Purpose” Village (Highway 7 and Highwood/Williston) that is seeking to add stability and increase vitality.</td>
</tr>
<tr>
<td>b) Is the use consistent with the goals, policies and objectives of the comprehensive plan?</td>
</tr>
<tr>
<td>Yes. The Minnetonka 2030 Comprehensive Plan provides an overall growth strategy that advocates for opportunities that increase the vitality of existing and new office, retail and commercial development in an increasingly competitive regional market. The proposed use will assist in enhancing vitality within the commercial node by allowing well-planned and desirable mixed uses. In addition, the use will help to build upon the existing village concept already in place, which includes several office uses, The General Store, Snap Fitness, Famous Dave’s, and Mid-Country Bank. The use will also enhance the livability and walkability of a frontage road that is already actively traveled by walkers, runners, and bikers.</td>
</tr>
<tr>
<td>c) Does the use have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements?</td>
</tr>
<tr>
<td>No. The proposed use does not incorporate a special use or other circumstance that would otherwise add unnecessary requirements or have an adverse impact on governmental facilities, utilities, services, or existing or proposed improvements.</td>
</tr>
<tr>
<td>d) Is the use consistent with the city's water resources management plan?</td>
</tr>
<tr>
<td>Yes. As described in Section C &amp; D within Chapter VI (Resources Management Plan) of the 2030 Comprehensive Plan, the project contributes to meeting the resource management goals and plans of the City.</td>
</tr>
<tr>
<td>e) Is the use in compliance with the performance standards specified in section 300.28 of this ordinance?</td>
</tr>
</tbody>
</table>

Dunn Bros. Coffee
14525 St. Hwy 7
0654.15a
Yes. The proposed use is in compliance with the applicable general performance standards and will work with city staff to ensure specific performance standards are adhered to.

<table>
<thead>
<tr>
<th>f) Does the use have an undue adverse impact on the public health, safety or welfare?</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. The use is intended to provide a location where persons and families can gather and meet for a quick option for food and sustainably grown coffee. The tenant is required to follow the food safety regulations that have been outlined by the Minnesota Department of Health and other governmental bodies.</td>
</tr>
</tbody>
</table>

**Section 300.21.4.f. Fast Food Restaurants Specific Standards**

1) **The use shall be located only on sites having direct access to minor arterial streets or service roads.**

As currently designed, the site is located with direct access off of the Highway 7 Service Road.

2) **Public address systems shall not be audible from any residential parcel.**

As currently designed, the building is located at least 300 meters or more from any residential parcel making the site inaudible for any residential parcels.

3) **Stacking for a minimum of six cars per aisle shall be provided within applicable parking lot setbacks.**

As currently designed, the site allows for up to seven cars to be in queue in the aisle.

4) **The use shall not be permitted when traffic studies indicate significant impacts on the levels of service as defined by the institute of traffic engineers of adjacent streets and intersections.**

As currently designed, the site layout includes excess stacking capacity as required by city code. In addition, there is ample parking and queuing area on site, further minimizing or eliminating any potential impact on adjacent streets or intersections.

5) **The building shall be set back at least 100 feet and screened from any adjacent property designated in the comprehensive plan for residential use.**

The building is not adjacent to any current residential use or any proposed residential use within the comprehensive plan.

*(CONTINUED ON NEXT PAGE)*
Resolution No. 2015-14

Resolution approving a conditional use permit, and final site and building plans, for a fast food restaurant with drive-up facility at 14525 State Highway 7

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

Section 1. Background.

1.01 Lake West Development is proposing to lease tenant space within an existing mixed-use building to a coffee shop. In addition to serving walk-in customers, the coffee shop would include a drive-up window. As proposed, minor changes would be made to both the site and building to accommodate the coffee shop and associated drive-up window.

1.02 The property is located at 14525 State Highway 7. It is zoned B-3/General Business and is legally described as:

The East 397.00 feet of the West 442.00 feet of Lot 3, Block 1, TOWER HILL, according to the plat thereof on file or of record in the office of Registrar of Titles in and for Hennepin County, Minnesota.

1.03 By City Code §300.02, a fast food restaurant is defined as a restaurant whose business is the sale of rapidly prepared, pre-prepared or take-out food directly to customers without table service and which may include drive-up order and delivery systems. The proposed coffee shop is considered a fast food restaurant.

1.04 By City Code §300.19 Subd. 4(f), fast food restaurants with drive-up facilities are conditionally permitted within the B-3 zoning district.

1.05 By City Code §300.27 Subd. 2(c), site and building plan review is required for any modification to a building or land feature which results in a different intensity of use. The drive-up facility may result in a different intensity of use.

1.06 On November 5, 2015, the planning commission held a hearing on the
proposal. The applicant was provided the opportunity to present information to the planning commission. The planning commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit and final site and building plans.

Section 2. Standards.

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

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

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

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

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

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

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

2.02 City Code §300.21 Subd.4(f) lists the following specific standards that must be met for granting a conditional use permit for a fast food restaurant with drive-up facility.

1. Shall be located only on sites having direct access to minor arterial streets or service roads;

2. Public address systems shall not be audible from any residential parcel;

3. Stacking for a minimum of six cars per aisle shall be provided within applicable parking lot setbacks;

4. Shall not be permitted when traffic studies indicate significant impacts on the levels of service as defined by the institute of traffic engineers of adjacent streets and intersections; and
5. Building shall be set back at least 100 feet and screened from any adjacent property designated in the comprehensive plan for residential use.

2.03 City Code §300.27 Subd.5 lists the following standards that must be considered in review of final site and building plans:

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

2. Consistency with this ordinance;

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

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

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

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

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

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

   d) vehicular and pedestrian circulation, including walkways, interior drives and parking in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking.
6. Promotion of energy conservation through design, location, orientation and elevation of structures, the use and location of glass in structures and the use of landscape materials and site grading; and

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

Section 3. Findings.

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

3.02 The proposal would meet the specific conditional use permit standards as outlined in City Code §300.21 Subd.4(f):

1. The only access to the property is directly from the Highway 7 service/frontage road.

2. The closest single-family residential property is located over 500 feet to the south and further separated from the site by significant topography.

3. As proposed, six vehicles could be stacked in the proposed drive-up aisle.

4. The building is currently occupied by a variety of uses. The proposed coffee shop would present yet another type of use. As a general land use and traffic principle, mixed and varying uses on a site disperse traffic throughout the day rather than concentrating it during peak periods. No adverse traffic or access issues are anticipated as a result of the proposed fast food restaurant.

3.03 The proposal would meet the site and building plan standards as outlined in City Codes §300.27 Subd.5:

1. The proposed fast food restaurant has been reviewed by the city’s building, engineering, planning, natural resources, and fire staff. Staff finds the proposal to be generally consistent with the city’s development guides.

2. The proposal would meet all minimum ordinance standards.

Dunn Bros. Coffee
14525 St. Hwy 7
0654.15a
3. The fast food restaurant would occupy space in an existing building on a fully developed site. Just a small area of green space would be disturbed to accommodate the drive-up facility.

4. To provide access to the new drive-up window, the site’s westerly driveway would be converted to a one-way, “entry only.” The drive lane closest to the building would be designated for the drive-up facility and the other would be used for general traffic. This would allow for continued, orderly circulation through the site.

5. Interior renovations would meet current building code requirements, including those pertaining to energy efficiency.

6. The proposed fast food restaurant, occupying space in an existing building, is not anticipated to negatively impact adjacent and neighboring properties.

Section 4. City Council Action

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

1. Subject to staff approval, the property must be developed and maintained in substantial conformance with the following plans:
   - Site plan dated 09/15/15
   - Floor plan dated 09/15/15

2. Prior to commencing any site work, install erosion control and tree protection fencing as required by staff for inspection and approval. These items must be maintained throughout the course of construction.

3. Prior to issuance of a building permit:
   a) This resolution must be recorded with Hennepin County; and
   b) Submit a revised site plan, relocating the menu/order board at least one vehicle length to the south.

4. Public address systems must not be audible at any time from any residential parcel.

5. “Do Not Enter” directional signs must be installed at the south end of the westerly driveway.
6. The city council may reasonably add or revise conditions to address any future unforeseen problems.

7. 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.

8. This resolution does not approve any signs.

Adopted by the City Council of the City of Minnetonka, Minnesota, on November 23, 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 November 23, 2015.

David E. Maeda, City Clerk
8. Public Hearings

A. Items concerning Dunn Brothers Coffee at 14525 State Highway 7.

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

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

Curt Fretham, Lake West Development, applicant, stated that he is excited to have Richard and Norma Gunderson operate a Dunn Brothers coffee shop in the building. It would provide an amenity and positive gathering place for the community.

Thomas explained that the commission will review the submitted sign plan for the site at its next meeting. By code requirements, Dunn Brothers would be allowed to have signage on the west and south sides of the building within the tenant space. A sign located closer to the front of the building would require a variance. The sign plan will be reviewed at the next planning commission meeting.

Richard Gunderson introduced himself and his wife, Norma, the Dunn Brothers franchise owners. He stated that he and his wife have done the research to have a successful business and meeting place which would be an amenity to the community. It would serve educational, civic, and religious organizations in the general population. Ms. Gunderson quit working as a human resources specialist to work at two Dunn Brothers’ franchises to learn the business. The business will provide jobs. He looked forward to discussing the signage at the next meeting.

Ms. Gunderson added that the business would provide jobs and opportunities.

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

Odland moved, second by Magney, to recommend that the city council adopt the resolution approving the conditional use permit and final site and building plans for a fast food restaurant with drive-up facility at 14525 State Highway 7 (see pages A14-A19 of the staff report).

Calvert, Knight, Magney, O’Connell, Odland, Powers, and Kirk voted yes. Motion carried.
The city council is tentatively scheduled to review the item at its meeting on November 23, 2015.
Brief Description: Resolution authorizing the certification of delinquent fire alarm response fees to the Hennepin County Auditor

Recommended Action: Adopt the resolution

Background
As provided by city ordinance section 915.029, staff annually requests that the city council certify delinquent fire response bills for collection with property taxes. For property taxes collectible in 2016, three properties have unpaid invoices. Consistent with previous city council actions, it is proposed that the certification of these delinquent accounts include an interest rate – this year again, recommended to be 10 percent on the unpaid balance. The interest is calculated from November 15, 2015, to December 31, 2016. A $50 administrative penalty is added to delinquent accounts to cover the additional costs associated with the certification process.

The following table presents the certifications from November 15, 2015 to December 31, 2016.

<table>
<thead>
<tr>
<th>Number of Accounts Collected</th>
<th>Amount Collected</th>
<th>Unpaid Accounts</th>
<th>Unpaid Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>58</td>
<td>$13,500.00</td>
<td>3</td>
<td>$750.00</td>
</tr>
</tbody>
</table>

Accounts delinquent three months or longer, are certified. All accounts to be certified have been notified in writing of the pending certification and have had at least two weeks in which to pay the arrears. The detailed list of properties and delinquent amounts is available in the Fire Department.

Recommendation
Adopt the resolution authorizing the certification of fire response fees to the Hennepin County Auditor.

Submitted through: Geralyn Barone, City Manager
Originated by: John Vance, Fire Chief
RESOLUTION NO. 2015-

RESOLUTION AUTHORIZING THE CERTIFICATION OF DELINQUENT FIRE ALARM RESPONSE 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. City Code §915.029 provides for certification of fire alarm response fee charges to the County Auditor for collection pursuant to the provision of MN Statute 366.012 and 415.01.

1.02. The Fire Department has prepared a list of the delinquent charges for the fire alarm response fee, together with the legal descriptions of the premises served, the official copy of which is on file with the City Clerk.

1.03. All parties were notified by mail of the certification on October 16, 2015.

1.04. The proposed list of the delinquent charges for fire alarm response service, the official copy of which is hereby accepted by the Council, is a true and correct list of the delinquent fire alarm response fee charges as of the 23rd day of November, 2015.

Section 2. Council Action

2.01. The City Clerk must transmit a certified duplicate copy of this resolution and the list of the delinquent accounts to the County Auditor to be extended on the property tax lists of the County, and such delinquent accounts shall be collected and paid over in the same manner as other municipal taxes with an interest rate of ten percent (10%) per annum and including a $50.00 administrative penalty pursuant to the provisions of MN Statute 366.012 and 415.01.

Adopted by the City Council of the City of Minnetonka, Minnesota, on this 23rd day of November, 2015

__________________________
Terry Schneider, Mayor

ATTEST:

__________________________
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 the 23rd day of November, 2015.

________________________________________
David E. Maeda, City Clerk
**Brief Description**

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

**Recommendation**

Continue the public hearing and grant the licenses.

**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, Tonya Johnson, will remain as the manager until council approval. (See pages A2-A3.) Ametrine, Inc. is also purchasing the location in Wayzata.

A liquor violation did occur in 2014 under the Anderson Franchise Investments license in which Ms. Alexander was not involved. There is also a recent violation pending for Anderson Franchise Investments. This violation is in the legal process. If the new ownership change occurs, the recent violation will continue to be processed and if found guilty, Anderson Franchise Investment will be responsible for that administrative penalty.

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 complete and will be forwarded to the council separately.
Recommendation

Staff recommends that the city grant the licenses.

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
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 site 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.
City Council Agenda Item #14A  
Meeting of November 23, 2015

<table>
<thead>
<tr>
<th>Brief Description</th>
<th>Concept plan for Highview Villas, a residential development of properties at 4301 Highview Place and an adjacent, unaddressed parcel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recommendation</td>
<td>Discuss concept plan with the applicant. No formal action required.</td>
</tr>
</tbody>
</table>

**Concept Plan**

In 2014, Whitten Associates submitted a concept plan contemplating the redevelopment of the property at 4301 Highview Place and an adjacent, unaddressed parcel. Cumulatively the two properties, zoned R-1, have an area of approximately 4.5 acres. The plan contemplated six lots for single-family detached homes around a newly constructed cul-de-sac. The plan met all R-1 district standards. At that time, Whitten Associates had not partnered with a builder.

Whitten Associates has now partnered with Ridge Creek Custom Homes and has submitted a revised concept plan contemplating redevelopment of the properties. The current concept plan includes 10 villa style homes and a newly constructed cul-de-sac. (See pages A1-A9.)

If a formal application were submitted it would likely include: (1) rezoning to planned unit development; and (2) preliminary and final plats.

**Review Process**

Staff has outlined the following review process for the proposal. At this time, a formal application has not been submitted.

- **Neighborhood Meeting.** The developer held a neighborhood meeting on October 20, 2015. Approximately 10 people were in attendance and raised a variety of questions and concerns regarding:
  - Existing and anticipated traffic issues;
  - Proposed density of the development;
  - Character of the proposed development, including setbacks, price points, and loss of view; and
  - Noise related to the construction of the new homes.

- **Planning Commission Concept Plan Review.** The planning commission conducted a review of the concept plan on November 5, 2015. Nine members of the public raised concerns regarding the development and one member spoke in
favor of the development. Generally, the concerns were consistent with those raised during the neighborhood meeting. Further, several neighbors expressed preference for the previous six-lot plan. Additional comments received related to the need for newly-constructed single-family homes for empty nesters and the need for noise mitigation.

The commissioners generally gave preference to the six-lot plan citing that the 10-lot plan would be too dense compared to the surrounding neighborhood. Further the commission generally commented on:

- **Traffic noise.** The commission confirmed with the developer that noise mitigation would be considered as part of the proposal.
- **Price points.** The commission discussed the $450,000-$600,000 price points related to the location of the development and its context.
- **Neighborhood impacts.** The commission expressed concerns related to possible impacts to the surrounding neighborhood. Specifically, related to traffic, snow storage, and guest parking. (See pages A10-A22.)

- **City Council Concept Plan Review.** The city council Concept Plan Review is intended as a follow up to the planning commission meeting and would follow the same format as the planning commission Concept Plan Review. No staff recommendations are provided, the public is invited to provide comments, and the council members are afforded the opportunity to ask questions and provide feedback without any formal motions or votes.

**Since Planning Commission Hearing**

Staff has received one additional comment since the planning commission meeting. (See page A24.)

**Staff Recommendation**

Staff recommends the council provide comments, feedback, and direction that may lead to the preparation of more detailed development plans.

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

Originator: Ashley Cauley, Senior Planner
ADDITIONAL INFORMATION

Next Steps

- **Formal Application.** If the developer chooses to file a formal application, notification of the application would be mailed to area property owners. Property owners are encouraged to view plans and provide feedback via the city’s website. Through recent website updates: (1) staff can provide residents with ongoing project updates, (2) residents can “follow” projects they are particularly interested in by signing up for automatic notification of project updates; (3) residents may provide project feedback on project; and (4) and staff can review resident comments.

- **Council Introduction.** The proposal would be introduced at a city council meeting. At that time, the council would be provided another opportunity to review the issues identified during the initial Concept Plan Review meeting, and to provide direction about any refinements or additional issues they wish to be researched, and for which staff recommendations should be prepared.

- **Planning Commission Review.** The planning commission would hold an official public hearing for the development review and would subsequently recommend action to the city council.

- **City Council Action.** Based on input from the planning commission, professional staff and general public, the city council would take final action.

Roles and Responsibilities

- **Applicants.** Applicants are responsible for providing clear, complete and timely information throughout the review process. They are expected to be accessible to both the city and to the public, and to respect the integrity of the public process.

- **Public.** Neighbors and the general public will be encouraged and enabled to participate in the review process to the extent they are interested. However, effective public participation involves shared responsibilities. While the city has an obligation to provide information and feedback opportunities, interested residents are expected to accept the responsibility to educate themselves about the project and review process, to provide constructive, timely and germane feedback, and to stay informed and involved throughout the entire process.

- **Planning Commission.** The planning commission hosts the primary forum for public input and provides clear and definitive recommendations to the city council. To serve in that role, the commission identifies and attempts to resolve development issues and concerns prior to the council’s consideration by carefully balancing the interests of applicants, neighbors, and the general public.
- **City Council.** As the ultimate decision maker, the city council must be in a position to equitably and consistently weigh all input from their staff, the general public, planning commissioners, applicants and other advisors. Accordingly, council members traditionally keep an open mind until all the facts are received. The council ensures that residents have an opportunity to effectively participate in the process.

- **City Staff.** City staff is neither an advocate for the public nor the applicant. Rather, staff provides professional advice and recommendations to all interested parties, including the city council, planning commission, applicant and residents. Staff advocates for its professional position, not a project. Staff recommendations consider neighborhood concerns, but necessarily reflect professional standards, legal requirements and broader community interests.
Location Map
Project: Highview Concept Plan
Applicant: Ridge Creek Custom Homes
Address: 4301 Highview Place

This map is for illustrative purposes only.
VIEW FROM HIGHWAY 7
2014 6-lot concept
ITEM 9A – Highview Villas

The city received the attached comments following publication of the report.
Hi Ashley,

I understand the development that is planned in my neighborhood, the Highview Place, 4301 Highview Place development, is being expanded from 6 to 10 homes. I am very concerned that 10 homes, 15 ft apart isn’t keeping with the current neighborhood layout. It seems that maintaining the roughly .5 acre lot size would be best for the neighborhood. Not to mention the added traffic that will result from 4 additional houses. I have a 1 year old and a 3 year old and we live at the mouth of the neighborhood and the traffic in front of our home is already quite a bit. Also, currently the home across from us is being rebuild and the amount of traffic for that one house has been substantial I can only imagine what it would be for 6 homes, but 10 homes?

I understand that the builder would like to build as many homes as they can to make the biggest profit that they can. I also understand that the city will benefit from increased tax revenue but i would hope that the well being of the current residents would be considered.

Thank you
Leif Swenson
4214 Maple Ln
Minnetonka, MN 55345
November 2, 2015

To Minnetonka City Planning Members:

We write to you with our disagreement on the proposal to rezone 4301 Highview Place into 10 villa home development. It is our opinion that it is not in alignment with Minnetonka’s open spaces policy, nor is it the city’s responsibility to maximize profit for property owners by rezoning land to their advantage, and in direct opposition to the residents of the area.

We attended the September 2, 2014, neighborhood meeting facilitated at the city by developers Whitten and Associates (Whitten and Associates). In that proposal the existing home at 4301 Highview Place would remain and 5 new single family home plots would be created, which complied with the city’s requirement for 0.5 acre per home site. This knowledge factored strongly in our decision to stay here, rather than sell our home and move, or build elsewhere. Our family decided to stay in the neighborhood we love and have lived in for 18+ years; we are currently in the process of rebuilding on our lot (4209 Maple Lane). In addition to the sensible development proposal by Whitten and Associates, we felt assured the city would maintain the open spaces plan that makes Minnetonka different from other cities: “The city will continue to maintain the ½ acre minimum lot size in established single family neighborhoods” (City of Minnetonka).

Regarding accessing: the city built a large cul-de-sac at the top of Highview Place in 1999 which could provide access to the property in question for redevelopment. The idea of rerouting traffic, whether for 5 new homes, or the proposal of 10, to enter the property at the top of Maple Lane, directly adjacent to another homeowner and abutting their property, is unnecessary and inconsiderate to their property value.

It is our sincere and fervent hope that the planning committee will see this proposal for the financial gain intended for a single property owner, which will result in the property value loss and citizen outrage of those of us who will be impacted by the approval of such a plan.
Please contact us, or any of our neighbors, with questions or for further discussion. We stand united in our opposition of the 10 Villa plan, and would only support a plan that complies with the city guidelines of half-acre lots per home.

Sincerely,

Stephanie and Steve Huss
4209 Maple Lane
Minnetonka, MN 55345

Reference:


9. **Other Business**

A. **Concept plan for Highview Villas, a residential development of properties at 4301 Highview Place and an adjacent, unaddressed parcel.**

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

Cauley reported. She recommended commissioners provide their reaction and general comments related to the contemplated density and general site design of the previous 6-lot concept and the current 10-lot concept.

Tim Whitten of Whitten Associates introduced himself, Rob Eldridge of Ridge Creek Custom Homes, and Heather Whitten of Whitten Associates. Mr. Whitten stated that:

- The site is located in the northwest corner of Interstate 494 and Highway 7.
- The view is heavily wooded from the perimeter.
- The concept last year included 6 single-family, 22,000-square-foot lots with a private street. Staff informed the applicant that a private street would not be supported.
- The 10-lots would provide advantages for the site. He provided the site plan. The perimeter edges would be the same. All of the houses would be located on a newly created cul-de-sac.
- The target demographic is empty nesters. The lots would be 55 feet wide. It would be similar to the houses in Legacy Oaks. The price point would be around $450,000 to $600,000.
- He presented the potential benefits at the neighborhood meeting.
- The choice is between the previous 6-unit plan and the current 10-unit plan.
- The 6-unit plan would have more than one builder.
- The perimeter of the site would be unchanged since all of the driveways would be located on the existing cul-de-sac.
- The new proposal would have less traffic because the buyers would be older.
- The site would be maintained by an association.
- The homes of the new proposal would be smaller and have a lower profile of a one or one-and-a-half story house rather than a two-story house.
- The price points would be similar.
• Offering an alternative housing type in Minnetonka is an advantage.
• Staff brought up issues at the neighborhood meeting including existing and anticipated traffic issues. The discussion should be focused on the difference of 6 lots and 10 lots. The empty-nest type resident would generate less traffic than a typical single family.
• The area that could be divided into 10 lots would equal 15,000 square feet per lot. The house would be 100 feet from the frontage road or 80 feet from the property line.
• The setbacks would be the same as single-family houses except for the side setbacks which would be 5 feet and 10 feet.
• The price point would be similar to existing houses in the area.
• Visually, the proposed houses would be shorter than the existing houses.
• There would be more control managing one quality builder constructing 10 homes.
• He provided street-scape and parking exhibits.
• The bigger-lot homes at this location do not seem to be the right fit.

Calvert asked for the reasoning why the 6-lot plan would not be a good fit. Mr. Whitten stated that staff did not support a private street to service the 6 lots, so a cul-de-sac was added. The cul-de-sac added $50,000 to the cost of each of the 6 lots. That would generate the need for large lots, large houses, and a high price point. It does not feel like that would be a proper fit for this location. When the existing houses were constructed, Highway 7 and Interstate 494 had fewer lanes and less traffic. This would be a nice, self-contained location and an opportunity that does not present itself very often in Minnetonka.

Powers drove to the site and agreed that it is self-contained. He noted that there is no commerce close by. He asked what the owners would be doing. Mr. Whitten said that proves that the site is more suited for empty nesters. The site does not offer large yards or play areas for kids. The residents would be active adults and their activities happen all over. That is one reason why empty nesters want an association.

Calvert visited the site and heard significant traffic noise. She asked what measures would be taken to mitigate noise pollution. Mr. Whitten said that empty nesters stay inside their houses more than families with young children and each house can be constructed to be quieter inside. He wants to protect as many trees as possible. That would help provide a sound and visual barrier. He thinks the proposal has the right product for the right buyer.
Calvert confirmed with Mr. Whitten that sound mitigation would be included in the planning of the construction of each house. Mr. Whitten stated that landscaping and berming may also be looked at. The natural vegetation would have to be protected. He is sensitive to the fact that screening of the traffic would be needed. The site sits very high which is an advantage as opposed to being at the same level as the traffic. He is confident that 10 buyers would be ready to purchase the proposed houses. There is already interest.

Calvert said that an existing driveway could become a road. She wondered what kind of protections could be done for the neighbor to protect their privacy and buffer noise. Mr. Whitten explained that the road would be the same with 6 lots. It would be located as far away from the existing home on the north as possible. The setback would be 15 feet from the neighbor which would be the same as the 6-lot plan. Protecting the trees and screening could be done. The road would be kept at the same elevation to save as many trees as possible.

Calvert asked why the road could not be constructed at the existing cul-de-sac at the end of Highview Place. Mr. Whitten answered that it is not possible because of the elevations.

Odland asked if the houses in the Oakridge golf course area that back up to Highway 169 that cost from $500,000 to $1 million are worthless because of the noise. Mr. Whitten clarified that he previously noted that empty nesters spend more time indoors typically than families with children. Odland noted that empty nesters may want to have guests outside.

Odland felt that 6 houses respected the neighborhood and kept the neighborhood intact. She did not see how 10 houses would be better.

Mr. Eldridge reviewed that the 6-lot plan would have large lots with large houses that would demand a higher price point. That would be a challenge with its proximity to the freeway. The 10-lot plan would allow a price point at or below $600,000 which would be more appropriate with the site’s proximity to the freeway. The noise factor does drive the price for buyers anywhere within the metro loop. The costs associated with the 6-lot plan would not make it work. The current proposal would fit in with the current price points in the neighborhood.

In response to Odland’s questions, Mr. Whitten clarified that he would prefer to have one quality builder construct all of the houses rather than have multiple builders. Mr. Eldridge stated that the houses would not look the same. Having one builder would provide consistency with the homes. He was willing to have his builder curb the hours of construction and multiple builders may not agree to do
that. With the 6-lot plan, the builder could clear cut trees to locate the house wherever. The 10-lot plan would give the community more control. A PUD would set restrictions to be followed by one entity.

Odland questioned where guests would park and snow would be stored. Mr. Eldridge stated that the street would be 26-feet wide, so parking could occur on both sides. There would be 2 to three 3 spaces for vehicles in the driveways as well. He calculated room for 85 vehicles.

Calvert noted that the streetscape view includes two-story houses. Mr. Whitten stated that the streetscape houses represent one level, one-and-a-half level, and two-story houses.

Powers grew up in an area located under the flight path of airplanes. Property values in that area are very secure. The amount of white noise in an area is only one factor in determining its value. He asked how the neighborhood character would change. He felt it would be a dramatic change. Mr. Whitten said that the trees and perimeter would be protected by keeping the cul-de-sac internalized. That has been the concern of the neighbors. Protecting the trees is the priority.

Chair Kirk invited those present to provide comments.

Marquise Watts, 4233 Maple Lane, stated that:

- The houses on six lots would match the houses in the neighborhood.
- He loves the neighborhood.
- Maple Lane cannot handle the traffic generated by 10 houses. The incline is hard to navigate in the winter.
- There is a school bus stop and no sidewalks.
- Driving on Highview Place is extremely dangerous, especially in the winter.
- He was worried about the integrity of the neighborhood.

Stephanie Huss, 4209 Maple Lane, stated that:

- She feels strongly about preserving the integrity of the neighborhood.
- She loves the property owners who sold their property. She wants the best outcome.
- She had sent a letter detailing how the proposal would impact the community, street, traffic, safety, and snow removal. Her driveway
tends to collect all of the snow removed from Maple Lane and Highview Place by the plow. She helps a lot of motorists who get stuck in front of her house.
- She provided a petition stating that the 10-lot plan would not blend with the community.
- She is building a single-level house.

Greg Carson, 4222 Maple Lane, stated that:
- Part of the 4.5 acres would not be built on.
- He asked for the required setbacks from a freeway.
- He asked if anyone could put a cul-de-sac and street on one’s property.
- The current owner advises against parking on both sides of the street.

Steve Huss, 4209 Maple Lane, asked if there would be an age limit for residents.

Michael Halley, 14801 Minnehaha Place, stated that:
- He is a former builder in Minnetonka. He has 2 clients watching on television who are 66 years of age and live in a 2-story house with 4,000 square feet. They are both tired of maintaining a half-acre lot. They spend 4 months a year in Arizona. He has been looking for over a year to build them a new house because she needs ADA facilities in the bath and kitchen for $600,000. They want an association to take care of the maintenance, 1,500 square feet, a finished lower level, and to stay close to their current residence and neighbors. They do not want to be confronted by neighbors in opposition to them moving to the neighborhood. They have lived in Minnetonka 32 years and want to stay here in a new, ADA-ready house that they do not have to remodel. He is hoping commissioners will consider them and others like them.
- The proposal would sell out in a year easy because there is nothing else similar available.
- Residents 60 to 70 years of age do not want to move into a senior rental or condominium.
- The land prices are too high. Because of the location to the freeway, the prices may stay more affordable.
- He hoped consideration would be given to the residents not in this room who want to live in the proposal.
Greg Lewis, 4230 Maple Lane, stated that:

- He lost 2 oak trees to a disease called oak blight. A lot of the trees would be removed and the noise would travel from the corridor. It would be 3 or 5 times worse than it is now.
- It is a beautiful area.
- He felt sorry for the couple represented by Mr. Halley, but hoped “people like that do not spoil our neighborhood because they are selfish and got to have new construction.”
- He preferred 4 or 5 houses. Separate builders would not “do a hack job.”
- He is selling his house. A buyer backed out when the buyer found out the property may be developed.

Bob Anderson, 4316 Highview Place, stated that:

- He hears the highway noise. He tunes it out. The proposed site would hear more of the highway noise.
- He is 69 years of age and is outside a lot.
- There would be objections to buying the proposed houses at that price point.
- Maple Lane has a slope that is dangerous in the winter until the sanding trucks get there. He has slid onto Lake Street Extension when driving down the slope and had trouble driving up the slope. Ten more vehicles would cause a pile up. That is crazy.

Mr. Halley noted that the resident who spoke and is 69 years of age wants to stay in the neighborhood.

Jenna Swenson, 4214 Maple Lane, stated that:

- She is not opposed to having 6 houses being constructed.
- She and her kids are outside a lot. There is a lot of traffic noise. Another young family moving in would not have a problem except for maybe the price point. There is a playground on Lake Street Extension.

Isaac Allen, 4244 Highview Place, stated that:

- He agreed with the other speakers.
- He preferred 5 or 6 houses.
Janet Davidson, 4217 Maple Lane, stated that:

- Seniors need housekeeping services and home-health aids that create traffic.

In response to Calvert’s question, Wischnack explained that the comprehensive plan guides the site for up to 4 units per acre. New housing is balanced with natural resources and existing neighborhood context.

O’Connell confirmed with Cauley that the site could be developed for 6 lots and meet all minimum lot standards. There would be no house-size restriction other than having to meet setback requirements. The mcmansion policy would not apply. During subdivision of the site, up to 35 percent of the high-priority trees on the site could be removed and after two years of occupancy, the homeowner could remove all trees on his or her lot.

Chair Kirk noted that the community sometimes sees a PUD as a bad thing, but the PUD allows more control to save trees and other features. He asked if there was a subdivision with similar density recently approved. Wischnack stated that the current proposal is less dense than Groveland Pond.

In response to Knight’s question, Wischnack stated that there are 5 houses on the cul-de-sac in Groveland Pond and a total of 14 houses.

Knight reviewed that the street would be public. He asked where the snow would be stored. Cauley said that snow removal would be part of the review of a formal application.

Knight asked how traffic studies of seniors and families with kids compare. Cauley stated that the formal application would address that information. Thomas provided that generally a single-family house produces 10 vehicles trips per day and senior housing slightly less than that.

Chair Kirk confirmed with Cauley that the cu-de-sac would be publically maintained, but the developer would pay the cost to construct it.

Cauley provided that there is a 50-foot front yard setback to arterial roads in an R-1 district. The properties along the east side of the proposed cul-de-sac would be considered having double frontage which would have a 50-foot setback from a collector and arterial road. The setback may be different with a PUD. The
developer’s intent is to cluster the houses closer to the cul-de-sac to preserve a larger distance from the rear of the houses to Highway 7 and Interstate 494.

Chair Kirk noted that the city lacks new construction and it is a deficit in the housing stock. Wischnack said that building permits in the last year priced new houses at $700,000 not including the lot. The applicant’s figures were accurate.

Powers appreciated the articulation of the plan. The 10-house development would be too much. The developer needs to be more optimistic. The adverse pressure on the neighborhood for 10 houses is greater than 6 houses. He prefers the 6-house plan.

Magney agreed that 10 houses would be too dense for the area. Parking would be an issue and traffic would increase. He prefers the 6-house plan. It would fit better.

Knight agreed that 10 houses would be too many. He leaned between 6 and 8 houses. The street parking could be an issue.

Calvert agreed with the other commissioners. It seems dense. She appreciates the comments about the need for diversified housing stock for empty nesters at an affordable price point. There are many people who do not want to care for lawns or do general upkeep and there is not enough new construction. She shares the concerns regarding density, snow removal, access, and noise.

O’Connell does not think that 10 is appropriate, but the alternative would be $1 million, 5,000 to 6,000 square-foot houses. He was not certain there would be less traffic generated from 6 of those houses than 10 of the proposed houses. There would be more mass and more people in the 6 houses over time. There would be no control over the 6 houses and the yards that would be constructed. The proposed plan would provide control over street scape, massing, and upkeep of the property over time. Calvert shared that view. It is a very delicate balancing act to preserve homogeneous neighborhoods with the need for diversity of housing stock and the preservation of view shed. She is conflicted.

Odland thought there should be no more than 5 or 6 houses.

Chair Kirk thought PUD zoning would not be a good thing for this development. There would be too many houses around the cul-de-sac. He did not see 10 fitting on the site. He would like to see clearly identified expectations in the application to not let the house sizes get out of hand. He was not that concerned with the traffic. There are streets that have a lot more homes than this one would have all
over the city. The integrity of the current neighborhood needs to be protected, but there are some limitations when there is property that can be developed. If the application requests a PUD, then he would like conditions that maintain the tree scape and deal with water and trees and the space between driveways.

Powers noted that the proposed houses’ residents would need to drive through another neighborhood to gain access.

The city council will review the concept plan at its November 23, 2015 meeting.
The following comment was received after the planning commission meeting.
Ashley Cauley

From: Robert Anderson
Sent: Friday, November 13, 2015 5:14 PM
To: Ashley Cauley
Subject: proposed development at 4301 highview place

Ashley,

I attended the meeting on 11/5 to add my comments expressing my disapproval of the project mentioned above. I have a couple other things to say that I didn't feel I had time for at that meeting.

One of the main concerns about this development is the negative impact it will have on the character of this neighborhood. Several other people had comments reflecting this concern. All the homes on the cul-de-sac at Highview Place and most of the homes you find going north down Maple Lane to Lake St. Extension were built in the '40's and '50's. Each of these houses is unique and distinct from its neighbors---no cookie cutter designing here. The style of each house, however, is typical of homes built in that era and is much different than homes being built today.

The developer's answer to this objection was to invoke the mantra "internalized " with regard to the relative positioning of the proposed new homes, implying that these houses would be so visually isolated from the rest of us as not to be noticeable. I would suggest that unless the developer's builder has discovered the secret of invisible construction, it is unrealistic to believe that six or seven or ten or whatever the magic number winds up at will be so out of sight that they won't create a strong visual impact on this area. There is a difference between "internalized" and invisible.

We moved into this neighborhood largely because of its relatively secluded and quiet location. We would like to see it stay that way.

Thanks for your attention.

Yours,

Bob Anderson
4316 Highview Place
**City Council Agenda Item #14B**  
**Meeting of November 24, 2015**

**Brief Description**  
Items concerning the Pagel Activity Center at Minnetonka High School, 18313 State Highway 7:

1) Conditional use permit; and

2) Site and building plan review.

**Recommendation**  
Adopt the resolutions approving the request.

**Proposal**

The Minnetonka Youth Hockey Association is proposing to expand the Pagel Activity Center on the Minnetonka High School Campus to include a second hockey rink, training facilities, locker rooms, and storage areas. The proposed addition would be 35,408 square feet in size and located to the south of the existing structure. The applicant is requesting: (1) a conditional use permit; and (2) approval of final site and building plans.

**Planning Commission Hearing**

The planning commission considered the request on November 5, 2015. The staff report from that meeting is attached and various plans and documents describing the proposed project may be found on pages A1–A33. Staff recommended approval of the request noting:

- The proposed addition to the Pagel Activity Center is a reasonable use of the property.

- The impacts from the addition can be addressed through site improvements and mitigation strategies.

At that meeting, a public hearing was opened to take comment and two residents spoke. One neighbor expressed concern about the potential increase in noise from the expanded use of the Pagel Center. He also expressed frustration that the school was not following previous agreements regarding the operation of parking lot gates. The second resident has had a lot of involvement with the hockey program over the years and felt the expansion was a benefit to area children and could generally be accommodated on the high school campus.

Following the public hearing, the commission asked questions, discussed the proposal, and generally commented that:
• Revisions to the use conditions for the Pagel Center are needed to make sure it is not too restrictive. For example, can the Pagel Center be used when school is not in session? How will it work when there are late-start and early-release days? What about early morning practices?

• Clarification is needed regarding the conservation easement and allowable exceptions.

• Follow-up is needed regarding the management of the site, particularly relating to the parking lot gates.

**Planning Commission Recommendation**

On a 7-0 vote, the commission recommended that the city council approve the project with a modification to prohibit the use of the facility by non-Minnetonka high school students when “school is in session” instead of Monday through Friday. Meeting minutes may be found on pages A53–A56.

**Since Planning Commission Hearing**

There have been no changes to the proposal. Staff has followed up with the School District and Minnetonka Youth Hockey Association on the following items:

1) The limitations on the use of the Pagel Activity Center have been further revised to now read as follows:

*Ice time at the Pagel Activity Center cannot be scheduled to end after 8:00 a.m. on a regularly scheduled school day or within 30 minutes of the start of school on a late-start school day. Ice time at the Pagel Activity Center cannot be scheduled to start until 4:30 p.m. on a regularly scheduled school day or until 1.5 hours have elapsed from the end of school on an early-release school day. There are no limitations on when ice time can be scheduled for Minnetonka High School Hockey Teams or Minnetonka Youth Hockey Association Teams where more than half of players attend Minnetonka High School. Tournaments cannot have any games scheduled to start at the Pagel Activity Center before 5:15 p.m. on a regularly scheduled school day or within 2.5 hours of an early-release school day.*

2) City staff and the school district further revised the language regarding the conservation easement to now read as follows:

*Prior to the final inspection, the school district must submit a conservation easement for the review and approval by the city attorney. The easement must cover the woodland preservation area located to the south of the building, clearly establishing the area as outside of any future development areas on the campus. The easement may allow location and maintenance of stormwater facilities and removal of hazard, diseased, or invasive species. The easement must be prepared by an attorney knowledgeable in the area of real estate.*
3) It has been determined that the school district is not in compliance with the restoration required for a 2014 violation. It is recommended that the resolution be modified to include the following condition:

One conifer must be planted or an escrow be obtained prior to the issuance of a building permit for the Pagel Activity Center.

4) City staff has done additional research regarding the parking lot gates. The idea of gating the east parking lot to reduce overall activity and associated noise was first raised in conjunction with construction of the Pagel Center. A series of three gates were further noted in traffic management and campus management plans developed in conjunction with approval of the seasonal, athletic dome. Two gates were installed; one at the northeast entrance to the east parking lot and one between the school building and the Pagel Center. The gate in the northeast corner was removed after the gate arm was repeatedly broken. Until the planning commission’s recent hearing on the Pagel Center expansion, city staff had received no complaints regarding removal of this gate. Since the hearing, school district representatives have met with the concerned resident and have submitted a revised campus management plan. The plan reflects the current gating conditions; no gate at the northeast entrance at the east parking lot and one gate between the school building and Pagel Center. A condition requiring compliance with the plan has been included in the conditional use permit resolution. (See pages A60–A70.)

Staff Recommendation

Adopt the following:

1. Resolution approving the conditional use permit. (See pages A34–A41.)

2. Resolution approving final site and building plans. (See pages A42–A52.)

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

Originator: Rita Trapp, AICP, City Planning Consultant
Conditional use permit and site and building plan review for the expansion of the Pagel Activity Center for a second hockey rink with ancillary training, locker, and storage rooms.

Recommend the city council adopt the resolutions approving the conditional use permit and site and building plans.

Project No. 97001.15b
Property Minnetonka High School, 18313 State Highway 7
Applicant Minnetonka Youth Hockey Association
Property Owner Minnetonka School District #276
Proposal The Minnetonka Youth Hockey Association is proposing to expand the Pagel Activity Center on the Minnetonka High School Campus to include a second hockey rink, training facilities, locker rooms, and storage areas. The proposed addition would be 35,408 square feet in size and located to the south of the existing structure. (See pages A1–A12.)

Proposal Requirements
The proposal requires:

- **Conditional use permit**: Educational institutions and facilities are conditional uses in the R-1 zoning district. Therefore, a conditional use permit is required.

- **Site and Building Plan Review**: Site and Building Plan review is required for any project which requires a conditional use permit.

Approving Body
The planning commission makes a recommendation to the city council, which has final authority to approve or deny the request. (City Code §300.06 Subd. 4 & §300.27 Subd. 6)

Site Features The Minnetonka High School Campus is a multi-functional educational and recreational campus. The enrollment in the fall of 2015 is 3,100 students. The maximum capacity for the site is...
3,400 students. In addition to the high school building, the site includes the Pagel Activity Center, Arts Center on 7, baseball fields, softball fields, tennis courts, soccer field, and associated parking areas. A maintenance and storage facility for the district is also located on the site attached to the Pagel Activity Center. A dome is constructed over the football field to provide indoor field space for activities such as soccer, lacrosse, and baseball batting practice in the winter months.

**Building Use**

The applicant, Minnetonka Youth Hockey Association (MYHA), is proposing an addition to the Pagel Activity Center which was first developed in 2001. The existing facility is 47,855 square feet in size and includes a 1,150 person ice arena, upper-level walking track, a weight-training facility, and a ticket selling and concession area for hockey and football. The building also has the maintenance garage for the district. As in 2001, the proposed addition to the Pagel Activity Center is a partnership with MYHA constructing and operating the building and the school district owning the land. MYHA is seeking to add a 35,408 square foot addition to the south. The main floor would include a NHL-size arena, locker rooms, dryland training area, restrooms, and mechanical/operations areas. The 7,625 square foot mezzanine level includes additional dryland training areas and a conference room. The arena is intended for practice so it does not include any seating like bleachers. The two arenas will be connected for efficiency purposes with shared equipment and maintenance facilities, including an ice melt pit.

**Natural Resources**

Most of the area where the proposed grading and construction will occur is steep slope and ranges from 24% to 26%. Final slopes for the site will be limited to 3:1 for maintenance purposes. There is a remnant patch of oak forest starting just south of the proposed building that is regulated as Woodland Preservation Area by the city’s tree ordinance. The project will remove a few smaller trees and understory vegetation along the northern edge, but will be leaving the bulk of the area intact. At the southwest corner of the building there are two large red oaks shown as remaining. There is the potential for impact to the critical root zones of these trees so the applicant is required to have a tree mitigation plan. In addition, a conservation easement is recommended on the remaining Woodland Preservation Area to provide clear, long-term protection of this area. All the trees shown to be removed are within the Basic Tree Removal Area and do not require mitigation. This includes 9 high-priority trees and 11 significant trees.
Stormwater

The proposed expansion will result in an increase in impervious surface, triggering the city’s runoff rate control, runoff volume control, and water quality treatment requirements. The project includes the removal of an existing underground stormwater storage/treatment facility located within the proposed ice arena footprint. The submittal indicates that stormwater will be managed through the installation of a subsurface stormwater management system on the east side of the proposed ice arena addition. This system will need to provide sufficient capacity to meet the needs of the proposed expansion, as well as the rate control and water quality treatment for the area served by the current underground system. Preliminary review indicates that the proposed system will be adequate. However, additional detailed information and computations will be necessary to show the proposed system meets the city’s stormwater management requirements. Future submittals will also need to show that there will be no impacts to the Tamarack bog located south of the project area.

Building Elevations

The addition is proposed to tie into the existing facility with similar colors and building materials. An exterior elevation and rendering show that the west elevation will include additional treatment to break up the large wall expanse. This treatment will be continued on the south elevation as well. (See pages A11-A12). While detailed plans have not yet been submitted, lighting on the building will be required to be designed to limit glare, spill light, and direct, off-site views.

Traffic

The city’s traffic consultant, SRF Consulting Group, conducted a traffic study for the proposed expansion. The traffic study included both the Pagel Activity Center expansion and the potential increase in student enrollment to the site’s maximum capacity. (See pages A13-A33). The traffic study concluded that:

- All except two intersections currently operate at acceptable levels. The two intersections of concern are the Delton Avenue/West School Access and Delton Avenue/Vile Hill Road (east) intersections. These intersections operate at unacceptable levels during the am peak 15-minute period with delays of 30 to 70 seconds.

- The proposed increase in enrollment will create operational issues for all of the school access locations along Delton Avenue. The increased trip generation will
add between 154 and 301 more a.m. peak hour trips and 88 to 170 p.m. peak hour trips.

- Traffic circulation within the school campus is of concern, particularly with movement of students through the parking lots as there is queueing of traffic. It is particularly problematic near the visitor parking lot for student drop-off and pick-up, as well as in the student parking lots where weaving through parking spaces occurs to “jump” the queues.

- The expansion of the Pagel Activity Center is not expected to impact traffic circulation and parking demand during the school day peak hours as during that time the facility is only expected to serve the high school students already on-site. MYHA has stated that there will be no use of the facility before 5:30 p.m. for hockey players other than the high school teams. The expansion is expected to increase the number of drop-offs and pick-ups so improvements around the entrance are recommended.

- The city and school district met to discuss the potential traffic/circulation mitigation strategies recommended in the traffic study. In the discussion it was noted that the school district is already implementing some of the recommendations from the traffic study. This includes the use of staff to help direct traffic flow in the parking lots; the closing of the west access for right turns during departure; and the restriping of the signalized exit so there is a lane for left turns and a lane for right turns. The school has been and will continue to close off the east parking lots from the west parking lots through the use of a gate once school has started each day.

The following is what the school district will be implementing:

- Adding signs in the visitor parking lot to encourage drivers to move up so the entire drop-off area can be utilized.

- The permitting process will be revised in the fall of 2016-2017 to include the assignment of specific lots to help drivers find and more easily navigate to available parking spaces.
The school district will explore having students go in the Arts Center door to help encourage drop-offs to move further up and better utilize the entire roundabout area.

During the summer of 2016 a barrier along a row of parking in the northwest parking lot will be installed to prevent drivers weaving through the parking lot to jump the queue at the west access on Delton Avenue.

During the summer of 2016 a right-in only access that aligns with the visitor parking lot access will be constructed and the southern access along the main drive aisle to the parking lot will be closed.

The school district will also continue to discuss with the city the potential for roundabouts as part of future projects or other road improvements.

It was determined in the discussion that some of the recommendations were not appropriate or feasible at this time. They were:

Encouraging students to be dropped off in the bus parking areas was recommended not to be pursued due to potential conflicts between students, cars, and buses.

The need for a raised median on the west side of the northwest lot was determined not to be needed due to the addition of the barrier between the parking rows that prevents vehicles from jumping the queue.

It was determined that the constructing of a new westbound one-way drive aisle between the northwest and southwest lots would be reevaluated in the future if needed. The area is currently one of the only pervious areas in that portion of the site and it serves as a snow storage area in the winter.

It was determined that the barricades in the southwest lot should remain as they do provide additional safety for students as they leave the school and cross the driveway to reach the parking lot. The barricades allow the driveway to be one-way so students do not have
to worry about traffic from two directions when crossing.

Parking

Last year there were 667 annual or part time student parking permits issued. There was also an average of 17 daily parking permits issued. Approximately 57% of students were registered for busing and 74 buses are used to transport students to MHS.

The traffic study also included an examination of parking for the site. The traffic study concluded:

- While the entire campus has sufficient parking, the southwest lot is effectively full shortly after school starts.

- Students who do not have parking permits are observed to park along Delton Avenue east of Porter Avenue. Given that there are no pedestrian accommodations in this location and to the school this is a safety concern.

- The expansion of the Pagel Activity Center is not expected to significantly expand parking needs during the peak school day time period.

- The city and school district met to discuss the potential parking mitigation strategies recommended in the traffic study. The following is what the school district will be implementing:
  - The school district will revise the permitting process in the fall of 2016-2017 to include the assignment of specific lots to help drivers find and more easily navigate to available parking spaces.
  - As enrollment increases, the school district will continue to limit the number of permits for annual and daily parking permits to available spaces. This will include reducing the number of student permits as needed to compensate for increases in staffing. The proposed increase to 3,400 students is anticipated to add about 12 staff members.
  - During the summer of 2016 the school district will relocate the main drive aisle through the southwest parking lot to align with the western aisle and restripe the drive aisle with additional parking.
During the summer of 2016 the school district will add additional parking spaces where possible. Preliminary locations being examined include the northwest parking lot, southwest parking lot, and northeast parking lot. The number and location will be determined based on a site and building plan review process that will take into consideration traffic movement and site conditions including tree loss/mitigation, slope, and impervious surface coverage.

As restriping and construction projects occur, the school district will consider the use of angled parking. In general, angled parking will be used when it can improve the traffic flow while still retaining the same number of spaces.

During the summer of 2016 the school district will improve the design of the drop-off and pick-up area in front of the Pagel Activity Center through the use of additional concrete to improve operations and safety. The current fence/gate system will remain, however, as it helps to distinguish between the parking area and the maintenance facility. In addition, a clear area must be maintained in front of the Pagel Activity Center so that a crane with a boom can get down to the football field twice a year to put up and take down the dome.

The school district will continue to explore the development of a shuttle system to an off-site parking area. The school district does have a concern that the current shortage of bus drivers may make a shuttle system challenging. If pursued this would likely involve the signing of nearby streets for no parking.

It was determined in the discussion that some of the recommendations were not appropriate or feasible at this time. They were:

- Increasing the permit cost to encourage more bus utilization. While the school district is open to this, there is a concern that the permit fees may already be higher than many surrounding districts.

- Adjusting the carpool requirement to require three or more students per vehicle was not deemed to be
favorable given the potential for more distractions for drivers.

**Staff Analysis**

Staff finds that the proposed addition to the Pagel Activity Center to be a reasonable use of the property and the impacts from the addition can be addressed through site improvements and mitigation strategies. The school district has agreed to a number of traffic and parking improvements that will be beneficial to the overall site operations.

**Staff Recommendation**

Recommend that the city council adopt the resolutions approving a conditional use permit and the site and building plans for the expansion of the Pagel Activity Center at 18313 State Highway 7. (See pages A34–A52.)

Originator: Rita Trapp, AICP, Consulting Planner
Through: Susan Thomas, AICP, Principal Planner
Supporting Information

Surrounding Land Uses

Northerly: Delton Avenue & State Highway 7
Easterly: Single-family homes and Stoney Bridge Court townhomes; guided low density residential and zoned R-1 and PUD
Southerly: Single-family homes; guided for low density residential uses and zoned R-1
Westerly: Single-family homes and multiple family residential; guided high density residential and zoned R-1 and R-4

Planning

Guide Plan designation: Institutional
Zoning: R-1, Low Density Residential

CUP Standards

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

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

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

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

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

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

1. Direct access limited to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets; the use is not permitted on property that has access only by way of a private road or driveway that is used by more than one lot;

Finding: The Minnetonka High School site has three access points to Delton Avenue. The Pagel Activity Center Addition is located on the rear of the site and will use the internal school circulation system for access.
2. Buildings set back 50 feet from all property lines and parking setbacks subject to section 300.26 of this ordinance;

Finding: The buildings and parking areas meet the setback requirements of the code.

3. School bus pick-up and drop-off areas located outside of the public right-of-way and designed to enhance vehicular and pedestrian safety;

Finding: The school bus pick-up and drop-off areas are located to the east of the building, outside of the public right-of-way.

4. Recreational areas design for group outdoor activities set back 25 feet from residential property, suitable buffering provided to protect neighboring property from noise and adverse visual impacts, and lighted playing fields permitted only upon demonstration that off-site impacts can be mitigated substantially.

Finding: The Pagel Activity Center addition will be an indoor facility.

5. No more than 60 percent of the site can be covered with impervious surface and the remainder to be suitably landscaped.

Finding: The Minnetonka High School Campus is 37% impervious with the remainder suitably landscaped.

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

Finding: The site and building plan have been reviewed as required by section 300.27.

7. No connect to, or part of, any residential dwelling.

Finding: The proposed addition will not be connected to or part of any residential dwelling.
The city sent notices to 530 area property owners. The city has received one email from a resident who cannot attend the meeting but is supportive of the project.

The planning commission has three options:

1. Concur with the staff recommendation. In this case a motion should be made recommending the city council adopt the resolution approving the conditional use permit and the site and building plans.

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

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

January 4, 2016
LOCATION MAP

Project: Pagel Two Ice Arena
Applicant: Oppidan Investment Co
Address: 18313 State Hwy 7
Written Statement
Pagel Two Ice Arena
Minnetonka, Minnesota

Background:

In the 1990’s the Minnetonka Youth Hockey Association partnered with the Minnetonka School District and the Minnetonka High School to identify a site and build the new home for Minnetonka Hockey on the High School Campus. The Pagel 1 arena has been very successful and has served both the Hockey Association and the High School since it was completed. Participation in hockey has continued to grow in both boys and girls hockey programs for MYHA. For years the MYHA has rented ice time at the Victoria Recreation Center. With the growth in the hockey programs at Chaska/Chanhassen and Holy Family availability for MYHA at Victoria has been limited. So, with growing numbers and reduced access to other ice facilities, now is the right time to build the Pagel 2 arena.

Project Description and Purpose:

The 35,408 sf building addition is design primarily as a practice/training facility. The building includes a new NHL size (85’x200”) ice arena, locker rooms, dry land training area, stick handling area, puck shooting area, equipment storage area, conference room and restrooms.

This project is challenged by the only available site adjacent to the existing rink. The sloped area on the south side of the existing rink is the best location because it allows teams to take full advantage of both the new and existing facilities. It allows the facility to share refrigeration systems, ice resurfacers, and staff.

The addition is designed to take advantage of the hill side location by creating a retaining wall on the East side of the building. The floor level of the new building will match the existing building. The new building will be designed to match the existing building and will incorporate changes in color and height to help reduce the mass of the building.

Because this building is a practice facility it will require little parking and because the building will be used primarily outside of school hours users of the building will find plenty of available parking spaces on campus. Typically the players will be dropped off at the front entry of the existing rink and make their way through Pagel 1 to Pagel 2.
1. Contact architect immediately if conflicts arise with installation of accessories & equipment. No changes acceptable unless shown on plan or approved by architect.

2. Mount fire extinguisher cabinets at 5'-0" A.F.F. to top of cabinet. Final locations to be verified by local fire chief.

3. Framing contractor to provide all necessary blocking in walls for wall-hung items (cabinets, shelving, countertops, etc.).

4. See X/XX or X/XX for typical wall types.

5. All exposed interior columns to be painted, typ.

6. All stoop slabs and aprons to be poured with sidewalk to match finishing tooling & joints.

7. See X/XX or X/XX for wall dimensions.

8. See X/XX for ice rink plans.

9. See X/XX for typical precast corner, unless noted otherwise.

10. See X/XX for typical RWL detail.
MAIN LEVEL
EL. = 100'-0"

UPPER LEVEL
EL. = 111'-11"

T.O. PRECAST
EL. = 129'-8"

SKEWED WALL
A
B
C
D
E
F
G
H

LOWER LANDING
EL. = 80'-0"

A PREFINISHED METAL COPING, TO MATCH EXISTING
B PRECAST INSULATED WALL PANEL, PAINT
C 8" x 1/2" REVEAL, PAINT COLOR 2
D CAST-IN-PLACE CONCRETE WALL
E HOLLOW METAL DOOR & FRAME, PAINT TO MATCH EXISTING
F OVERHEAD DOOR, PAINT TO MATCH EXISTING
G SIGNAGE

PROJECT

MINNETONKA HIGH SCHOOL

ADDITION

18313 HWY 7,
MINNETONKA, MN

PRELIMINARY
CITY SUBMITTAL

DRAWN BY: LAL
CHECKED BY: TRM

ISSUED SET

PROJECT REVISIONS

DATE

PAGEL II

Minnetonka High School

www.htg-architects.com

3/32" = 1'-0"
Introduction

As requested, SRF has completed a traffic study for the proposed Minnetonka High School expansion. The high school is generally located south of Trunk Highway (TH) 7 and west of TH 101. There are two key components to the proposed expansion. The first component is the Pagel Arena expansion while the second component would be an increase in student enrollment. The main objectives of the study are to review existing operations within the study area, evaluate traffic impacts to the adjacent roadway network, including the proposed access/circulation/parking, and recommend any necessary improvements to accommodate the proposed expansion. The following information provides the assumptions, analysis, and study recommendations offered for consideration.

Existing Conditions

SRF conducted various data collection efforts and field observations in April 2015 to identify current parking and traffic conditions at Minnetonka High School. These efforts are summarized in the following sections.

Data Collection

Intersection turning movement counts were collected by SRF during the school arrival and departure peak periods at the following locations:

- Delton Avenue/Vine Hill Road (West Leg)
- Delton Avenue/Vine Hill Road (East Leg)
- Delton Avenue/West School Access
- Delton Avenue/Central School Access
- Delton Avenue/ Old Excelsior Boulevard
- Old Excelsior Boulevard/Porter Avenue
- TH 101/Excelsior Boulevard

Multiple site visits were conducted during the school arrival and departure peak periods to observe traffic operations and identify operational issues. These site visits were also used to identify roadway characteristics (i.e. roadway geometry, traffic controls, and posted speed limits) within the study area. Existing geometrics, traffic control, and peak hour traffic volumes are shown in Figure 1.
Figure 1

Existing Conditions
Minnetonka High School Expansion Traffic Study
Minnetonka Public Schools

School Trips

<table>
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<th>Time</th>
<th>Enter</th>
<th>Exit</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>7:00 AM</td>
<td>259</td>
<td>119</td>
<td>378</td>
</tr>
<tr>
<td>7:15 AM</td>
<td>280</td>
<td>172</td>
<td>452</td>
</tr>
<tr>
<td>7:30 AM</td>
<td>411</td>
<td>214</td>
<td>625</td>
</tr>
<tr>
<td>7:45 AM</td>
<td>468</td>
<td>266</td>
<td>734</td>
</tr>
</tbody>
</table>

AM PEAK HOUR

<table>
<thead>
<tr>
<th>Time</th>
<th>Enter</th>
<th>Exit</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2:15 PM</td>
<td>77</td>
<td>48</td>
<td>125</td>
</tr>
<tr>
<td>2:30 PM</td>
<td>135</td>
<td>164</td>
<td>299</td>
</tr>
<tr>
<td>2:45 PM</td>
<td>139</td>
<td>399</td>
<td>535</td>
</tr>
<tr>
<td>3:00 PM</td>
<td>76</td>
<td>202</td>
<td>278</td>
</tr>
</tbody>
</table>

AFTERNOON PEAK HOUR

<table>
<thead>
<tr>
<th>Time</th>
<th>Enter</th>
<th>Exit</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>424</td>
<td>100%</td>
<td>813</td>
<td>100%</td>
</tr>
</tbody>
</table>

Percent Utilizing Each Access

<table>
<thead>
<tr>
<th>Time</th>
<th>West (A)</th>
<th>Main (B)</th>
<th>East (C)</th>
</tr>
</thead>
<tbody>
<tr>
<td>AM PEAK HOUR</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enter</td>
<td>43%</td>
<td>42%</td>
<td>15%</td>
</tr>
<tr>
<td>Exit</td>
<td>5%</td>
<td>79%</td>
<td>17%</td>
</tr>
<tr>
<td>Total</td>
<td>29%</td>
<td>55%</td>
<td>15%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Time</th>
<th>West (A)</th>
<th>Main (B)</th>
<th>East (C)</th>
</tr>
</thead>
<tbody>
<tr>
<td>AFTERNOON PEAK HOUR</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enter</td>
<td>23%</td>
<td>53%</td>
<td>25%</td>
</tr>
<tr>
<td>Exit</td>
<td>32%</td>
<td>50%</td>
<td>18%</td>
</tr>
<tr>
<td>Total</td>
<td>29%</td>
<td>51%</td>
<td>20%</td>
</tr>
</tbody>
</table>

Legend

- A.M. Peak Hour Volume
- Afternoon Peak Hour Volume
- Side-Street Stop Control
- Signalized Control
- All Way Stop Control
Trip Generation

Using the a.m. and afternoon peak hour counts at the three school access points along Delton Avenue, the existing trips generated by the high school were determined. Trips entering and exiting the school during the a.m. and afternoon peak hours were combined and summarized in Table 1. The school is currently generating 2,189 a.m. peak hour trips and 1,237 afternoon peak hour trips. The trips were evaluated in 15-minute intervals to understand the peaking characteristics of the school. Existing trips entering/exiting the high school at each access are shown in Figure 1.

Table 1. Existing Trip Generation

<table>
<thead>
<tr>
<th>Time</th>
<th>Enter</th>
<th>Exit</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>7:00 AM</td>
<td>259</td>
<td>119</td>
<td>378</td>
</tr>
<tr>
<td></td>
<td>18%</td>
<td>15%</td>
<td>17%</td>
</tr>
<tr>
<td>7:15 AM</td>
<td>280</td>
<td>172</td>
<td>452</td>
</tr>
<tr>
<td></td>
<td>20%</td>
<td>22%</td>
<td>21%</td>
</tr>
<tr>
<td>7:30 AM</td>
<td>411</td>
<td>214</td>
<td>625</td>
</tr>
<tr>
<td></td>
<td>29%</td>
<td>28%</td>
<td>29%</td>
</tr>
<tr>
<td>7:45 AM</td>
<td>468</td>
<td>266</td>
<td>734</td>
</tr>
<tr>
<td></td>
<td>33%</td>
<td>35%</td>
<td>34%</td>
</tr>
<tr>
<td>AM Peak Hour</td>
<td>1418</td>
<td>771</td>
<td>2189</td>
</tr>
<tr>
<td></td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>2:15 PM</td>
<td>77</td>
<td>48</td>
<td>125</td>
</tr>
<tr>
<td></td>
<td>18%</td>
<td>6%</td>
<td>10%</td>
</tr>
<tr>
<td>2:30 PM</td>
<td>135</td>
<td>164</td>
<td>299</td>
</tr>
<tr>
<td></td>
<td>32%</td>
<td>20%</td>
<td>24%</td>
</tr>
<tr>
<td>2:45 PM</td>
<td>136</td>
<td>399</td>
<td>535</td>
</tr>
<tr>
<td></td>
<td>32%</td>
<td>49%</td>
<td>43%</td>
</tr>
<tr>
<td>3:00 PM</td>
<td>76</td>
<td>202</td>
<td>278</td>
</tr>
<tr>
<td></td>
<td>18%</td>
<td>25%</td>
<td>22%</td>
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<tr>
<td>Afternoon Peak Hour</td>
<td>424</td>
<td>813</td>
<td>1237</td>
</tr>
<tr>
<td></td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Note: School hours are from 8:00 a.m. to 2:40 p.m.

Parking Demand

SRF conducted parking utilization surveys at the high school on Thursday, April 9, 2015 during four time periods throughout the day (7:00 a.m., 9:00 a.m., 2:00 p.m. and 3:30 p.m.). The parking data collected shown in Table 2 indicates that while the entire campus has sufficient parking, the southwest lot is effectively “full” shortly after school starts (9:00 a.m.). An illustration of the current parking demand at 9:00 a.m. and 2:00 p.m. are shown in Figures 2 and 3, respectively. These time periods were selected as they represent the peak periods reviewed.

Students who do not have parking permits were observed to park along Delton Avenue east of Porter Avenue. Approximately 45 vehicles were observed parked along Delton Avenue in this location. The majority of these spaces were occupied prior to 7:30 a.m. Students parking along Delton Avenue walk to the school and cross at the Delton Avenue/East School Access/Old Excelsior Boulevard intersection. No pedestrian accommodations, such as sidewalks, marked crosswalks, signage, etc., are currently provided for students walking along Delton Avenue and crossing at this intersection. The lack of pedestrian facilities is a potential safety issue.
(25 spaces unoccupied, of which 11 spaces are ADA accessible)
Parking Utilization (Thursday, April 9, 2015) - 2:00 P.M.
Minnetonka High School Expansion Traffic Study
Minnetonka Public Schools
**Table 2. Parking Utilization**

<table>
<thead>
<tr>
<th>Lot ID</th>
<th>Parking Supply</th>
<th>7:00AM</th>
<th>9:00AM</th>
<th>2:00PM</th>
<th>3:30PM</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Occupied Spaces</td>
<td>Percent Utilized</td>
<td>Occupied Spaces</td>
<td>Percent Utilized</td>
</tr>
<tr>
<td>Visitor</td>
<td>82</td>
<td>35</td>
<td>43%</td>
<td>55</td>
<td>67%</td>
</tr>
<tr>
<td>Northwest</td>
<td>235</td>
<td>50</td>
<td>21%</td>
<td>200</td>
<td>85%</td>
</tr>
<tr>
<td>Southwest</td>
<td>482</td>
<td>67</td>
<td>14%</td>
<td>457</td>
<td>95%</td>
</tr>
<tr>
<td>South (Sports)</td>
<td>66</td>
<td>2</td>
<td>3%</td>
<td>14</td>
<td>21%</td>
</tr>
<tr>
<td>Northeast (Staff)</td>
<td>32</td>
<td>4</td>
<td>13%</td>
<td>4</td>
<td>13%</td>
</tr>
<tr>
<td>Bus Parking</td>
<td>29</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Southeast</td>
<td>147</td>
<td>88</td>
<td>60%</td>
<td>131</td>
<td>89%</td>
</tr>
<tr>
<td>Total</td>
<td>1,073</td>
<td>246</td>
<td>23%</td>
<td>861</td>
<td>80%</td>
</tr>
</tbody>
</table>

**Traffic Operations**

An existing intersection capacity analysis was completed to establish a baseline condition to which future traffic operations could be compared. The study intersections were analyzed using a combination of Synchro/SimTraffic software (V8.0) and the *Highway Capacity Manual* (HCM). The capacity analysis focused on the peak 15-minute period.

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 3. LOS A indicates the best traffic operation, while LOS F indicates an intersection where demand exceeds capacity. Overall intersection LOS A through LOS D is generally considered acceptable in the Twin Cities Metropolitan Area.

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 (i.e. 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 capacity analysis shown in Table 4 indicate that all study intersections, except the Delton Avenue/West School Access and Delton Avenue/Vile Hill Road (East) intersection, currently operate at an acceptable overall LOS D or better during the a.m. and afternoon peak 15-minute periods, with the existing traffic control, geometric layout, and signal timing. The Delton Avenue/West School Access operates at overall LOS E during the a.m. peak 15-minute period, while the Delton Avenue/Vine Hill Road (east) intersection operates at overall LOS F during the a.m. peak 15-minute period. Additional capacity analysis results are summarized later in this document. It should be noted that due to the peaking characteristics of the school, LOS results for the worst 15-minute period were reported rather than the average delay for the peak hour. Evaluating the worst 15-minute period helps to identify where traffic operational issues occur since the traffic operational issues observed were focused on the 15 to 20 minutes prior to school start and 15 to 20 minutes after school end.

Table 4. Existing Peak Hour Capacity Analysis – Worst 15-Minute Period

<table>
<thead>
<tr>
<th>Intersection</th>
<th>A.M. Peak</th>
<th>Afternoon Peak</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Delton Avenue/Vine Hill Road (West) (1)</td>
<td>Delay</td>
<td>LOS</td>
<td>Delay</td>
</tr>
<tr>
<td>Delton Avenue/Vine Hill Road (East) (2)</td>
<td>75 sec.</td>
<td>D/F</td>
<td>A/A</td>
</tr>
<tr>
<td>Delton Avenue/West School Access (1)</td>
<td>F</td>
<td>65 sec.</td>
<td>A</td>
</tr>
<tr>
<td>Delton Avenue/Central School Access</td>
<td>E/F</td>
<td>&gt; 3 min.</td>
<td>B/D **</td>
</tr>
<tr>
<td>Delton Avenue/Old Excelsior Boulevard (3)</td>
<td>D</td>
<td>45 sec.</td>
<td>B</td>
</tr>
<tr>
<td>Old Excelsior Boulevard/Porter Avenue (1)</td>
<td>A/D</td>
<td>25 sec.</td>
<td>C/F</td>
</tr>
<tr>
<td>TH 101/Excelsior Boulevard</td>
<td>B/B</td>
<td>15 sec.</td>
<td>A/A</td>
</tr>
<tr>
<td></td>
<td>D</td>
<td>40 sec.</td>
<td>C</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.

(2) Indicates an unsignalized intersection with all-way stop control.

** Represents the delay once a vehicles reaches the west school access. It was observed that including internal delay, typical travel time from the south end of the southwest parking lot to the west school access was 10 to 15 minutes during the afternoon peak.
Based on the traffic operations analysis and field observations the following traffic operational issues were identified at the study intersections:

**Delton Avenue/Vine Hill Road (West)**
- During the a.m. peak hour, southbound queues extend to the TH 7/Vine Hill Road intersection. The southbound movement is free at this intersection. Southbound queues are a result of eastbound queues at the Delton Avenue/Vine Hill Road (East Leg) intersection.

**Delton Avenue/Vine Hill Road (East)**
- During the a.m. peak hour, eastbound queues extend to the Delton Avenue/Vine Hill Road (West) and TH 7/Vine Hill Road intersections. Traffic volumes at this intersection are over capacity for an all-way stop control. However, due to sight distance limitation, side-street stop control would not be recommended. The City should continue to monitor this intersection and consider installing a traffic signal or mini-roundabout to increase traffic flow.

**Delton Avenue/West School Access**
- During the a.m. peak hour, eastbound queues from the Delton Avenue/Central School Access intersection extend into the Delton Avenue/West School Access intersection. Eastbound queues blocked access for vehicles to make westbound left-turn movements, resulting in westbound queues extending to the Delton Avenue/Central School Access intersection.
- During the afternoon peak hour, the average delay for a vehicle to make a northbound left- or right-turn maneuver at the intersection is approximately 30 seconds. However this does not include the internal delay a vehicle experiences while exiting the school. The observed typical travel time from the south end of the southwest parking lot to the west school access was 10 to 15 minutes.

**Delton Avenue/Central School Access**
- During the a.m. peak hour, an eastbound “rolling” queue was observed to extend along Delton Avenue (beyond the West School Access) and westbound queues extended past the Delton Avenue/East School Access/Old Excelsior Road intersection. Queues along Delton Avenue were a result of internal queues from the visitor parking lot and vehicles waiting to access the school campus.

**Delton Avenue/Old Excelsior Boulevard/East School Access**
- During the a.m. peak hour, westbound queues from the Delton Avenue/Center School Access extend through the intersection blocking access for northbound and southbound vehicles.

**Old Excelsior Boulevard/Porter Avenue**
- During the a.m. and afternoon peak hours, eastbound left-turning vehicles waiting for a gap in westbound traffic cause eastbound through vehicles to queue back to the Delton Avenue/East School Access/Old Excelsior Road intersection.
TH 101/Excelsior Boulevard

- During the a.m. peak hour, eastbound queues extend more than 500 feet and cycle failures occur along the eastbound approach. It should be noted that this intersection is currently under construction. Improvements include construction of a northbound and southbound right-turn lane along CSAH 101, dedicated left- and right-turn lanes on Excelsior Boulevard, additional of left-turn signal phases, removal of the westbound to northbound free right-turn condition, and extending both the southbound lanes beyond Tracy Lynn Terrace.

Key Issues

Based on data collected, observations completed by SRF and discussions with City/School staff, the following internal traffic and parking issues were identified during the school arrival and departure peak periods for a typical day (illustrated in Figure 4).

Pagel Center

- During the school departure peak period, vehicles exiting to Delton Avenue queue back to the Pagel Center and travel through the Pagel parking lot area. Students were observed walking through the parking lot to access the building.
- Lack of sufficient parking for Pagel Center staff. Staff members observed to park in areas not striped for parking.
- Drop-off/pick-up area not defined.

Visitor Lot

- During the school arrival peak period, queues from vehicles waiting to make drop-offs at the main entrance in the visitor lot extended into the Delton Avenue signalized intersection. This results in poor operations for vehicles entering from the west and east on Delton Avenue.
  - Vehicles were observed not utilizing the entire length of the drop-off area. This causes inefficient operations (i.e. longer delay/queues) since fewer vehicles are served at the same time.
- During the school departure peak period there is a lack of temporary parking supply to meet the demand in the visitor lot. Vehicles were observed parking in the drive aisles, waiting for students to exit the building.

Southwest Student Parking Lot

- The parking lot was observed to be 95 percent occupied at 9:00 a.m.
- The parking spaces that were available were either handicap (11 spaces) or located in areas difficult to access if a vehicle already passed the drive aisle (14 spaces).
- One-way southbound internal circulation for the main drive aisle and barricades located on the east side of the parking lot make it difficult for vehicles to navigate to available parking spaces.
Traffic Issues
Minnetonka High School Expansion Traffic Study
Minnetonka Public Schools

Figure 4
• Vehicles exiting during the school departure peak period experience significant delays, which are frequently 10 minutes or more.
  o Internal queues are cleared approximately 20 minutes after the end of school.
• Vehicles exiting at the West Access along Delton Avenue were observed to weave around parked vehicles in the northwest lot to “jump” the queue.
  o This causes safety issues with student/staff walking in the parking lot (i.e. sight lines in parking lots make it difficult to see pedestrians).
  o No enforcement was observed during days of observation to discourage this behavior.

Southeast Parking Lot
• The southeast parking lot is underutilized during the school start peak period as a drop-off location.
• The parking lot was observed to be 89 percent occupied at 9:00 a.m., indicating that there is limited availability for additional vehicles to park in this lot.

Delton Avenue On-Street Parking
• Current parking supply is approximately 45 spaces. Delton Avenue is a City street and the City may choose to restrict on-street parking in this area at any time. If parking is restricted an additional 45 parking spaces would likely need to be accommodated elsewhere (i.e. on campus).
• No pedestrian accommodations are provided between the on-street parking area along Delton Avenue and the school. Since Delton Avenue has no sidewalk, students walk in the street to the Delton Avenue/East School Access/Old Excelsior Boulevard intersection. The Delton Avenue/East School Access/Old Excelsior Boulevard intersection is offset, which makes for poor sight lines for vehicles to observe pedestrian crossings.

Project Goals
Based on the identified issues the following goals were prioritized for this project:
1. Improve safety for pedestrians and motorists
2. Develop parking strategies to better manage or increase the current parking supply
3. Improve internal circulation
4. Reduce queues/congestion along Delton Avenue
5. Reduce internal delay for vehicles exiting the school
Proposed Pagel Center Expansion

The proposed Pagel Center expansion would add an additional hockey rink to the south side of the existing facility. Since students practicing at the facility during the school departure peak period will only be high school students, these students are already on-site and not contributing to traffic congestion nor requiring additional parking spaces. Therefore this project is not expected to impact the internal traffic circulation or parking demand during school day peak hours. Furthermore, students who are currently traveling off-site for practice will now be able to utilize the proposed facility, which result in fewer trips exiting the school during the afternoon departure period. Although the proposed expansion is not expected to impact the parking demand or trip generation, the expansion will increase the demand for drop-off and pick-up at the existing main entrance of the Pagel Center. Therefore, the following should be taken into consideration to improve pedestrian connectivity and the drop-off/pick-up area.

- Construct a drop-off/pick-up area near the main entrance of the existing building to improve operations and safety.
- Add additional parking to the south of the fence area for Pagel staff only.

Recommended modifications are also illustrated in Figure 5. It should be noted that this study focused on school day operations. It is understood that there are additional traffic and parking constraints during special events and activities. The school district should review and update the campus management plan to address special events and activities that would be impacted by the Pagel Center expansion.

Planned Enrollment Increases

Based on discussions with the Minnetonka School District, student enrollment at Minnetonka High School for the 2014-2015 calendar year was 2,987 students. The capacity of the building is approximately 3,200 students. However, there is potential for enrollment to increase up to 3,400 students. An increase in enrollment would impact the parking demand and trips generated by the school.

To determine the parking demand and trip generation for the school under the projected future enrollment scenarios (i.e. 3,200 and 3,400 students) the existing trips generated and maximum observed parking demand were proportionally grown based on the future enrollment numbers. It is understood that the parking demand numbers correlate with the number of parking permits. However, for purposes of this analysis it was assumed that the number of parking permits distributed would increase proportionally to current conditions.

It should be noted that since parking data was collected in April 2015, the visitor and north parking lots have been restriped. The visitor parking lot has two (2) less spaces and the north parking lot has 11 fewer spaces. For analysis purposes, bus parking spaces were not included since the spaces cannot be used by student, staff, or visitors for parking needs. The parking supply was updated accordingly.
Figure 5

Minnetonka High School Expansion Traffic Study
Minnetonka Public Schools

Drop-Off/ Pick-Up Area
While not required, it is good practice to provide enough parking to serve the demand plus an additional five (5) to 15 percent. This extra supply reduces unnecessary circulation of vehicles looking for parking and the perception of inadequate parking. Five (5) percent is typically recommended for lower turnover parking spaces, while 15 percent is recommended for higher turnover parking spaces. A school generally falls within the low turnover category. For purposes of this analysis, all parking recommendations were provided as a range indicating the recommended parking supply with five (5) to 15 percent excess supply.

Future parking demand estimates were evaluated for the entire campus (excluding the bus parking spaces) and for the parking lots that students primarily park in (i.e. northwest, southwest, and southeast lots). Results of the parking demand analysis shown in Table 5 indicates that there will be a parking shortage with the projected increase in enrollment for both the entire campus and student parking lots. Parking management strategies and options to increase the parking supply are discussed in the next section.

**Trip Generation**

Results of the trip generation analysis shown in Table 6 indicate that with the increase in enrollment the school will generate an additional 154 to 301 a.m. peak hour trips and an additional 88 to 170 afternoon peak hour trips (depending on the low or high enrollment numbers). Strategies to manage traffic internally and externally to the site are discussed in the next section.

**Traffic Operations**

To determine if the three school accesses along Delton Avenue can accommodate the increase in student enrollment, a detailed traffic capacity analysis was completed for the expected enrollment increase to 3,200 students. Current travel patterns for vehicles using the West Access, Center Access, and East Access to enter/exit the school were grown proportionally based on the future enrollment increases.

Results of the traffic operations analysis for a future enrollment of 3,200 students shown in Table 7 indicate that the school access locations along Delton Avenue are expected to have operational issues. The traffic issues (i.e. delay and queues) identified under existing issues are expected to increase. Various options to improve traffic operations are presented in the next section.
### Table 5. Parking Demand with Increased Enrollment

<table>
<thead>
<tr>
<th>Lot ID</th>
<th>Supply</th>
<th>Parking Demand</th>
<th>Excess Capacity</th>
<th>Surplus / (Deficit)</th>
<th>Parking Demand</th>
<th>Excess Capacity</th>
<th>Surplus / (Deficit)</th>
<th>Parking Demand</th>
<th>Excess Capacity</th>
<th>Surplus / (Deficit)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>5% 15%</td>
<td>5% 15%</td>
<td></td>
<td>5% 15%</td>
<td>5% 15%</td>
<td></td>
<td>5% 15%</td>
<td>5% 15%</td>
</tr>
<tr>
<td>Visitor</td>
<td>80</td>
<td>59</td>
<td>3</td>
<td>9</td>
<td>18</td>
<td>12</td>
<td>3</td>
<td>9</td>
<td>14</td>
<td>8</td>
</tr>
<tr>
<td>Northwest</td>
<td>224</td>
<td>200</td>
<td>10</td>
<td>30</td>
<td>14 (6)</td>
<td>214</td>
<td>11</td>
<td>32 (1)</td>
<td>228</td>
<td></td>
</tr>
<tr>
<td>Southwest</td>
<td>482</td>
<td>457</td>
<td>23</td>
<td>69</td>
<td>2 (44)</td>
<td>490</td>
<td>25</td>
<td>74 (33)</td>
<td>82</td>
<td></td>
</tr>
<tr>
<td>South (Sports)</td>
<td>66</td>
<td>15</td>
<td>1</td>
<td>2</td>
<td>50</td>
<td>49</td>
<td>1</td>
<td>2</td>
<td>49</td>
<td>48</td>
</tr>
<tr>
<td>Northeast (Staff)</td>
<td>32</td>
<td>14</td>
<td>1</td>
<td>2</td>
<td>17</td>
<td>16</td>
<td>1</td>
<td>2</td>
<td>16</td>
<td>15</td>
</tr>
<tr>
<td>Southeast Lot</td>
<td>147</td>
<td>131</td>
<td>7</td>
<td>20</td>
<td>9 (4)</td>
<td>140</td>
<td>7</td>
<td>21 (0)</td>
<td>149</td>
<td></td>
</tr>
<tr>
<td>Entire Campus (Non-Bus Parking)</td>
<td>1,031</td>
<td>876</td>
<td>44</td>
<td>131</td>
<td>111 (24)</td>
<td>938</td>
<td>47</td>
<td>141 (46)</td>
<td>997</td>
<td></td>
</tr>
<tr>
<td>Student Parking Lots</td>
<td>853</td>
<td>788</td>
<td>39</td>
<td>118</td>
<td>26 (53)</td>
<td>844</td>
<td>42</td>
<td>127 (33)</td>
<td>897</td>
<td></td>
</tr>
</tbody>
</table>

### Table 6. Trip Generation with Increased Enrollment

<table>
<thead>
<tr>
<th>Time</th>
<th>Existing (3,000 students)</th>
<th>Future (3,200 students)</th>
<th>Future (3,400 students)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Enter</td>
<td>Exit</td>
<td>Total</td>
</tr>
<tr>
<td>7:00 AM</td>
<td>259</td>
<td>119</td>
<td>378</td>
</tr>
<tr>
<td>7:15 AM</td>
<td>280</td>
<td>172</td>
<td>452</td>
</tr>
<tr>
<td>7:30 AM</td>
<td>411</td>
<td>214</td>
<td>625</td>
</tr>
<tr>
<td>7:45 AM</td>
<td>468</td>
<td>266</td>
<td>734</td>
</tr>
<tr>
<td>AM Peak Hour</td>
<td>1418</td>
<td>771</td>
<td>2189</td>
</tr>
</tbody>
</table>

| Trip Increase (Decrease) | 100 | 54 | 154 | 197 | 107 | 301 |

<table>
<thead>
<tr>
<th>Time</th>
<th>Existing (3,000 students)</th>
<th>Future (3,200 students)</th>
<th>Future (3,400 students)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Enter</td>
<td>Exit</td>
<td>Total</td>
</tr>
<tr>
<td>2:15 PM</td>
<td>77</td>
<td>48</td>
<td>125</td>
</tr>
<tr>
<td>2:30 PM</td>
<td>135</td>
<td>164</td>
<td>299</td>
</tr>
<tr>
<td>2:45 PM</td>
<td>136</td>
<td>399</td>
<td>535</td>
</tr>
<tr>
<td>3:00 PM</td>
<td>76</td>
<td>202</td>
<td>278</td>
</tr>
<tr>
<td>Afternoon Peak Hour</td>
<td>424</td>
<td>813</td>
<td>1237</td>
</tr>
</tbody>
</table>

| Trip Increase (Decrease) | 30 | 57 | 88 | 60 | 113 | 170 |
Table 7. Future Enrollment (3,200 Students) Peak Hour Capacity Analysis – Worst 15-Minute Period

<table>
<thead>
<tr>
<th>Intersection</th>
<th>A.M. Peak</th>
<th>Afternoon Peak</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LOS</td>
<td>Delay</td>
</tr>
<tr>
<td>3,200 Students</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Delton Avenue/West School Access (1)</td>
<td>F/F</td>
<td>&gt; 3 min.</td>
</tr>
<tr>
<td>Delton Avenue/Old Excelsior Boulevard (1)</td>
<td>D/F</td>
<td>90 sec.</td>
</tr>
<tr>
<td>3,400 Students</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Delton Avenue/West School Access (1)</td>
<td>F/F</td>
<td>&gt; 3 min.</td>
</tr>
<tr>
<td>Delton Avenue/Old Excelsior Boulevard (1)</td>
<td>F/F</td>
<td>&gt; 3 min.</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.

Travel Demand Management Strategies

The following strategies are offered to improve parking and traffic conditions under current and future conditions. Improvement options for Delton Avenue, the southwest parking lot, and the northwest parking lot are also illustrated in Figures 6, 7, and 8, respectively. A range of alternatives were identified for discussion purposes. Specific recommendations were not included as there are multiple options to address the various issues, which warrant further discussion with key stakeholders.

Parking Mitigation

Low Cost

- Implement parking management strategies to reduce the parking demand, such as:
  - Assign specific parking lots through the permitting process to student and employees. Develop specific names of each lot such as Blue, White, Tonka, Pride, etc.
  - Limit any increase in the number of annual and daily parking permits that are distributed to students if enrollment increases.
  - Consider reducing the number of permits currently distributed to provide sufficient parking for future staffing increases.
  - Encourage more bus utilization by increasing the cost of parking permits or providing students incentives.
  - Adjust the carpooling requirement for parking permits to three or more students per vehicle.
Medium Cost

- Provide a shuttle (or bus pick-up location) at a parking area near Minnetonka High School (nearby parking lots include: Westwind Plaza, Target, Ridgewood Church, Northern Tool Equipment/Opitz Outlet).
- Relocate the main drive aisle through the southwest student parking lot to align with the western aisle and restripe the drive aisle with additional parking.
- Restripe the southwest student parking lot from 90-degree to angle parking to provide a more organized traffic flow for vehicles as they circulate to find a parking space as well as potentially more parking spaces.

High Cost

- Identify potential locations for additional surface parking on site.
- Build a parking ramp to provide a minimum of 90 new parking spaces.

Traffic/Circulation Mitigation

Low Cost

- During the school start peak period, assign staff to be located in the visitor parking lot near the main entrance to direct vehicles to continue to move forward and utilize the entire drop-off area.
- Assign students to a specific parking lot to reduce unnecessary circulation during the school start period (i.e. students recirculating through the parking lots looking for an available space).
- During the school start peak period, encourage more student drop-offs to occur in the east lot near the bus parking spaces.
- Provide a school staff member during the school start peak near the visitor lot entrance, south of the center access along Delton Avenue to direct traffic flow for vehicles entering/exiting the school.
- Through enforcement, discourage motorists from cutting through the northwest parking lot (weaving around parked cars) to jump the queue at the west access on Delton Avenue during the departure peak period.

Medium Cost

- In the northwest lot, install barricades or a raised median on the west side to force vehicles to consolidate where vehicles exit the parking lot, reducing conflicts points.
- Construct a new westbound one-way drive aisle between the northwest and southwest lots. This drive aisle would improve circulation for vehicles looking for parking during the school start period and reduce circulation within the northwest lot during the school departure period.
- Consider constructing a right-in only access that aligns with the visitor parking lot access and closing the southern access along the main drive aisle to the parking lot.
• In the southwest student lot, consider modifying the 90-degree parking spaces to angle parking spaces and one-way driveway aisles, as well as removing the barricades along the east end of the parking lot.

**High Cost**

• Install a roundabout or traffic signal at the west access along Delton Avenue (a traffic control officer during the school start and departure peak periods would also provide similar improvements to traffic operations).

• Consider installing roundabouts at both the west and east accesses along Delton Avenue and restricting the center access to right-in/right-out.
  ○ This scenario would remove the existing signal at the center access.
Figure 6

Delton Avenue Improvements
Minnetonka High School Expansion Traffic Study
Minnetonka Public Schools

Construct Roundabout

Remove Signal
Add Right-In/Right-Out

Construct Roundabout
Southwest Lot Improvements
Minnetonka High School Expansion Traffic Study
Minnetonka Public Schools

Figure 7

- Realign Drive Aisle
- Remove Barricades
- Restripe Southwest Lot as Angle Parking
- Remove End Caps and Stripe as Parking
Revise Parking Lot Layout

Install Barricades or Raised Median

Construct One-Way Drive Aisle

Enter Only Access

Close Access
Resolution No. 2015-

Resolution approving a conditional use permit
for the expansion of the Pagel Activity Center at 18313 State Highway 7

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

Section 1. Background.

1.01 The Minnetonka Youth Hockey Association has requested a conditional use permit for the expansion of the Pagel Activity Center.

1.02 The Pagel Activity Center is located on the Minnetonka High School property located at 18313 State Highway 7. It is legally described on Exhibit A.

1.03 On November 5, 2015, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the planning commission. The planning commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. STANDARDS.

2.01 City Code §300.16, Subd. 2, outlines the general standards that must be met for granting conditional use permits in residential districts.

2.02 City Code §300.16 Subd. 3(a) outlines the specific standards that must be met for educational institutions and facilities in a residential district. These include:

1. Direct access limited to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets; the use is not permitted on property that has access only by
way of a private road or driveway that is used by more than one lot;

2. Buildings set back 50 feet from all property lines and parking setbacks subject to section 300.26 of this ordinance;

3. School bus pick-up and drop-off areas located outside of the public right-of-way and designed to enhance vehicular and pedestrian safety;

4. Recreational areas design for group outdoor activities set back 25 feet from residential property, suitable buffering provided to protect neighboring property from noise and adverse visual impacts, and lighted playing fields permitted only upon demonstration that off-site impacts can be mitigated substantially.

5. No more than 60 percent of the site can be covered with impervious surface and the remainder to be suitably landscaped.

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

7. No connect to, or part of, any residential dwelling.

Section 3. Findings.

3.01 The proposal meets the general and specific conditional use permit standards, as outlined in City Code §300.16, Subd. 2 and City Code §300.16 Subd. 3(a).


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

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

   - Site Plan and Landscaping dated September 4, 2015
   - Main Level Floor Plan dated September 4, 2015
   - Mezzanine Level Floor Plan dated September 4, 2015
   - Exterior Elevations dated September 4, 2015
   - Site Demolition Plan dated September 4, 2015
   - Civil Site Plans dated September 4, 2015
   - Site Grading Plan dated September 4, 2015
2. Prior to issuance of a building permit this resolution must be recorded with Hennepin County.

3. Prior to the issuance of a building permit, the school district must plant one conifer tree or provide an escrow in an amount determined by city staff to meet the requirements of the 2014 restoration plan.

4. Prior to the final inspection, the school district must submit a conservation easement for the review and approval by the city attorney. The easement must cover the woodland preservation area located to the south of the building, clearly establishing the area as outside of any future development areas on the campus. The easement may allow location and maintenance of stormwater facilities and removal of hazard, diseased, or invasive species. The easement must be prepared by an attorney knowledgeable in the area of real estate.

5. Ice at the Pagel Activity Center cannot be scheduled to end after 8:00 a.m. on a regularly scheduled school day or within 30 minutes of the start of school on a late-start school day. Ice at the Pagel Activity Center cannot be scheduled to start until 4:30 p.m. on a regularly scheduled school day or until 1.5 hours have elapsed from the end of school on an early-release school day. There are no limitations on when ice can be scheduled for Minnetonka High School Hockey Teams or Minnetonka Youth Hockey Association Teams where more than half of players attend Minnetonka High School. Tournaments cannot have any games scheduled to start at the Pagel Activity Center before 5:15 p.m. on a regularly scheduled school day or within 2.5 hours of an early-release school day.

6. Minnetonka School District #276 make the following improvements to the Minnetonka High School Campus by December 31, 2017:
   a) Add signs in the visitor parking lot to encourage drivers to move up so the entire drop-off area can be utilized.
   b) Revise the permitting process in the fall of 2016-2017 to include the assignment of specific lots to help drivers find and more easily navigate to available parking spaces.
c) The school district will explore having students go in the Arts Center door to help encourage drop-offs to move further up and better utilize the entire round about area. If a change is not made, the city must be provided information as to what it was not feasible.

d) During the summer of 2016 a barrier along a row of parking in the northwest parking lot will be installed to prevent drivers weaving through the parking lot to jump the queue at the west access on Delton Avenue.

e) During the summer of 2016 a right-in only access that aligns with the visitor parking lot access will be constructed and the southern access along the main drive aisle to the parking lot will be closed.

f) As enrollment increases, the school district will continue to limit the number of permits for annual and daily parking permits to available spaces. This will include reducing the number of student permits as needed to compensate for increases in staffing. The proposed increase to 3,400 students is anticipated to add about 12 staff members.

g) During the summer of 2016 the school district will relocate the main drive aisle through the southwest parking lot to align with the western aisle and restripe the drive aisle with additional parking.

h) During the summer of 2016 the school district will add additional parking spaces where possible. The number and location will be determined based on a site and building plan review process that will take into consideration traffic movement and site conditions including tree loss/mitigation, slope, and impervious surface coverage.

i) As restriping and construction projects occur, the school district will consider the use of angled parking. In general, angled parking will be used when it can improve the traffic flow while still retaining the same number of spaces.

j) During the summer of 2016 the school district will improve the design of the drop-off and pick-up area in front of the Pagel Activity Center through the use of additional concrete to improve operations and safety.
7. The Minnetonka High School campus must be maintained in substantial compliance with the Site Management Plan dated November 23, 2015

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on November 23, 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 November 23, 2015.

______________________________
David E. Maeda, City Clerk
PARCEL 1 (Book 1841 Deeds P. 78)

That part of the S.E. ¼ of Section 30-117-22 described as follows: Commencing at the S.W. corner of said S.E. ¼; thence East on the South line of said S.E. ¼, distant 953.78’ more or less to the West line of the East 50 acres South of the Mpls. St. Paul & Suburban railroad, right of way line; thence North and parallel with the East line of said S.E. ¼, distant 1246.0’ to the Southerly Right of way line of the Mpls. St. Paul & Suburban railroad; thence Northwesterly on said Southerly right of way line, distant 1022.4’ to the West line of said S.E. ¼; thence South on the West line of said S.E. ¼, distant 1584.95’ to the place of beginning, containing 29.9 Acres more or less, except the following described tract of land:

Commencing at a point 746.17’ North and 33.0’ East of the Southwest corner of said S.E. ¼ of Sec. 30-117-22; thence East and parallel with the South line of said S.E. ¼, distant 267.0’; thence North and parallel with the West line of said S.E. ¼, distant 571.03’; thence West and parallel with the South line of said S.E. ¼, distant 267.0’; thence South and parallel with the West line of said S.E. ¼ distant 571.03’ to the place of beginning, containing 3.5 acres more or less.

PARCEL 2 (Book 2477 Deeds P. 577)

The East 267 feet of the West 300 feet of the North 571.03 feet of the Southwest Quarter of the Southeast Quarter of Section 30, Township 117, Range 22, according to the map or plat thereof on file or of record in the office of the Register of Deeds of Hennepin County, Minnesota.

PARCEL 3 (Certificate of Title No. 157458)

All that part of the following described tract:

The southeast quarter (SE1/4) of section 30, township 117 north, range 22 west, as follows: Commencing at the southeast corner of said section 30; thence westerly along the south line of said section, 1623.94 feet; thence northerly and parallel with the east line of said section 1347.27 feet to the initial point of beginning of the land to be described; thence northerly along a continuation of the last named line 549 feet to center line of the Excelsior Boulevard, also known as County Road No. 3 and as State Highway No. 11; thence along said center line along the following courses: North 80 degrees 57 minutes west 165 feet; thence south 77 degrees 3 minutes west 500 feet; thence south 82 degrees 33 minutes west 312 feet to the west line of the southeast quarter of said section; thence south 0 degrees 31 minutes east along said west line 81.5 feet to the northerly line of right of way of the Minneapolis, St. Paul and Suburban Railway Company; thence south 77 degrees 38 minutes [east] along said right of way 1022.4 feet to the point of beginning;
Which lies southerly of a line run parallel with and distant 100 feet southerly of the following described line:

Beginning at a point on the easterly boundary of said section 30, distant 136.8 feet northerly of the east quarter corner thereof; thence run southwesterly at an angle of 64 degrees 17 minutes with said easterly boundary for a distance of 279.5 feet; thence deflect to the left on a 0 degree 30 minute curve, delta angle 1 degree 34 minutes, for a distance of 313.3 feet; thence on tangent to said curve for a distance of 1368.4 feet; thence deflect to the right on a 3 degree 30 minute curve, delta angle 47 degrees 28 minutes, for a distance of 900 feet, and there terminating.

PARCEL 4 (Certificate of Title No. 388168)

That part of the Southeast Quarter of Section 30, Township 117, Range 22, described as follows: Commencing at the intersection of the Southeasterly line of State Highway No. 7 with the Southerly line of the right-of-way of the Minneapolis and Excelsior Road, as now laid out and travelled; thence Southeasterly along said Southerly line of said Minneapolis and Excelsior Road, a distance of 111.34 feet; thence South parallel with the East line of said Southeast Quarter a distance of 490.9 feet to the Northerly line of the right-of-way of the Minneapolis, St. Paul and Suburban Railway Company; thence Northwesterly along said last described right-of-way a distance of 180.39 feet to its intersection with a line drawn parallel with the East line of said Southeast Quarter from a point on the South line of said Southeast Quarter distant 1623.94 feet along said line from the Southeast corner of said Southeast Quarter; thence North along the last described parallel line a distance of 526 feet to the Southeasterly line of State Highway No. 7; thence Northeasterly along said Southeasterly line a distance of 75 feet to the point of beginning.

PARCEL 5 (Doc No. 3935630)

That part of the South ½ of the Southwest ¼ of Section 30, Township 117, North Range 22, West of the principal meridian, described as follows: Beginning at a point on the North line of said South ½ of the Southwest ¼ of Section 30, distant 555.44 feet West of the Northeast corner thereof, thence East to the Northeast corner thereof, then South along the East line of said South ½ of the Southwest ¼ of Section 30 to the Southeast corner thereof, thence West along the South line of said South ½ of the Southwest ¼ of Section 30, distance of 1588.81 feet; thence Northeasterly to the point of beginning. EXCEPT the North 300 feet of the East 363 feet thereof.

PARCEL 6 (Certificate of Title No. 316481)

That part of the North ½ of the Northwest Quarter of Section 31, Township 117, Range 22, lying East of the plat of Kingswood and North of a line drawn from the most Easterly
corner of Outlot 2, said Kingswood, to a point in the East line of said Northwest ¼ distant 800 feet South from the Northeast corner thereof, according to the Government Survey thereof.

**PARCEL 7 (Doc. No. 6753187)**

The North 300 feet of the East 363 feet of Southeast ¼ of the Southwest ¼ of Section 30, Township 117, Range 22, according to the United States Government Survey thereof and situated in Hennepin County, Minnesota.

**PARCEL 8 (no record document available)**

That part of the right-of-way of the Minneapolis, St. Paul and Suburban Railroad, being a part of the West Half of the Southeast Quarter of Section 30, Township 117, Range 22, Hennepin County, Minnesota, which lies westerly of the westerly line of Skyline Terrace, according to the plat thereof of record, and southerly of State Highway No. 7.

**PARCEL 9 (Doc. No. 9548071)**

Lot 1, Dellton Second Addition, Hennepin County, Minnesota.

**PARCEL 10 (Doc. No. 9761309)**

That part of Lot 5, Block 1, Skyline Terrace, Hennepin County, Minnesota lying northwesterly of the following described line: Commencing at the northeast corner of said Lot 5; thence on an assumed bearing of North 70 degrees 14 minutes 03 seconds West along the northerly line of said Lot 5, a distance of 76.87 feet to the point of beginning of the line to be described; thence South 41 degrees 36 minutes 09 seconds West, a distance of 253.59 feet to the angle point in the West line of Lot 6, said Block 1 and there terminating. Said angle point being 250.00 feet south from the northerly corner of said Lot 6 as measured along the west line of said Lot 6.

**PARCEL 11 (Doc. No. 10090618)**

Lot 6, Block 1, Skyline Terrace, Hennepin County, Minnesota.
Resolution No. 2015-

Resolution approving a final site and building plan for the Pagel Activity Center Expansion at 18313 State Highway 7

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

Section 1. Background.

1.01 The Minnetonka Youth Hockey Association has requested approval of final site and building plans for the Pagel Activity Center Expansion. (Project 97001.15b.).

1.02 The property is located at 18313 State Highway 7. It is legally described in Exhibit A

1.03 On November 5, 2015, the Planning Commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the Planning Commission. The Planning Commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution.

Section 2. General Standards.

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

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

2. Consistency with the ordinance;

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

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

5. Creation of a functional and harmonious design for structures and site features, with special attention to the following:
   a) an internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors and the general community;
   b) the amount and location of open space and landscaping;
   c) materials, textures, colors and details of construction as an expression of the design concept and the compatibility of the same with the adjacent and neighboring structures and uses; and
   d) vehicular and pedestrian circulation, including walkways, interior drives and parking in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking.

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

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

Section 3. Findings.

3.01 The proposal would meet site and building plan standards outlined in the City Code §300.27, Subd. 5.

4.01 The city council approves the final site and building plans for the Pagel Activity Center Expansion.

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:

- Site Plan and Landscaping dated September 4, 2015
- Main Level Floor Plan dated September 4, 2015
- Mezzanine Level Floor Plan dated September 4, 2015
- Exterior Elevations dated September 4, 2015
- Site Demolition Plan dated September 4, 2015
- Civil Site Plans dated September 4, 2015
- Site Grading Plan dated September 4, 2015
- Utility Plan dated September 4, 2015
- Stormwater Pollution Prevention dated September 4, 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 sets of project specifications.

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

a. Final grading plan must:

- Show a slope no greater than 3:1.
- Show ADA compliant facilities.
- Show retaining walls that meet City Code requirements, including being engineered with a railing if over four feet in height.
b. Final drainage plan must:

- Document that the rate control and water quality treatment provided in the proposed system meets the requirements of both the Pagel Center expansion and the area served by the underground system that will be removed.

- Address the separation distance between the proposed building and the infiltration facility, including evaluating the potential impacts of infiltrated surface water on the proposed structure.

- Provide clarification regarding the redirection of rooftop drainage under the proposed conditions.

- Show that there will be no impacts, including no additional bounce, to the Tamarack bog located to the south of the site.

- Demonstrate consideration was given to the designing of the proposed underground system to account for potential site modifications in the future.

c. Final utility plan must:

- Show the sewer and water main construction outside of the geogrid of the retaining wall.

d. Final landscaping and tree mitigation plans must meet minimum landscaping and mitigation requirements as outlined in the ordinance. However, at the sole discretion of natural resources staff, mitigation may be adjusted based on site conditions.
4) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to construct streets and utility improvements, comply with grading permit, wetland restoration, tree mitigation requirements, and to restore the site. One itemized letter of credit is permissible, if approved by staff. The city will not fully release the letters of credit or cash escrow until: (1) as-built drawings have been submitted; (2) a letter certifying that the streets and utilities have been completed according to the plans approved by the city has been submitted; (3) vegetated ground cover has been established; and (4) required landscaping or vegetation has survived one full growing season.

5) 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.

6) A copy of the approved MPCA NPDES permit.

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

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

b) Prior to issuance of a grading permit:

1) This resolution must be recorded at Hennepin County.
2) Install a temporary rock driveway, erosion control, tree and wetland protection fencing and any other measures identified on the SWPPP for staff inspection. These items must be maintained throughout the course of construction.

c) Permits may be required from other outside agencies including, Hennepin County, the Riley-Purgatory-Bluff Creek Watershed District, and the MPCA. It is the applicant’s and/or property owner’s responsibility to obtain any necessary permits.

3. Prior to issuance of a building permit:

a) One additional conifer must be planted north and east of the existing Pagel Center to ensure compliance with a 2014 violation mitigation requirement. At the discretion of natural resources staff, escrow may be submitted to guarantee future planting of the conifer.

b) Submit the following items for staff review and approval:

1) 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.

2) A landscaping and tree mitigation plan. The plan must meet minimum landscaping and mitigation requirements as outlined in the ordinance. However, at the sole discretion of natural resources staff, mitigation may be decreased based on any of the following: the health of trees removed; the ability to appropriately install trees and other shrubbery given existing vegetation and/or topography. The plan must include the following at a minimum:

- Comply with the grading and tree preservation (demo) plan shown and protect the remaining oak forest (woodland preservation area) to the south. Heavy-duty fencing (e.g. chain-link)
must be installed to the south to protect the remaining woodland preservation areas, including the two large oaks southwest of the building.

- Landscape value in proportion to project value per city ordinance. Values must be provided with the permit application.

- The existing woodland area to the south of the proposed addition must be called out to be preserved on the plan sheet as part of the landscape plans.

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

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

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

4) An electronic CAD file or certified as-built drawings in microstation or DXF and PDF format.

5) A letter of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost of all required landscaping, grading, and stormwater improvements.

6) An illumination plan.

b) Submit all required hook-up fees.

4. The property owner is responsible for replacing any required landscaping that dies.
5. All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.

6. Construction must begin by December 31, 2016, unless the planning commission grants a time extension.

Adopted by the City Council of the City of Minnetonka, Minnesota, on November 23, 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 November 23, 2015.

__________________________________________
David E. Maeda, City Clerk
PARCEL 1 (Book 1841 Deeds P. 78)

That part of the S.E. ¼ of Section 30-117-22 described as follows: Commencing at the S.W. corner of said S.E. ¼; thence East on the South line of said S.E. ¼, distant 953.78’ more or less to the West line of the East 50 acres South of the Mpls. St. Paul & Suburban rail road, right of way line; thence North and parallel with the East line of said S.E. ¼, distant 1246.0’ to the Southerly Right of way line of the Mpls. St. Paul & Suburban rail road; thence Northwesterly on said Southerly right of way line, distant 1022.4’ to the West line of said S.E. ¼; thence South on the West line of said S.E. ¼, distant 1584.95’ to the place of beginning, containing 29.9 Acres more or less, except the following described tract of land:

Commencing at a point 746.17’ North and 33.0’ East of the Southwest corner of said S.E. ¼ of Sec. 30-117-22; thence East and parallel with the South line of said S.E. ¼, distant 267.0’; thence North and parallel with the West line of said S.E. ¼, distant 571.03’; thence West and parallel with the South line of said S.E. ¼, distant 267.0’; thence South and parallel with the West line of said S.E. ¼ distant 571.03’ to the place of beginning, containing 3.5 acres more or less.

PARCEL 2 (Book 2477 Deeds P. 577)

The East 267 feet of the West 300 feet of the North 571.03 feet of the Southwest Quarter of the Southeast Quarter of Section 30, Township 117, Range 22, according to the map or plat thereof on file or of record in the office of the Register of Deeds of Hennepin County, Minnesota.

PARCEL 3 (Certificate of Title No. 157458)

All that part of the following described tract:

The southeast quarter (SE1/4) of section 30, township 117 north, range 22 west, as follows: Commencing at the southeast corner of said section 30; thence westerly along the south line of said section, 1623.94 feet; thence northerly and parallel with the east line of said section 1347.27 feet to the initial point of beginning of the land to be described; thence northerly along a continuation of the last named line 549 feet to center line of the Excelsior Boulevard, also known as County Road No. 3 and as State Highway No. 11; thence along said center line along the following courses: North 80 degrees 57 minutes west 165 feet; thence south 77 degrees 3 minutes west 500 feet; thence south 82 degrees 33 minutes west 312 feet to the west line of the southeast quarter of said section; thence south 0 degrees 31 minutes east along said west line 81.5 feet to the northerly line of right of way of the Minneapolis, St. Paul and Suburban Railway Company; thence south 77 degrees 38 minutes [east] along said right of way 1022.4 feet to the point of beginning;
Which lies southerly of a line run parallel with and distant 100 feet southerly of the following described line:

Beginning at a point on the easterly boundary of said section 30, distant 136.8 feet northerly of the east quarter corner thereof; thence run southwesterly at an angle of 64 degrees 17 minutes with said easterly boundary for a distance of 279.5 feet; thence deflect to the left on a 0 degree 30 minute curve, delta angle 1 degree 34 minutes, for a distance of 313.3 feet; thence on tangent to said curve for a distance of 1368.4 feet; thence deflect to the right on a 3 degree 30 minute curve, delta angle 47 degrees 28 minutes, for a distance of 900 feet, and there terminating.

**PARCEL 4 (Certificate of Title No. 388168)**

That part of the Southeast Quarter of Section 30, Township 117, Range 22, described as follows: Commencing at the intersection of the Southeasterly line of State Highway No. 7 with the Southerly line of the right-of-way of the Minneapolis and Excelsior Road, as now laid out and travelled; thence Southeasterly along said Southerly line of said Minneapolis and Excelsior Road, a distance of 111.34 feet; thence South parallel with the East line of said Southeast Quarter a distance of 490.9 feet to the Northerly line of the right-of-way of the Minneapolis, St. Paul and Suburban Railway Company; thence Northwesterly along said last described right-of-way a distance of 180.39 feet to its intersection with a line drawn parallel with the East line of said Southeast Quarter from a point on the South line of said Southeast Quarter distant 1623.94 feet along said line from the Southeast corner of said Southeast Quarter; thence North along the last described parallel line a distance of 526 feet to the Southeasterly line of State Highway No. 7; thence Northeasterly along said Southeasterly line a distance of 75 feet to the point of beginning.

**PARCEL 5 (Doc No. 3935630)**

That part of the South ½ of the Southwest ¼ of Section 30, Township 117, North Range 22, West of the principal meridian, described as follows: Beginning at a point on the North line of said South ½ of the Southwest ¼ of Section 30, distant 555.44 feet West of the Northeast corner thereof, thence East to the Northeast corner thereof, then South along the East line of said South ½ of the Southwest ¼ of Section 30 to the Southeast corner thereof, thence West along the South line of said South ½ of the Southwest ¼ of Section 30, distance of 1588.81 feet; thence Northeasterly to the point of beginning. EXCEPT the North 300 feet of the East 363 feet thereof.

**PARCEL 6 (Certificate of Title No. 316481)**

That part of the North ½ of the Northwest Quarter of Section 31, Township 117, Range 22, lying East of the plat of Kingswood and North of a line drawn from the most Easterly
corner of Outlot 2, said Kingswood, to a point in the East line of said Northwest ¼ distant 800 feet South from the Northeast corner thereof, according to the Government Survey thereof.

PARCEL 7 (Doc. No. 6753187)

The North 300 feet of the East 363 feet of Southeast ¼ of the Southwest ¼ of Section 30, Township 117, Range 22, according to the United States Government Survey thereof and situated in Hennepin County, Minnesota.

PARCEL 8 (no record document available)

That part of the right-of-way of the Minneapolis, St. Paul and Suburban Railroad, being a part of the West Half of the Southeast Quarter of Section 30, Township 117, Range 22, Hennepin County, Minnesota, which lies westerly of the westerly line of Skyline Terrace, according to the plat thereof of record, and southerly of State Highway No. 7.

PARCEL 9 (Doc. No. 9548071)

Lot 1, Dellton Second Addition, Hennepin County, Minnesota.

PARCEL 10 (Doc. No. 9761309)

That part of Lot 5, Block 1, Skyline Terrace, Hennepin County, Minnesota lying northwesterly of the following described line: Commencing at the northeast corner of said Lot 5; thence on an assumed bearing of North 70 degrees 14 minutes 03 seconds West along the northerly line of said Lot 5, a distance of 76.87 feet to the point of beginning of the line to be described; thence South 41 degrees 36 minutes 09 seconds West, a distance of 253.59 feet to the angle point in the West line of Lot 6, said Block 1 and there terminating. Said angle point being 250.00 feet south from the northerly corner of said Lot 6 as measured along the west line of said Lot 6.

PARCEL 11 (Doc. No. 10090618)

Lot 6, Block 1, Skyline Terrace, Hennepin County, Minnesota.
B. Conditional use permit and site and building plan review for the expansion of the Pagel Activity Center for a second hockey rink with ancillary training, locker, and storage rooms.

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

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

Magney asked if the parking and traffic circulation change the conditions of approval. Trapp answered affirmatively. The requirements are listed in the conditional use permit. Regulations related to the construction of the building are provided in the site and building plan section.

Magney asked if the conservation easement is included in the resolution. Trapp explained that it would be required as a condition of approval. The language will be revised to be more specific when it is reviewed by the city council.

Wischnack added that it is not unusual to have a conservation easement included in a resolution, but not have it executed until later. Chair Kirk asked if the location of the conservation easement is waiting to be determined until the location of the soccer fields is determined. Wischnack stated that there are storm water pipes in the area that have to have access addressed. The city attorney would write the conservation easement once those items have been resolved.

Trapp noted that the applicant was readily agreeable to including a conservation easement. There are certain issues that need to be included in the easement.

Chair Kirk was curious what the eventual final amount of tree cover would be on the east side and noise mitigation.

Trapp clarified that the notion of a soccer field expansion is a totally separate matter that would be dealt with if and when it would be wanted in the future.

Powers asked how much developable area would be left. Thomas estimated that the vast majority of usable space would have been utilized. Colleran pointed out areas of the property already included in conservation easements. There is a sloped area that could potentially be developed.

Odland asked if the traffic study was done during times when multiple events took place. Trapp explained that the traffic study primarily focused on parking demands during a school day. The weekend was not a huge focus. Wischnack
added that parking requirements are not typically geared for sporadic event parking, but rather for consistent, in and out peak-time traffic.

Chair Kirk noted how juniors and seniors drive. The drive extending to the domed soccer field is busy in the winter. Students end up walking up the hill to meet their parents at the top of the hill which creates a relatively dangerous condition. Trapp stated that staff has been working with the applicant and the school district. There was a discussion regarding the dome and the challenge with that. There needs to be access to the maintenance facility. There are areas for a crane that puts the dome on the field. School district representatives could address that issue.

Chair Kirk guessed that the sheet of ice does not relate to the growth of the school. Wischnack acknowledged that the school is part of the equation. There is one entity proposing one thing. The site has had incremental changes. Staff treats it as a campus review.

Odland felt that the drive down the hill is a year-round problem. Students walk up the middle of the drive aisle. It would be beneficial to make it safer for pedestrians.

Calvert asked how the preservation would be governed. She asked if trees would be able to be removed. Colleran answered that the conservation easement would protect the remaining trees. No building, grading, or construction of any kind would be allowed within the conservation easement area except to maintain existing infrastructure.

In response to O’Connell’s question, Trapp clarified that the facility would be for practice only. There would be no games or tournaments. There would be no audience seating. O’Connell asked why a condition prohibiting games or a tournament would not be included. Trapp explained that staff wanted to restrict use during a school day, but did not feel a restriction would be needed at other times. Commissioners are welcome to consider or recommend that condition.

Chair Kirk suggested changing the wording from “during the week” to “when school is in session.” Thanksgiving break is a great example. Kids could be on the ice.

Jim VanBergen, vice president of the Minnetonka Youth Hockey Board, stated that:

- The proposal would be a practice facility.
• The program has grown by over 30 percent over the last 10 years.
• There will be over 950 kids in the program this year which is a record.
• He works closely with the high school and its program. Practices are not scheduled during varsity football games, concerts, or theater events.
• The program is currently 1,200 hours short of practice time. A standard rink usually provides 1,100 hours. The association is buying ice anywhere it can within a 20 mile radius.
• U.S.A. Hockey is the governing body. The program is 30 percent short from a development standpoint.
• He was happy to answer questions.

Powers asked what the growth of the program is expected to be. Mr. VanBergen stated that the proposal would not expand the program any more than it is currently. The rink would help catch up to where the program needs to be today. The association will continue to buy ice and rely on that heavily. Tournaments may be held at Rinks A and B. The proposal would be strictly a practice facility.

Odland asked if U.S.A. Hockey is alright with a facility that would not offer game space with 30 percent growth in 10 years. Mr. VanBergen answered affirmatively. Their recommendation is based on touches and hours on ice, not games versus practice. Practice is more valuable than games. The kids play enough games with the neighboring communities.
Calvert asked where parents would hang out during practice. Mr. VanBergen stated that most parents drop off the kids. There is a lobby and mezzanine level around the glass. Parents typically stand at the glass anyway. The attendance is quite low.

Knight asked if early-morning practices may be wanted in the future and noted that the condition prohibiting use before 5:30 p.m. during the weekday would prevent that from happening. Mr. VanBergen said that morning programs are held at the Pagel facility at 6:45 a.m. Trapp clarified that the condition applies only to non-Minnetonka High School students.

Odland asked what time school starts. It was determined that school starts at 8 a.m. and there are many programs that start at 7 a.m.

Chair Kirk asked staff how the limitations were determined. Wischnack stated that during the concept review, it was noted that this proposal is a partnership between two entities. The hockey rink works, but it has to be looked at as part of the whole campus design. The rink would impact parking, traffic, and access.
Commissioners and councilmembers shared a list of concerns that led staff to include the conditions of approval. Commissioners are welcome to recommend changes to the conditions.

O’Connell feels that all of the conditions are appropriate.

Calvert noted that the applicant never included spectator seating in the proposal. She was concerned that the proposal would use up most of the campus’ limited buildable area.

Chair Kirk asked how it would be funded. Mr. VanBergen explained that it would be entirely funded by the youth hockey program paid by memberships and fund raising. No tax dollars or money from the school district would be used.

Paul Bourgeois, Minnetonka Public Schools Director of Finance and Operations, stated that:

- The school board supports the proposal. It was approved unanimously.
- He has worked with city staff and agrees with the conditions of approval.
- Ways to fund improvements to parking have been identified without using tax dollars.
- He was glad to answer questions.
- Operating costs for the rink would be paid 100 percent by the youth hockey association. The youth hockey association would own the rink and receive bills for maintenance costs.

Calvert asked what the school board discussed in relation to the limited amount of buildable space being used for a hockey rink and what would be done if more space is needed for academic programs.

Mr. Bourgeois stated that 17 additional instruction spaces were recently added. The high school has capacity for 3,400 students. Teachers move to different rooms to allow the rooms to be used every hour. Classrooms could be built above the gap between the Pagel Center and the school. There are things that could be done, but, at this time, the projections show that the school population will top out at 3,400 students. The parking lot could be restriped and additional green space made into parking to increase the number of stalls by 15 percent.

Mr. Bourgeois explained how the hockey association would fund the project and maintain it long term.
The public hearing was opened.

Martin Vanderzanden, 5300 Michaele Lane, stated that:

- He has a view of the east parking lot from his home.
- He went to the meetings when Pagel I was built. There was a traffic study done back then. The school agreed to close off use of the east parking lot from 3:30 p.m. to the following morning and on weekends. Gates were installed to enforce that in the beginning, but then it stopped being enforced. Now the parking lot is open all of the time. He asked at the meeting what would happen if the school did not follow the agreement. There was no recourse for him as a neighbor. He would like the school to follow the agreement.
- He is concerned for the increase in noise.

Fred Hanus, 15801 West Oaks, stated that:

- Our community does very well raising funds when something has to be done. Fundraisers are held in the spring and fall.
- He visited the site twice at 5:30 p.m. There were 40 or 50 vehicles. The biggest parking problem is during the weekday or if there is a football game or big event. He did not see a problem if the rink would be just for practice. He knows the area very well.
- The proposal would benefit our children. His boys all played hockey. He drove all over Hennepin County to find ice time.

No additional testimony was submitted and the hearing was closed.

Powers asked why there is no enforcement mechanism. Wischnack stated that there is enforcement available. She suggested the school district address the gate issue.

Mr. Bourgeois stated that drivers kept driving through the gate and breaking it in pieces. A solid gate was recently installed on the drive on Dalton Avenue. The gate has been closed at the bus corral on the south end. The gate on the northeast end is not being closed. The agreement allows the gate to be open for evening activities and major events on weekends. Most of the year there is play practice. There are a lot of game events.

Odland asked when there is quiet time. Mr. Bourgeois said that there is quiet time occasionally. If a condition would require the gate to be shut down, then the gate would be locked.
Chair Kirk asked if the gate is to cut off drivers entirely or keep drivers from cutting through. Mr. Bourgeois said it looked like it was meant to keep anyone from parking in the area since gates at both ends were required to be closed. Teachers stay late, so a 3:30 p.m. shut time is not practical. He was not sure normal operations were taken into consideration at the time the agreement was created.

Wischnack explained that a school site management plan was issued in January of 2004. It refers to gates and said that if specific enforcement is warranted, the high school principal and supervisor of buildings and grounds should be contacted. Chair Kirk suggested she provide more details from the 10-page document to the city council. Wischnack agreed.

Powers was not sure for what purpose the trees would need to be saved by placing them in a conservation easement. There is expansion that is going to happen. The heart and soul of Minnetonka is the school system. Everyone is working very hard to make it the best it can be. It seems awkward to have a practice-only facility.

Odland said that this is an opportunity for the school district to come up with a concept of how to best use the land since it may need a soccer field at some point. Building up may be the best use of the land and be able to maintain the trees.

O’Connell is in favor of the proposal. The gate restrictions need to be clarified before going ahead with approval. At this level, he is prepared to make a recommendation to move it on to the city council.

Chair Kirk also supports the proposal. Hockey is growing in all communities. The campus plan has site constraints. It will always be a limited and tight site. There are a lot of kids who want to play hockey. The hockey association is financing it well. Seeing the building with color helped break it up. He was concerned with setting limitations that cannot be enforced. “When school is in session” should be the qualifier instead of “Monday through Friday.” He was sympathetic to the neighbors’ concerns of traffic and noise.

Wischnack recommended the neighbor talk to school staff and said that city staff will follow up if enforcement is necessary. That will happen before the November 23, 2015 city council meeting.
Odland moved, second by Magney, to recommend that the city council adopt the resolutions approving a conditional use permit and the site and building plans for the expansion of the Pagel Activity Center at 18313 State Highway 7 with a modification to prohibit use of the facility by non-Minnetonka students and staff “when school is in session” instead of “Monday through Friday” (see pages A34-A52 of the staff report).

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

The city council is tentatively scheduled to review the item at its meeting on November 23, 2015.

Chair Kirk called for a short recess and reconvened the meeting.
On behalf of Superintendent Dennis Peterson and the School Board, attached is the updated Site Management Plan for Minnetonka High School, along with a photo of the gate that will be closed daily at 5:00 PM to ensure that Dome, Einer Anderson Field, Veteran’s Field and Legacy Fields traffic utilizes the west side entrances of the campus.

This will allow use of the East Parking Lot as has been practice for the last approximately 11 years.

The Site Management Plan reflects the fact that the northeast gate as proposed did not function properly as intended in prior iterations of the Site Management Plan – after numerous continued breaking off of the gate arm by various residents over a period of two years, the arm was not replaced and the school district managed the parking lot in a manner that complaints, if received, would be addressed.

Over the ensuing time period the District personnel listed as responsible authority for addressing issues have not received a single phone call with a complaint about the operation of the East Parking Lot for parking at District events in the evening or community events on the weekends.

The updated Site Management Plan reflects that experience and also works to separate traffic by proximity to field of use by closing the driveway between the east and west sides of the high school campus every evening at 5:00 PM.

Thank you,

Paul Bourgeois, CPA
Executive Director of Finance & Operations
Minnetonka Independent School District 276
Minnetonka High School Site Management Plan  
November 23, 2015

It is the intent of the District, through development of this site management Plan, to be a good neighbor to the residential communities surrounding the High School site and to have the High School considered an asset to the neighborhood. The goal of the Minnetonka High School Site Management Plan is to maximize the use of and access to the public facilities provided at Minnetonka High School for school and community activities, taking into consideration the impact on residents whose property borders the site. The Plan will address traffic management, communication with neighbors, parking, access to the site via the City Trail System, security and monitoring, operation of the stadium with and without the dome erected, storage of maintenance materials, annual update and review, and responsibility for administration of the Site Management Plan. Accountability is an important consideration in this management plan. Minnetonka High School is accountable and responsible for the MHS site. This includes consideration for the impact of on-site activities on neighbors and residential communities.

A letter will be mailed to neighbors of Minnetonka High School informing them that the Plan is available on the MHS Web page, or is available by mail on request. To expedite communication residents are urged to provide an email address to the MHS activities office [jane.claggett@minnetonka.k12.mn.us].

Traffic Management Plan

The Traffic Management Plan is designed to address the issues related to the use of the parking lot areas of the Minnetonka High School Campus. The purpose of the Traffic Management Plan is to provide access to city and district residents in a manner that allows them to determine the most efficient option for them to access various uses of the public asset that is the Minnetonka High School campus.

The traffic management techniques with the turnaround at the Pagel Center will help to direct vehicles to the most convenient parking facilities for the user. In doing so, traffic will be self-minimizing on either side of the campus as users coming from the east will have readily available parking on the east side of the campus and users coming from the west will have readily available parking on the west side of the campus. Concerns regarding site traffic may be directed to the High School Principal, Jeff Erickson at 952-401-5702, or the Coordinator of Health & Safety, Utilities & Grounds, Jim McCann at 952-401-5038.

Communication of MHS Activities Schedule

The School District will publish regularly scheduled events that take place on campus through printed schedules, local newspapers, and on the School District Website at [www.minnetonka.kl2.mn.us/mhs/]. The High School will avoid scheduling overlapping varsity hockey games and basketball games. Surrounding residents who may be impacted by events not posted on the web page that are anticipated to exceed campus parking capacity will be notified by email describing the events. To assure prompt notification of events or changes in the schedule residents are urged to provide the Student Activities Office their email address. MHS will keep the on-line schedule of dome and athletic field events up-to-date with accurate information.
To reach the Student Activities Office directly, call 952-401-5901 or the Minnetonka High School Office at 952-401-5702.

**Parking for Pagel Center and Dome**

The west parking lot is the most convenient and the most efficient parking location for the Pagel Center and for the dome operations. The lower level parking area and drive immediately adjacent to the dome is used primarily for drop-off and pick-up. People participating in recreational activities in the dome or attending an event at the Pagel Center will be directed to the west parking lot as the primary location for vehicle parking. Participants will be informed they are not to park in neighboring residential areas, nor to access the dome via the city path system located south of the dome facility to participate in an activity in the dome. The gate at the southwest corner of the east parking lot will remain closed after 5:00 PM daily to ensure that traffic for the Dome, Einer Anderson Stadium, Veterans Field and Legacy Fields is directed to west side entrances of the campus.

**Student Activity/Student Access to Site via Walking Path**

Students residing in the Tamarack neighborhood or adjacent neighborhoods seeking to walk to High School via the city trail system located immediately south of the site will be able to access the High School site through a single gate provided in the security fence bordering the south edge of the High School property. The gate is constructed in a manner that enables it to be closed and locked.

Residents of the adjacent neighborhoods seeking to control student parking in their neighborhood are encouraged to work with the City to have installed "No Parking Zone" signs that limit curb parking during school hours. Students will be discouraged from parking off-campus in residential neighborhoods during the school day. The District will patrol the path on a regular basis to monitor student behavior.

Residents with questions or concerns are to call the High School Principal, Jeff Erickson at 952-401-5702 or the Minnetonka Police Liaison Officer at 952-401-5727.

**Stadium Security and Monitoring:**

To provide security for the turf surface of the stadium field and track surface an eight foot chain link fence surround the complex. Access to the field is controlled by District Grounds Department as directed by the MHS Student Activities Office. The stadium and area south of the stadium is monitored by video cameras during months the dome is not in place. The cameras scan the stadium field, surrounding athletic fields, and scan the trail entrance to the site. Any resident observing inappropriate behavior is to contact the Minnetonka Police Liaison Officer at 952-401-5727.

People having questions about site security or concerns should contact the MHS Principal, Jeff Erickson, at 952-401-5702 or the Coordinator of Health & Safety, Utilities & Grounds, Jim McCann at 952-401-5038.
Operation of Facility May Through October

Installation of a turf playing field on the stadium site will enable greater utilization of the stadium field for existing High School and community activities. During the school day the turf field will be used for physical education classes. Extended use of the stadium field will necessitate the following limitations regarding use:

a. Lighting - Lights may remain on for a maximum of thirty minutes following completion of the event for safety and security purposes but not to exceed 10:30 PM. To minimize the impact on adjacent neighborhoods and to control District utility costs every effort will be made to complete non-varsity events prior to sunset.

b. Permanently Installed Sound System - use of the sound system will be limited to spectator events. Any utilization of the sound system for non-spectator events will be posted on the District's Web page and will be included in an email notification sent to neighboring residents. There will be no other use of the sound system other than approved high school athletic events or traditional community events posted to the web page. As noted above, to expedite communication, all residents are urged to provide an email address.

All speakers installed on the sound system will be pointed toward the spectator stands both on the home and visitor side of the stadium. Should the stadium be leased by a non-school activity requiring use of the sound system, neighboring residents will be notified via email. Temporary sound systems shall not be used during school events nor during events where the turf field is leased.

Residents having concerns or questions regarding the operation of the sound system should contact the High School Activity Office at 952-401-5901 or the MHS Principal, Jeff Erickson at 952-401-5702.

Operation of Dome November through April

When the dome is erected, the facility is used by High School physical education activities on weekdays during the school hours and for co-curricular activities between school dismissal and approximately 6:00 p.m. The facility is available for rental from 6:00 p.m. to 10:00 p.m. on weekdays and from 7:00 a.m. to 10:00 p.m. on weekends. Rental of the facility will be limited to groups seeking recreation space for their activity. The facility will not be rented for events that would necessitate the assembly of spectators or large groups of people. The interior of the dome is a recreational facility and not a spectator facility. As such, the following limitations apply to the use of the dome.

a. Lighting: The lights on the facility must be turned off no later than 10:30 p.m.

b. Sound: There will be no speakers installed in the dome.

c. Access to The Dome: Access to the dome will be via the main entrance or west entrance of the campus.
Operational Problem Resolution

People having questions or concerns regarding the operation of the dome November through April are to contact the High School Activities Director, Ted Schultz, at 952-401-5901. People with questions regarding operation of the stadium May through October are to call the High School Activities Director, Ted Schultz, at 952-401-5901 or the High School Principal, Jeff Erickson, at 952-401-5702.

Exterior Trash and Recycling Areas

Cement block enclosures have been constructed to store trash, soil, ball field aggregate and other materials used by the District Grounds Department to maintain the Minnetonka High School athletic facilities. The fence and adjacent playing fields bordering the south side of the High School site will be policed monthly for debris and trash.

Questions regarding the operation of the storage facilities and the impact on neighbors should be sent to the Coordinator of Health & Safety, Utilities & Grounds, Jim McCann, at 952-401-5038.

Plan Review

The Plan will be reviewed upon request of a neighborhood resident. The High School Principal, the High School Activities Director, the Coordinator of Health & Safety, Utilities & Grounds, and the Executive Director of Finance and Operations along with the requesting resident and any other residents that the requesting resident invites to participate.

Accountability

The following people are responsible to make certain the above-described management plan is enforced:

High School Principal Jeff Erickson, 952-401-5702, will have primary responsibility for enforcement of the Site Management Plan.

Activities Director Ted Schultz, 952-401-5901, will have responsibility for scheduling of High School Activities in the stadium and dome.

Coordinator of Health & Safety, Utilities & Grounds Jim McCann, 952-401-5038, will have responsibility for maintenance of the site and for video monitoring of the facility.

Executive Director of Finance and Operations Paul Bourgeois, 952-401-5024, will have responsibility to make certain the Site Management Plan is updated as needed, and will make certain residents are able to access the key individuals who can respond to their question or concern.

Superintendent of Schools, Dr. Dennis L. Peterson, 952-401-5004, is responsible to make certain the above individuals assigned the respective responsibilities for the Site Management Plan properly administer and update the Plan.
Future Parking

The District is committed to adding future parking at the areas attached on Exhibit A, developed by Clark Engineering, showing a total of 125 parking spaces being feasible in three different locations around the campus.
AREA 1: 
25 NEW StALLS

AREA 2: 
39 NEW STALLS

AREA 3: 
61 NEW STALLS
City Council Agenda Item #14C
Meeting of November 23, 2015

Brief Description  Concept Plan for redevelopment of the TCF Bank site at 1801 Plymouth Road

Action Requested  Discuss concept plan with the applicant. No formal action required.

Concept Plan

TCF Bank and Solomon Real Estate Group have submitted a concept plan for redevelopment of the TCF Bank site at 1801 Plymouth Road. The plan contemplates removal of the existing, two-story bank building and construction of two, one-story buildings. The westerly building would be occupied by TCF Bank and the easterly building by a variety of commercial and service tenants. (See pages on A1-A7.)

If a formal application were submitted it would likely include: (1) conditional use permits; (2) subdivision and (3) site and building plan review.

Review Process

Staff has outlined the following review process for the proposal. At this time, a formal application has not been submitted.

- **Neighborhood Meeting.** The developer held a neighborhood meeting on October 29, 2015. Approximately 15 people were in attendance. Some comments were raised about the design and color palate of the proposed TCF Bank building. However, the group generally commented that they liked the proposal.

- **Planning Commission Concept Plan Review.** The planning commission conducted a review of the concept plan on November 5. One member of the public spoke in support of the concept, noting that he particularly liked the scale of the redevelopment concept. The planning commission generally indicated that the concept was reasonable. Some commissioners questioned the proposed color scheme and architecture. Though acknowledging parking could be a financial and physical design issue, other commissioners wondered whether more “vertical density” would make sense on the property based on the city visioning completed for this area. (See pages A12–A14.)

- **City Council Concept Plan Review.** The city council Concept Plan Review is intended as a follow-up to the planning commission meeting and would follow the same format as the planning commission Concept Plan Review. No staff recommendations are provided, the public is invited to offer comments, and council
members are afforded the opportunity to ask questions and provide feedback without any formal motions or votes.

**Staff Recommendation**

Staff recommends the council provide comments, feedback, and direction that may lead to the preparation of more detailed development plans.

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

Originator: Susan Thomas, AICP, Principal Planner
ADDITIONAL INFORMATION

Next Steps

- **Formal Application.** If the developer chooses to file a formal application, notification of the application would be mailed to area property owners. Property owners are encouraged to view plans and provide feedback via the city’s website. Through recent website updates: (1) staff can provide residents with ongoing project updates, (2) residents can “follow” projects they are particularly interested in by signing up for automatic notification of project updates; (3) residents may provide project feedback on project; and (4) and staff can review resident comments.

- **Council Introduction.** The proposal would be introduced at a city council meeting. At that time, the council would be provided another opportunity to review the issues identified during the initial Concept Plan Review meeting, and to provide direction about any refinements or additional issues they wish to be researched, and for which staff recommendations should be prepared.

- **Planning Commission Review.** The planning commission would hold an official public hearing for the development review and would subsequently recommend action to the city council.

- **City Council Action.** Based on input from the planning commission, professional staff and general public, the city council would take final action.

Roles and Responsibilities

- **Applicants.** Applicants are responsible for providing clear, complete and timely information throughout the review process. They are expected to be accessible to both the city and to the public, and to respect the integrity of the public process.

- **Public.** Neighbors and the general public will be encouraged and enabled to participate in the review process to the extent they are interested. However, effective public participation involves shared responsibilities. While the city has an obligation to provide information and feedback opportunities, interested residents are expected to accept the responsibility to educate themselves about the project and review process, to provide constructive, timely and germane feedback, and to stay informed and involved throughout the entire process.

- **Planning Commission.** The planning commission hosts the primary forum for public input and provides clear and definitive recommendations to the city council. To serve in that role, the commission identifies and attempts to resolve development issues and concerns prior to the council’s consideration by carefully balancing the interests of applicants, neighbors, and the general public.
• **City Council.** As the ultimate decision maker, the city council must be in a position to equitably and consistently weigh all input from their staff, the general public, planning commissioners, applicants and other advisors. Accordingly, council members traditionally keep an open mind until all the facts are received. The council ensures that residents have an opportunity to effectively participate in the process.

• **City Staff.** City staff is neither an advocate for the public nor the applicant. Rather, staff provides professional advice and recommendations to all interested parties, including the city council, planning commission, applicant and residents. Staff advocates for its professional position, not a project. Staff recommendations consider neighborhood concerns, but necessarily reflect professional standards, legal requirements and broader community interests.
LOCATION MAP

Project: TCF Bank Concept Plan
Applicant: TCF Bank and Solomon Real Estate Group
Address: 1801 Plymouth Road
October 28, 2015

Susan Thomas/Julie Wischnack
City of Minnetonka
14600 Minnetonka Blvd
Minnetonka, MN  55345

Re: Concept Plan Review – Planning Commission Meeting on November 5th, 2015

Dear Sue/Julie:

Solomon Real Estate Group and TCF Bank are hereby requesting a meeting of the Planning Commission on November 5th, 2015 to formally review the proposed concept plan for the redevelopment of the existing TCF Bank property on Plymouth Road. The proposed concept plan would demolish the existing TCF Bank building and replace it with a new proto-typical free-standing TCF Bank branch along with an additional 5,400 SF retail building adjacent to it as further detailed on the attached concept plan. The current TCF Bank branch would remain open in their existing location while their new building is under construction. Upon completion, the old bank building would be demolished and the new retail building would be constructed.

We look forward to presenting the concept plan to the Planning Commission on November 5th. If you have any questions, please let us know.

Sincerely,

Steve Johnson
Development Partner
Solomon Real Estate Group
RIDGEDALE SHOPPES

Proposed
TCF Bank

Retail
5,400 SF.

FOR ILLUSTRATIVE PURPOSES ONLY AND IS SUBJECT TO CHANGE. SEE FINAL PLANS FOR DETAILS.
Legend

Parcels

2030 Land Use

2030_LU

Low Density Residential
Medium Density Residential
High Density Residential
Office
Commercial
Service Commercial
Mixed Use
Industrial
Institutional
Open Space
Parks
Right of Way
Lakes

TCF Bank
Concept Plan
1801 Plymouth Road
2035 Concept Plan: Potential New Development
B. Concept plan for redevelopment of the TCF Bank property at 1801 Plymouth Road.

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

Thomas reported. She recommended commissioners provide their reaction and general comments related to the scale and design of the proposed buildings and site.

Steve Johnson, of Solomon Real Estate, applicant, stated that:

- He is pleased to be a partner with TCF to redevelop the property.
- The plan would construct a new building on the site and demolish the old building. The 5,400 square-foot retail building would keep the existing drive through.
- A sidewalk connection would be created to wrap the property from Wells Fargo on Plymouth Road around Cartway Lane and then back down Ridgedale Road to the TCF property.
- Given the age of the current facility done in the 1970s, there were no design standards for ponding or infiltration. Underground vaulting would be added in the center parking lot area. Everything is draining onto Plymouth Road currently.
- The proposal would complement the landscaping that is being done by Highland Bank. There would be a continuous feel between the two.
- He has met with the neighbors on 3 occasions. Their concerns were that they want a sidewalk and pedestrian access to the sidewalk, but did not want additional drive-thrus.
- It is a pretty straightforward redevelopment.
- He was available for questions.
- None of the existing access points would be changed. It is a shared access right now with Wells Fargo and U.S. Bank.
- The current footprint is 12,000 square feet between the 2 floors right now. The proposal would be 5,400 square feet and meet all setback and parking requirements.

Calvert asked if there is any latitude to modify the color scheme. Mike Kraft, architect for the concept plan, stated that he has heard comments regarding the color scheme. What he loves about the look and feel is that it is energetic, bright, and an attention getter. The building would be a fraction of the size of the existing building. To have something small and weak on the corner would be a
vulnerability that needs to be avoided. To create something engaging and energetic adds a lot to the corner. There is some latitude with the color. This is a prototype that is fairly well developed, but it has not been built, so there is some latitude.

Chair Kirk said that seeing samples of the red color may be helpful. It seems that there is a tremendous amount of hard surface and paving. Mr. Johnson said that the landscape plan may be modified. There would be vaulting under the parking lot. Decreasing the amount of parking would require a variance. Chair Kirk would not ask him to do that. Having the building on the edge of the lot and parking in the back is a benefit.

Chair Kirk invited the public to provide comments.

Bob Bertelsen, 13513 Larkin Drive, stated that:

- The plan received 100 percent favorable responses from neighbors.
- He liked the scale and that the developer came to the neighborhood meeting.
- The parking lot and hard surface coverage is small in comparison to Ridgedale.
- He supports the proposal.

Wischnack suggested commissioners discuss the proposed additional use on the site, flexibility in the parking, scale and mass, and landscaping.

Calvert was not sure a single-story building would be the best use of the site.

Powers likes the project. He is color blind, so he cannot comment on the color red. TCF goes for a more youthful, smaller-footprint client. He would like to see leading-edge landscaping. Having a small building is smart business.

Chair Kirk would not object to the proposal, but felt it should be pointed out that more density would be appropriate for the site. Higher density in retail areas may save more density located closer to residential areas. The area has mixed uses that could have the proposal on the corner. Calvert would be comfortable with two stories for the transition area from lower buildings to the shopping center. The new Highland Bank building would be 6 stories tall. She liked the design of the proposed building and its layout.
Odland liked the proposed one-story building because it would be youthful and attractive and fit with the updates being done to Ridgedale Center. It would be a good use of the space to add the additional retail area.

O’Connell noted that the proposal is visually a two-story building. He suggested making it a two-story building above ground.

Chair Kirk heard that commissioners are relatively happy with the design and density.

Calvert noted that a pretty large apartment complex was approved across the street closer to residential housing. Highland Bank will be quite tall. The proposal is in an already built area. Having a more vertical density makes more sense, but she understood the parking issue.

Chair Kirk thought if underground parking would be done, then 5 or 6 stories would be needed to make it cost effective. He supports the proposal. Buildings at different heights keeps the area interesting. Buffering the neighborhood with townhomes may be a consideration someday. More landscaping to hide the parking and provide green space would be beneficial.

10. Adjournment

Odland moved, second by Knight, to adjourn the meeting at 10:11 p.m. Motion carried unanimously.

By: ____________________________

Lois T. Mason
Planning Secretary
City Council Agenda Item #14D  
Meeting of November 23, 2015

**Brief Description**  
Professional Services Agreement for the Shady Oak Redevelopment Study

**Recommendation**  
Approve the agreement

**Background**

Earlier this year, the city purchased the properties at 4312 Shady Oak Road and 4292 Oak Drive Lane, primarily due to the proximity of the road reconstruction in the area. During the discussion of the purchase of the property (city council study session on October 13, 2014), staff had proposed a timeline for discussion of redevelopment of the property. This report and attached proposal provides further definition for a process to engage with the neighborhood, current building tenants, developers, planning commission, economic development advisory commission and the city council.

**Proposal**

The proposal provides for a number of public meetings with the neighborhood and various city meetings. The process would involve data gathering and explanation of the process; possible development alternatives for the property and in the end a development summary to provide to potential buyers of the property. The attached proposal is more specific as to timing, work product and meetings (see pages A1-A8). After this process is complete the city council would hold an additional study session to determine the procedures for actual redevelopment (i.e. proposals from developers). This will be funded through the Shady Oak Road/Oak Drive Lane Improvement Fund.

**Recommendation**

Staff is requesting feedback regarding the process or the work products outlined in the proposal. Staff recommends approval of the contract.

Submitted through:  
Geralyn Barone, City Manager

Originated by:  
Julie Wischnack, AICP, Community Development Director
November 13, 2015

Ms. Julie Wischnack, AICP
Community Development Director
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345

RE: Professional Services Agreement for Shady Oak Site Redevelopment Study

Dear Julie:

Kimley-Horn and Associates, Inc. (“KHA” or “the Consultant”) is pleased to submit this letter agreement (the “Agreement”) to the City of Minnetonka (“the Client”) to prepare a site redevelopment study for the above reference location. Our project understanding, scope of services, schedule, and estimated fee are provided below.

Project Understanding
KHA understands that the City of Minnetonka currently owns and manages a commercial building at 4312 Shady Oak Rd and a residential building at 4292 Oak Drive Ln (a total of approximately 2.3 acres). And that the City is interested in preparing a redevelopment study to determine potential options for the property. The assumption is that the existing in-line commercial building and existing single family building would be removed in order to accommodate new development that could include commercial, office, retail and/or residential uses. The study will help inform the feasibility of the site as a way to interest developers to invest in and implement a development acceptable to the City, neighborhood, and local stakeholders.

Scope of Services

Kimley-Horn will provide the services specifically set forth below.

Task 1 – Gather, Review and Assess. Kimley-Horn will review the site, existing conditions and related information based on information and data provided by the client. This may include the CSAH 61 improvements, Phase I and II studies by Wenck, SW LRT Housing Gaps study, the Shady Oak Road Station Area Development Strategy, comprehensive and development-related plans for Minnetonka and Hopkins and other information as needed. This task will summarize existing conditions including surrounding land use, zoning, traffic and general real estate market context that may have an influence on potential development. Kimley-Horn will conduct a neighborhood meeting to introduce the study and gather issues/concerns/expectations from local residents and businesses. Kimley-Horn will also conduct a developers roundtable (time and venue to be determined) for an invited group to gage interest and ideas. All of this information will be used to prepare a preliminary development program.

Deliverables: summary memo including meeting notes; existing conditions analysis; maps & graphics Meetings: Staff meeting (1); neighborhood meeting (1); developer roundtable (1)
Task 2 – Preliminary Development Program and Alternatives. Using the results and information from Task 1 we will prepare a preliminary development program that defines basic data (square feet, parking spaces, etc.) for a variety of uses (commercial, retail, office, residential, etc.). The program will be prepared in a spreadsheet format for review and discussion with City staff. Kimley-Horn will supplement this information with applicable case studies and local precedents that illustrate desired character, use, and scale. After review, the program will be translated into a number (up to three) development alternatives that we will diagram (to scale) to illustrate general fit, parking, circulation and surrounding relationships. After consultation with City Staff we will present this information at a City Council “check-in” meeting (either a work session or general session).

Deliverables: development spreadsheet; alternative development diagrams; case studies & precedents
Meetings: Staff meeting (2); Council workshop (1)

Task 3 – Development Concept. Kimley-Horn will refine the alternatives into a preferred conceptual development showing building(s) location, parking, circulation and other site features layered over a cad base image. The city staff will prepare a supplement pre-development pro-forma to suggest likely financial data. A combination of sketches, graphics and building images will be used convey a general idea of character and site relationships such as height, massing and setbacks. A neighborhood meeting will be held to present the concept and discuss next steps. Kimley-Horn and the client will prepare and deliver a final product (suitable for print and/or web-ready) that will summarize key aspects of the development opportunity including: property specifics, general market context, relation to Green Line station area, environmental, relocation, development options and potential RFI information.

Deliverables: preferred concept plan(s); development summary; illustrative plans and diagrams
Meetings: Staff meeting (2); neighborhood meeting (1)

Additional Services

Any services not specifically provided for in the above scope are considered additional services. Additional services will not be performed until the city has authorized the services, after receipt of a written estimate of the cost of services. Additional services will be billed at our currently hourly rates or lump sum rates, as specified in the estimate. Additional services we can provide include, but are not limited to, the following:

- Site development renderings: $1600 each
- Additional meetings: $450 each

Information Provided By Client

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client’s consultants or representatives.

Responsibilities of Client
In addition to other responsibilities set out in this Agreement:
- The Client shall prepare a pre-development pro-forma of the potential development alternatives.
- The Client will assist with the developers roundtable discussion including providing lunch for all attendees should the event take place over lunch.

Schedule

We will provide our services as expeditiously as practicable with the goal of meeting the following schedule: refer to Attachment 1, proposed project schedule. A final schedule is subject to review and approval by the Client and Kimley-Horn.

Summary of public meetings
- Meeting #1 – Kick-off meeting with interested neighbors/businesses/stakeholders
- Meeting #2 – Progress meeting with neighborhoods to review potential development options
- Meeting #3 – Developers roundtable
- Meeting #4 - Study Session with Council regarding the potential redevelopment options
- Meeting #5 – Report back to neighborhood for review and discuss next steps

Fee and Expenses

Kimley-Horn will perform the services in Tasks 1-3 for the total lump sum fee of thirty thousand dollars.

| Total Lump Sum Fee | $30,000 |

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, “Consultant” shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to the City of Minnetonka.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

- Please email all invoices to ___________________________
- Please copy ___________________________

If you concur in all the foregoing and wish to direct us to proceed with the services, please have authorized persons execute both copies of this Agreement in the spaces provided below, retain one copy, and return the other to us. We will commence services only after we have received a fully-
executed agreement. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

To ensure proper set up of your projects so that we can get started, please complete and return with the signed copy of this Agreement the attached Request for Information. Failure to supply this information could result in delay in starting work on your project.

We appreciate the opportunity to provide these services to you. Please contact me if you have any questions.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.

By: Michael Lamb, AICP
    Project Manager

                                      Brian Smalkoski, P.E., AICP, PTOE

Client’s Federal Tax ID: _______________________
Client’s Business License No.: __________________
Client’s Street Address: _______________________

Attachment 1 – General Project Schedule
Attachment – Request for Information
Attachment – Rate Schedule
**Request for Information**

*Please return this information with your signed contract; failure to provide this information could result in delay in starting your project.*

### Client Identification

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<td>Contact for Billing Inquiries</td>
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<td>Contact’s Phone and e-mail</td>
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### Property Identification

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### Property Owner Identification

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### Project Funding Identification – List Funding Sources for the Project

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*Attach additional sheets if there are more than 4 parcels or more than 4 owners*
KIMLEY-HORN AND ASSOCIATES, INC.

STANDARD PROVISIONS

(1) Consultant's Scope of Services and Additional Services. The Consultant's undertaking to perform professional services extends only to the services specifically described in this Agreement. However, if requested by the Client and agreed to by the Consultant, the Consultant will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay the Consultant for any Additional Services an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.

(2) Client's Responsibilities. In addition to other responsibilities described herein or imposed by law, the Client shall:
   (a) Designate in writing a person to act as its representative with respect to this Agreement, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
   (b) Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project including all numerical criteria that are to be met and all standards of development, design, or construction.
   (c) Provide to the Consultant all previous studies, plans, or other documents pertaining to the project and all new data reasonably necessary in the Consultant's opinion, such as site survey and engineering data, environmental impact assessments or statements, upon all of which the Consultant may rely.
   (d) Arrange for access to the site and other private or public property as required for the Consultant to provide its services.
   (e) Review all documents or oral reports presented by the Consultant and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the Consultant.
   (f) Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary for completion of the Consultant's services.
   (g) Cause to be provided such independent accounting, legal, insurance, cost estimating and overall feasibility services as the Client may require.
   (h) Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the scope, timing, or payment of the Consultant's services or any defect or noncompliance in any aspect of the project.
   (i) Bear all costs incidental to the responsibilities of the Client.

(3) Period of Services. Unless otherwise stated herein, the Consultant will begin work timely after receipt of a properly executed copy of this Agreement and any required retainer amount. This Agreement is made in anticipation of conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. If such delay or suspension extends for more than six months (cumulatively), Consultant's compensation shall be renegotiated.

(4) Method of Payment. Compensation shall be paid to the Consultant in accordance with the following provisions:
   (a) Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by the Consultant for the duration of the project and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due to the Consultant under this or any other agreement within 30 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid in full and may commence proceedings, including filing liens, to secure its right to payment under this Agreement.
   (b) If the Client relies on payment or proceeds from a third party to pay Consultant and Client does not pay Consultant's invoice within 60 days of receipt, Consultant may communicate directly with such third party to secure payment.
   (c) If the Client objects to an invoice, it must advise the Consultant in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, the invoice will be prorated accordingly. If the Client objects to only a portion of the invoice, the Client shall pay the Consultant the amount due within 25 days of receipt. If the Client fails to make any payment due to the Consultant under this or any other agreement within 30 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid in full and may commence proceedings, including filing liens, to secure its right to payment under this Agreement.
   (d) If the Consultant initiates legal proceedings to collect payment, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at the Consultant's normal hourly billing rates, of the time devoted to such proceedings by its employees.
   (e) The Client agrees that the payment to the Consultant is not subject to any contingency or condition. The Consultant may negotiate payment of any check tendered by the Client, even if the words “in full satisfaction” or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of the Consultant to collect additional amounts from the Client.

(5) Use of Documents. All documents, including but not limited to drawings, specifications, reports, and data or programs stored electronically, prepared by the Consultant are related exclusively to the services described in this Agreement, and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not
intended or represented to be suitable for use, partial use or reuse by the Client or others on extensions of this project or on any other project. Any modifications made by the Client to any of the Consultant’s documents, or any use, partial use or reuse of the documents without written authorization or adaptation by the Consultant will be at the Client’s sole risk and without liability to the Consultant, and the Client shall indemnify, defend and hold the Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys’ fees, resulting therefrom. The Consultant’s electronic files and source code developed in the development of application code remain the property of the Consultant and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the Client, and use of them is at the Client’s sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by the Consultant, the hardcopy shall govern. Because data stored in electronic media format can deteriorate or be modified without the Consultant’s authorization, the Client has 60 days to perform acceptance tests, after which it shall be deemed to have accepted the data.

(6) Opinions of Cost. Because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of its experience and represent its judgment as an experienced and qualified professional, familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant’s services required to bring costs within any limitation established by the Client will be paid for as Additional Services.

(7) Termination. The obligation to provide further services under this Agreement may be terminated by either party upon seven days’ written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party, or upon thirty days’ written notice for the convenience of the terminating party. If any change occurs in the ownership of the Client, the Consultant shall have the right to immediately terminate this Agreement. In the event of any termination, the Consultant shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by the Consultant as a result of such termination. If the Consultant’s compensation is a fixed fee, the amount payable for services will be a proportional amount of the total fee based on the ratio of the amount of the services performed, as reasonably determined by the Consultant, to the total amount of services which were to have been performed.

(8) Insurance. The Consultant carries Workers’ Compensation insurance, professional liability insurance, and general liability insurance. If the Client directs the Consultant to obtain increased insurance coverage, the Consultant will take out such additional insurance, if obtainable, at the Client’s expense.

(9) Standard of Care. The standard of care applicable to Consultant’s services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by the Consultant’s undertaking herein or its performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.

(10) LIMITATION OF LIABILITY. In recognition of the relative risks and benefits of the Project to the Client and the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent of the law, and notwithstanding any other provisions of this Agreement or the existence of applicable insurance coverage, that the total liability, in the aggregate, of the Consultant and the Consultant’s officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of, resulting from or in any way related to the services under this Agreement from any cause or causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of the Consultant or the Consultant’s officers, directors, employees, agents, and subconsultants, shall not exceed twice the total compensation received by the Consultant under this Agreement or $50,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. Under no circumstances shall the Consultant be liable for extra costs or other consequences due to changed conditions, or for costs related to the failure of contractors to perform work in accordance with the plans and specifications. This Section 10 is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section 10 shall require the Client to indemnify the Consultant.

(11) Mutual Waiver of Consequential Damages. In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.

(12) Certifications. The Consultant shall not be required to execute certifications or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or that would cause the Consultant to violate applicable rules of professional responsibility.
(13) **Dispute Resolution.** All claims by the Client arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the Construction Industry Mediation Procedures of the American Arbitration Association as a condition precedent to litigation. Any mediation or civil action by Client must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.

(14) **Hazardous Substances and Conditions.** In no event shall Consultant be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to professional analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. The Consultant shall notify the Client of hazardous substances or conditions not contemplated in the scope of services of which the Consultant actually becomes aware. Upon such notice by the Consultant, the Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.

(15) **Construction Phase Services.**
(a) If the Consultant's services include the preparation of documents to be used for construction and the Consultant is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against the Consultant in any way connected thereto.
(b) If the Consultant provides construction phase services, the Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.
(c) The Consultant is not responsible for any duties assigned to the design professional in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and for its means and methods; that the contractor shall indemnify the Client and the Consultant for all claims and liability arising out of job site accidents; and that the Client and the Consultant shall be made additional insureds under the contractor's general liability insurance policy.

(16) **No Third-Party Beneficiaries; Assignment and Subcontracting.** This Agreement gives no rights or benefits to anyone other than the Client and the Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and the Consultant. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Consultant, without the written consent of the Consultant. The Consultant reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If the Consultant exercises this right, the Consultant will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.

(17) **Confidentiality.** The Client consents to the use and dissemination by the Consultant of photographs of the project and to the use by the Consultant of facts, data and information obtained by the Consultant in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, the Consultant shall use reasonable care to maintain the confidentiality of that material.

(18) **Miscellaneous Provisions.** This Agreement is to be governed by the law of the State in which the Project is located. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Provided, however, that any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Consultant. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
## Attachment 1 - General Project Schedule

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Note - Scope and schedule subject to review and approval of the client and Kimley-Horn.
City Council Agenda Item #15A  
Meeting of November 23, 2015

**Brief Description:** Appointment of student representative to the park board and amend Planning Commissioner John Powers’ term of office

**Recommended Action:** Approve the recommended appointment and amend John Powers’ term of office

**Background**

The park board currently has an opening for a student representative. On October 27, 2015, an application was received from Jack Acomb expressing an interest in the position. Based on the material submitted and feedback from city staff, I recommend that he be appointed. The updated membership roster showing the composition of the park board is attached.

In addition, the recent appointment of John Powers to the Planning Commission was inadvertently listed to expire on October 31, 2017. I am recommending Mr. Powers’ term be amended to expire on January 31, 2016, to conform to the practice that all commissioner appointments serve a full term.

**Recommendation**

To approve the following appointment and amendment:


Respectfully submitted,

Terry Schneider  
Mayor
Park Board

This board is comprised of seven members plus one student representative. This board consults with the city council and staff in matters relating to parkland, park facilities, programs, and finances. The board's functions include long and short range planning related to capital improvement projects, acquisition, development and use of parklands, park facilities, recreational and leisure time facilities, and recreational programs. Park board members also represent the city on a joint recreation board, directing primary attention to recreation programs and activities developed and offered through the joint board; and making recommendations to the city council through the joint board concerning policies on recreational programs and activities. This board meets the first Wednesday of each month at 7:00 p.m. Members serve two-year terms.

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Staff Liaisons:
Perry Vetter, Assistant City Manager Ph# 952-939-8216
Dave Johnson, Recreation Services Director, Ph# 952-939-8360
Planning Commission

Current Members

The planning commission assists and advises the city council in administration of the City Zoning Ordinance; conducts public hearings on matters as required by provisions of the zoning ordinance, subdivision ordinance, and any other matters referred by the council or by ordinance. Following the required public hearings, the planning commission makes its reports and recommendations to the city council and city manager. This commission is comprised of seven members who serve two-year terms. The meetings are generally held Thursday nights, twice a month at 6:30 p.m.

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Other Commission Members:
Loren Gordon - City of Minnetonka Staff Liaison Ph# 939-8296