City Council Agenda Item #13B  
Meeting of April 20, 2015

**Brief Description**  
Off-sale liquor licenses for Target Corporation, 4848 Co Rd 101

**Recommendation**  
Open the public hearing and continue to May 18, 2015

**Background**

The city has received an application from Target Corporation for an off-sale intoxicating liquor license, for use at 4848 Co Rd 101. SuperTarget opened in 2001 and currently holds a 3.2% malt beverage liquor license.

Target is investing in a full store remodel which includes an improved grocery area and proposed liquor store. The location of the liquor store would be in the front of the store in the former café area. The liquor store would have a separate entrance with no direct access to the retail store. (See pages A1-A4).

**Business Ownership**

Target Corporation is a publicly held company. No police background check will be performed as the corporation has already been approved for a liquor license. (Currently they hold a 3.2 license.)

**Business Operations**

The proposed hours of operation for the liquor store will be Monday to Friday, 9am-10pm, and Saturday, 8am-10pm. Target has not had a violation of selling to minors at the Minnetonka location. The original license was issued in 2002. Statewide, Target has not had any violations since 2008. Target does not participate in the Minnetonka Best Practices Program, but they have their own in-house program focusing on preventing underage sales. In addition, the point of sale (POS) system has three verification processes in place to determine if the transaction is appropriate.

**City Council Policy 6.1**

The city council has established a policy that will consider the following criteria prior to issuing liquor licenses:

Off-sale establishments provide intoxicating liquor that will be consumed in environments that are not monitored. An increase in the number of those outlets increases the access to liquor, contributes to public safety concerns, and detracts from the desired image of the city. Accordingly, the city council determines that the 12 off-sale intoxicating liquor licenses existing as of March 22, 2010 are
generally adequate to serve the city. However, the council reserves the right not to issue any license even if the number falls below 12. Despite this maximum number, the council will consider, but not necessarily approve, additional off sale intoxicating liquor licenses only if the council finds in its sole discretion that the business:

a. offers a distinctive specialty service, or is a small, complementary part of a new business, that would add positively to the experience of living and working in the city; or

b. is part of a redevelopment project in a village or regional center that is not currently served.

Currently, the council has approved 14 off-sale liquor licenses. Eleven of those licenses are full liquor stores, one is for Lucid Brewing, and the other two are for 3.2% malt beverage licenses which includes Target at 101. (See page A5).

**Recommendation**

Application information and license fees have been submitted. Staff recommends that the city council open the public hearing and continue the hearing to May 18, 2015.

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

Originated by:
  Kathy Leervig, Community Development Coordinator
LOCATION MAP

Target, 4848 Co Rd 101
Capacity Summary:
- 2835 Total SF
- 240 Total LF
- 300 SF Beer Cave
- 9 beer doors
Minnetonka exterior is not finalized, but will be similar to other locations.
City Council Agenda Item #14A
Meeting of April 20, 2015

Brief Description
Agreements related to the Green Line Extension (Southwest LRT)

Recommendation
Approve the revised agreements

Background

In February, the city council approved several agreement related to the Green Line Extension, including Subordinate Funding Agreements with the Metropolitan Council. The purpose of the agreements are to advance the design of the Locally Requested Capital Improvements (LRCIs), which are improvements above and beyond the baseline of the LRT project. The two LRCIs within the city of Minnetonka are the 17th Avenue extension and the infill Smetana station.

Subordinate Funding Agreements

Since the approvals in February, there has been further discussions on the Subordinate Funding Agreements—specifically concerning the environmental costs. These details have now been worked out between the city attorney and the Metropolitan Council. Since these changes are substantive, they require city council approval. Additionally, the infill Smetana station has been changed to the guideway profile adjustment to better articulate the work that will be completed, which is to design the light rail so that it does not preclude a station in the future. The use of infill Smetana station inferred that a station will be built with the project.

The subordinate funding agreements are for the design costs only. The design costs for the 17th Avenue extension will be paid out of the city’s Street Improvement Fund and the Smetana Station will be paid out of the Development Fund. The changes in costs since the original approvals in February are as follows:

<table>
<thead>
<tr>
<th>Project</th>
<th>Original cost breakout</th>
<th>Revised cost breakout</th>
</tr>
</thead>
<tbody>
<tr>
<td>17th Avenue Extension</td>
<td>Design costs $60,627 Admin fee $2,379 TOTAL: $63,006</td>
<td>Design costs $60,627 Environmental $18,675 Admin fee $2,379 TOTAL: $81,681</td>
</tr>
<tr>
<td>Smetana Station</td>
<td>Design costs $112,000 Admin fee $3,847 TOTAL: $132,078</td>
<td>Design costs $112,000 Environmental $16,231 Admin fee $3,847 TOTAL $132,078</td>
</tr>
</tbody>
</table>
If, after the design is completed, the city council chooses to have the Metropolitan Council construct these projects with the baseline LRT project, separate agreements will be brought back at a future meeting.

**Recommendation**

Staff recommends the city council approve the following agreements and authorize the mayor and city manager to execute the agreements, including subsequent non-material changes as approved by the city manager and community development director in a form acceptable to the city attorney:

1) Subordinate Funding Agreement with the Metropolitan Council for the 17th Avenue extension design and environmental work (pages A1 to A5).

2) Subordinate Funding Agreement with the Metropolitan Council for the Smetana station design and environmental work (pages A6 to A12).

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

Originated by:
- Elise Durbin, AICP, Community Development Supervisor
PROJECT: SOUTHWEST LIGHT RAIL TRANSIT PROJECT

MASTER AGREEMENT: Master Funding Agreement – City of Minnetonka

PARTIES TO AGREEMENT: • Metropolitan Council (“Council”)
• City of Minnetonka (“City”)

SUBORDINATE FUNDING AGREEMENT
City of Minnetonka - SFA 01 (Extension of 17th Avenue)

This Subordinate Funding Agreement (“SFA”) with the City of Minnetonka-01 is entered into by and between the above named Parties.

WHEREAS:

1. The Parties entered into a Southwest Light Rail Transit Project (“Project”) Master Funding Agreement (“MFA”), effective January 29, 2015.

2. The Parties provided in the MFA that certain aspects of funding for the Project or components related to but not part of the Project would be determined in subsequent SFAs.

3. The Parties desire to enter into this SFA to transfer City funds to reimburse the cost for Council activities for professional services and the Council’s administrative fee to produce design plans, and prepare a construction cost estimate, and complete required federal, state, and local environmental documentation for proposed components related to, but not part of the Project.

4. The Parties acknowledge that the planning of the Project will require numerous federal, state and local processes, approvals and funding commitments. The environmental review and other processes for the Project are ongoing and the Project is subject to change to address those processes. The outcomes of those processes may affect whether the components requested in this SFA will ultimately be constructed.

NOW, THEREFORE, in reliance on the statements in these recitals, the Parties hereby agree as follows:

1. Maximum Amount of Authorized Funding. The cost for the Council’s professional services and administration activities authorized by this SFA shall not exceed $63,006 81,681 unless authorized in a subsequent agreement or an amendment to this SFA. The Maximum Amount of Authorized Funding is subject to change as authorized in a subsequent agreement or amendment to this SFA based on additional environmental documentation, as reasonably determined necessary.
2. **SFA Budget.** The budget for the Council’s activities described in this SFA is provided as Exhibit A. City funds provided for this SFA may only be used for reimbursing the Council’s costs for activities directly incurred within the described Description of Activities and as detailed in the MFA.

3. **Description of Activities.** The activities to be performed by the Council and reimbursed by the City include the development of design plans, completing required federal, state, and local environmental documentation, and preparing a construction cost estimate to extend 17th Avenue from the southern roundabout to K-Tel Drive (“Extension”). See Exhibit B for a general depiction and location of the Extension. If authorized by the City, the Extension is anticipated to be constructed by the Project and includes pavement, sidewalks along both sides of the Extension, and installation of a 10-inch water main and an 8-inch sanitary sewer.

The Council will incorporate the Extension design plans as a bid alternate in the proposed Project construction bid documents if: a) the environmental review of the Project and the components described in this SFA allow the construction of the Extension; and b) the Project is permitted to proceed to construction. The Extension construction specifications will be incorporated in the overall specifications within the Project construction bid documents. No separate or stand alone specifications for the Extension design plans will be created.

After the Council selects a Project construction bid and the bid alternate is public, the City will determine whether or not to accept the bid alternate. If the City chooses to accept the bid alternate, the City is required to enter into a subsequent SFA authorizing the Council to construct the bid alternate and reimburse the Council’s costs.

4. **Environmental Documentation.** The Parties will be required to enter into a subsequent SFA that identifies the cost for the Council’s professional services to provide environmental documentation for the Extension. The subsequent SFA will describe terms requiring the City to reimburse the Council’s cost for environmental documentation and administration activities associated with the Extension. The Federal Transit Administration (“FTA”) is the Project’s lead federal agency under the National Environmental Policy Act of 1969 (“NEPA”) and the Council is the Responsible Governmental Unit under the Minnesota Environmental Policy Act of 1973 (“MEPA”). The FTA and the Council will complete the environmental review process for the Project, including the components described in this SFA proposed to be constructed as part of the Project. Notwithstanding any contrary language in the MFA or this SFA, the disclosure of draft environmental documents are subject to the Minnesota Government Data Practices Act, Minn. Statutes, Chapter 13, and applicable federal law and the Council in its sole discretion shall determine when such documents can or will be shared with the City.

5. **Release of Design Plans.** If the City does not enter into an SFA with the Council to construct the Extension along with the construction of the Project, but requests the Council to release the Extension design plans to the City for the purpose of current or future use of the plans, the Council shall release the design plans provided an amendment to this SFA or subsequent agreement is executed by the Parties to address indemnification, liability, claims, access, copyright, and related issues as a result of the release of the Extension design plans.
6. **Property Acquisition.** It is anticipated that property rights will need to be acquired to construct the proposed Extension. If it is necessary to acquire property rights for the Extension, subsequent agreements must address property access, acquisition, disposition, and other real property matters needed to construct the Extension beyond what is required to construct the Project.

7. **Project Activity Periods.** The term of this SFA shall be effective as of January 29, 2015 and shall terminate on the date all costs under this SFA have been reimbursed, unless terminated earlier by the Council consistent with the terms of the MFA. Notwithstanding the terms of this SFA or the MFA, the City agrees that it shall not terminate this SFA prior to the issuance of a Record of Decision (“ROD”) by the FTA. After issuance of the ROD, the City may terminate this SFA as provided in the MFA.

8. **No Guarantee of Construction.** This SFA describes terms requiring the City to reimburse the Council’s cost for design activities associated with the requested Extension. It does not guarantee that the Extension will satisfy environmental review or be constructed. The City and the Council acknowledge that nothing in this Agreement shall require the Council to take any action or make any decision that will prejudice or compromise any review or decision-making processes required under state and federal environmental review laws, regulations or rules. The Parties intend this Agreement to be interpreted consistent with statutory and other legal authorities, including but not limited to the Minnesota Environmental Policy Act (MEPA) and the National Environmental Policy Act (NEPA). The Parties agree that this SFA does not limit the alternatives or mitigative measures that the Council may undertake in the development and construction of the Project. The Council retains the right to make decisions and necessary approvals associated with Project requirements.

9. **Incorporation.** The terms, conditions, and definitions of the MFA are expressly incorporated into this SFA.

<table>
<thead>
<tr>
<th>CITY OF MINNETONKA</th>
<th>METROPOLITAN COUNCIL</th>
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<tbody>
<tr>
<td>By:__________________</td>
<td>By:__________________</td>
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<tr>
<td>Its:________________</td>
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<tr>
<td>Date:________________</td>
<td>Date:________________</td>
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</tbody>
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Its:________________ |
Date:________________ |

By:__________________
Its:________________ |
Date:________________ |
### Exhibit A
SFA Budget – Extension of 17th Avenue

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
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<tbody>
<tr>
<td>Professional Services</td>
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<tr>
<td>Design Cost</td>
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<tr>
<td>Environmental Documentation Cost¹</td>
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<td>Professional Services Subtotal</td>
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<td>Administrative Fee (3% of Professional Services)</td>
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<td><strong>Maximum Amount of Authorized Funding</strong></td>
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</table>

¹Additional environmental documentation (e.g., cultural resources survey, contaminated property investigation, etc.) may be required and authorized in a subsequent agreement or amending this SFA, as determined necessary.
Exhibit B
Extension of 17th Avenue
PROJECT: SOUTHWEST LIGHT RAIL TRANSIT PROJECT

MASTER AGREEMENT: Master Funding Agreement – City of Minnetonka

PARTIES TO AGREEMENT:
- Metropolitan Council (“Council”)
- City of Minnetonka (“City”)

SUBORDINATE FUNDING AGREEMENT
City of Minnetonka-02 – 02 (Guideway Profile Adjustment)

This Subordinate Funding Agreement (“SFA”) with the City of Minnetonka-02 is entered into by and between the above named Parties.

WHEREAS:

1. The Parties entered into a Southwest Light Rail Transit Project (“Project”) Master Funding Agreement (“MFA”), effective January 29, 2015.

2. The Parties provided in the MFA that certain aspects of funding for the Project or components related to but not part of the Project would be determined in subsequent SFAs. The Parties desire to enter into this SFA to transfer City funds to reimburse the cost for Council activities for professional services and the Council’s administrative fee to produce design plans and prepare a construction cost estimate, and complete required to enter into a subsequent SFA to address federal, state, and local environmental documentation for proposed components related to, but not part of the Project.

3. The Parties acknowledge that the planning of the Project will require numerous federal, state and local processes, approvals and funding commitments. The environmental review and other processes for the Project are ongoing and the Project is subject to change to address those processes. The outcomes of those processes may affect whether the components requested in this SFA will ultimately be constructed.

NOW, THEREFORE, in reliance on the statements in these recitals, the Parties hereby agree as follows:

1. **Maximum Amount of Authorized Funding.** The cost for the Council’s professional services and administration activities authorized by this SFA shall not exceed $163,175 unless authorized in a subsequent agreement or an amendment to this SFA. The Maximum Amount of
2. **SFA Budget.** The budget for the Council’s activities described in this SFA is provided as Exhibit A. City funds provided for this SFA may only be used for reimbursing the Council’s costs for activities directly incurred within the described Description of Activities and as detailed in the MFA.

3. **Description of Activities.** The activities to be performed by the Council and reimbursed by the City include the development of design plans, completing required federal, state, and local environmental documentation, and preparing a construction cost estimate to adjust the guideway profile to accommodate a future potential infill LRT Station at Smetana Road (“Guideway Profile Adjustment”). The proposed Guideway Profile Adjustment will require additional excavation and retaining walls. See Exhibit B for a general depiction and location of the Guideway Profile Adjustment. If authorized by the City, the Guideway Profile Adjustment is anticipated to be constructed by the Project.

The Council will incorporate the Guideway Profile Adjustment design plans as a bid alternate in the proposed Project construction bid documents if: a) the environmental review of the Project and the components described in this SFA allow the construction of the Guideway Profile Adjustment; and b) the Project is permitted to proceed to construction. The Guideway Profile Adjustment construction specifications will be incorporated in the overall specifications within the Project construction bid documents. No separate or stand alone specifications for the Guideway Profile Adjustment design plans will be created.

After the Council selects a Project construction bid and the bid alternate is public, the City will determine whether or not to accept the bid alternate. If the City chooses to accept the bid alternate, the City is required to enter into a subsequent SFA authorizing the Council to construct the bid alternate and reimburse the Council’s costs.

4. **Environmental Documentation.** The Parties will be required to enter into a subsequent SFA that identifies the Council’s professional services to provide environmental documentation for the Infill Station. The subsequent SFA will describe terms requiring the City to reimburse the Council’s cost for environmental documentation and administration activities associated with the Infill Station. The Federal Transit Administration (“FTA”) is the Project’s lead federal agency under the National Environmental Policy Act of 1969 (“NEPA”) and the Council is the Responsible Governmental Unit under the Minnesota Environmental Policy Act of 1973 (“MEPA”). The FTA and the Council will complete the environmental review process for the Project, including the components described in this SFA proposed to be constructed as part of the Project. Notwithstanding any contrary language in the MFA or this SFA, the disclosure of draft environmental documents are subject to the Minnesota Government Data Practices Act, Minn. Statutes, Chapter 13, and applicable federal law and the Council in its sole discretion shall determine when such documents can or will be shared with the City.

5. **Release of Design Plans.** If the City does not enter into an SFA with the Council to construct the Guideway Profile Adjustment along with the construction of the Project, but requests the Council to release the Guideway Profile Adjustment design plans to the City, then prior to their...
for the purpose of current or future use of the plans, the Council shall release the design plans
provided an amendment to this SFA or subsequent agreement is executed by the Parties to
address indemnification, liability, claims, access, copyright, and related issues as a result of the
release of the Guideway Profile Adjustment design plans.

6. **Property Acquisition.** If it is necessary to acquire property rights for the Guideway Profile
Adjustment, subsequent agreements must address property access, acquisition, disposition, and
other real property matters needed to construct the Guideway Profile Adjustment beyond what
is required to construct the Project.

7. **Project Activity Periods.** The term of this SFA shall be effective as of January 29, 2015 and
shall terminate on the date all costs under this SFA have been reimbursed, unless terminated
earlier consistent with the terms of the MFA.

8. **No Guarantee of Construction.** This SFA describes terms requiring the City to reimburse the
Council’s cost for design activities associated with the requested Guideway Profile Adjustment.
It does not guarantee that the Guideway Profile Adjustment will satisfy environmental review or
be constructed. The City and the Council acknowledge that nothing in this Agreement shall
require the Council to take any action or make any decision that will prejudice or compromise
any review or decision-making processes required under state and federal environmental review
laws, regulations or rules. The Parties intend this Agreement to be interpreted consistent with
statutory and other legal authorities, including but not limited to the Minnesota Environmental
Policy Act and the National Environmental Policy Act (MEPA and the NEPA). The Parties agree
that this SFA does not limit the alternatives or mitigative measures that the Council may
undertake in the development and construction of the Project. The Council retains the right to
make decisions and necessary approvals associated with Project requirements.

9. **Incorporation.** The terms, conditions, and definitions of the MFA are expressly incorporated
into this SFA.

**CITY OF MINNETONKA**

By: __________________________

Its: __________________________

Date: _________________________

**METROPOLITAN COUNCIL**

By: __________________________

Its: __________________________

Date: _________________________

By: __________________________

Its: __________________________

Date: _________________________
### Exhibit A

**SFA Budget – Smetana Road Infill Station\-\Guideway Profile Adjustment**

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional Services</td>
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<tr>
<td>Design Cost</td>
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<td>Environmental Documentation Cost(^{1})</td>
<td>$16,231</td>
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<tr>
<td>Professional Services Subtotal</td>
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<tr>
<td>Administrative Fee (3% of Professional Services)</td>
<td>$4,768$</td>
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<tr>
<td><strong>Maximum Amount of Authorized Funding</strong></td>
<td><strong>$163,715,132,078</strong></td>
</tr>
</tbody>
</table>

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\(^{1}\) Estimated cost
1 Additional environmental documentation (e.g., cultural resources survey, contaminated property investigation, etc.) may be required and authorized in a subsequent agreement or amending this SFA, as determined necessary.
Guideway Profile Adjustment

Locally Requested Capital Investment

LRCI #13 Minnetonka - Guideway Profile Adjustment
City Council Agenda Item #14B  
Meeting of April 20, 2015

Brief Description  
Resolution, ordinance, and motions approving items associated with reconstruction of County Road 101 from Highway 62 to Hutchins Drive and new construction at 5735 County Road 101:

- Floodplain alteration permit;
- Wetland rezoning;
- Wetland mitigation plan; and
- Tree removal/mitigation

Recommendation  
Adopt the resolution and ordinance and make appropriate motions

Background

In 2013, the city council approved a preliminary layout of the Highway 62 to Hutchins Drive County Road 101 reconstruction project. In 2014, the council approved final design and entered into a cooperative agreement with Hennepin County for the reconstruction. The project will include many safety and stormwater improvements, including: expanding the roadway from a two lane to a three lane section between Highway 62 and Excelsior Boulevard, replacement of traffic signals, installation of bike trails and sidewalks, relocation of the Clear Spring Elementary bus access, and construction of stormwater ponding areas.

Four items imbedded in the approved final design require separate city council action:

1) Floodplain alteration to accommodate a new culvert at the Purgatory Creek crossing and road widening north of Clear Spring Elementary School;

2) Wetland rezoning to accommodate the relocation of the bus access at Clear Spring Elementary School;

3) Use of Board of Water and Soil Resources (BWSR) Road Replacement Program Credits for wetland mitigation; and

4) Approval of road reconstruction project landscaping in lieu of tree mitigation for the required stormwater ponding and relocated bus access.

Planning Commission Hearing

The planning commission considered the various items at its meeting of April 9, 2015. The staff report from that meeting is attached and various plans and documents
describing the request may be found on pages A1–A5. At that meeting, a public hearing was opened to take comment; no comments were received.

Following the public hearing, the commission asked how closely city projects follow wetland mitigation and tree preservation ordinances. Staff noted that the city does a good job of meeting the standards. Nevertheless, recognizing that there may be certain constraints in the reconstruction of public infrastructure, flexibility is built into the ordinances for such projects.

**Planning Commission Recommendation**

On a 5-0 vote, the commission recommended that the city council approve the various requests. Meeting minutes may be found on pages A14–A15. There have been no changes to the proposal or additional information received since the planning commission’s meeting on this item.

**Staff Recommendation**

1. Adopt a resolution approving floodplain alteration – in conjunction with the County Road 101 reconstruction project – at 6016 and 5609 County Road 101. (See page A6–A10.)

2. Adopt the ordinance removing areas from the wetland overlay district at 5735 County Road 101 for relocation of the Clear Spring Elementary School bus access. (See pages A11–A13.)

3. Approve by motion use of BWSR Road Replacement Program Credits for wetland fill at 5735 County Road 101 for relocation of the Clear Spring Elementary School bus access.

4. Approve by motion road reconstruction project landscaping in lieu of tree mitigation for the required stormwater ponding and relocated bus access.

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

Originator:  Susan Thomas, AICP, Principal Planner
MINNETONKA PLANNING COMMISSION
April 9, 2015

Brief Description
Items concerning reconstruction of County Road 101 from Highway 62 to Hutchins Drive and associated new construction at 5735 County Road 101:

1) Floodplain alteration permit;
2) Wetland rezoning;
3) Wetland mitigation plan; and
4) Tree removal/mitigation

Recommendation
Recommend the city council approve the items

Background
In 2013, the city council approved a preliminary layout of the Highway 62 to Hutchins Drive County Road 101 reconstruction project. In 2014, the council approved final design and entered into a cooperative agreement with Hennepin County for the reconstruction. The project will include many safety and stormwater improvements, including: expanding the roadway from a two lane to a three lane section between Highway 62 and Excelsior Boulevard, replacement of traffic signals, installation of bike trails and sidewalks, relocation of the Clear Spring Elementary bus access, and construction of stormwater ponding areas.

Four items imbedded in the approved final design require separate city council action:

1) Floodplain alteration to accommodate a new culvert at the Purgatory Creek crossing and road widening north of Clear Spring Elementary School;
2) Wetland rezoning to accommodate the relocation of the bus access at Clear Spring Elementary School;
3) Use of Board of Water and Soil Resources (BWSR) Road Replacement Program Credits for wetland mitigation; and
4) Approval of road reconstruction project landscaping in lieu of tree mitigation for the required stormwater ponding and relocated bus access.

Staff Comment
Staff finds the previously outlined actions to be reasonable and appropriate components of the approved road reconstruction project.
1) **Floodplain:** Roughly 700 cubic yards of floodplain area will be altered for installation of the new culvert and increased road width. This alteration will be mitigated through creation of roughly 775 cubic yards of floodplain area within the roadway corridor. (See page A1–A3.)

2) **Wetland Rezoning:** The relocation of the bus access area will result in roughly 5,400 square feet of wetland fill and creation of 7,230 square feet of new stormwater storage area. (See page A1 and A4–A5.) Following construction, the area will technically function as a stormwater pond rather than as a wetland. The relocated access – and resulting wetland fill – is integrally tied to the safety improvements of the road reconstruction project. BWSR has reviewed and approved the wetland fill.

3) **Wetland Mitigation:** Wetland impact associated with the repair and rehabilitation of *existing* roadways is exempt from the mitigation requirements of the city's wetland ordinance. As the relocated bus access is a *new* roadway/drive, it is not exempt. The ordinance requires that filled wetland be re-created within the same subwatershed unless approved by the city council. BWSR has authorized the use of the BWSR Road Replacement Program Credits as mitigation for wetland impacts associated with both the reconstruction project and the relocated bus access. However, as the credits would “purchase” wetland area outside of the subwatershed, the council must approve the use of these credits for the bus access.

4) **Tree Removal:** The reconstruction project will result in tree removal within the roadway corridor for both roadway expansion and creation of required stormwater ponding areas. The relocated bus access will also result in tree removal. The tree ordinance requires mitigation of trees removed for stormwater ponding or outside the “basic tree removal area,” unless approved by the council. As defined under the ordinance, mitigation rates of “one-to-one” or “inch-for-inch” will not occur as part of the County Road 101 reconstruction. However, new plantings will be done within the corridor following completion project. The landscaping budget for the project is nearly $150,000.

Given the current layout of the roadway, some level of floodplain alteration, wetland impact, and tree removal was anticipated at the time of preliminary and final design. It is only after final design that specific volumes/numbers can be determined. Therefore, it is only after final design that the specific alteration permits and rezoning requests have been made. Construction is scheduled to begin in 2015.

**Staff Recommendation**

Recommend the city council

1) Adopt a resolution approving floodplain alteration – in conjunction with the County Road 101 reconstruction project – at 6016 and 5609 County Road 101. (See page A6–A10.)
2) Adopt the ordinance removing areas from the wetland overlay district at 5735 County Road 101 for relocation of the Clear Spring Elementary School bus access. (See pages A11–A13.)

3) Approve by motion use of BWSR Road Replacement Program Credits for wetland fill at 5735 County Road 101 for relocation of the Clear Spring Elementary School bus access.

4) Approve by motion road reconstruction project landscaping in lieu of tree mitigation for the required stormwater ponding and relocated bus access.
**Supporting Information**

**Wetland Exemption**

By city code, wetland impact associated with the repair and rehabilitation of *existing* roadways is exempt from the requirements of the wetland ordinance. However, as the new bus access is not existing, the wetland ordinance applies:

- By City Code §300.23 Subd. 9 wetland area may be filled – or removed from wetland overlay zoning district – only by a rezoning.

- By City Code §300.23 Subd. 10(c) wetland impact must be mitigated at a 1:1 ratio within the same watershed of the wetland being altered, unless otherwise approved by the city council.

**Wetland Mitigation**

While city code has a wetland impact exemption for *existing* roadways, the wetland conservation act (WCA) does not. Under WCA wetland impact must be mitigated at a 2:1 ratio. The repair and rehabilitation of the County Road 101 project will result in some wetland impact throughout the roadway corridor. Given the safety improvements resulting from this wetland impact, the Board of Soil and Water Resources (BWSR) has allowed the purchase of Road Replacement Program credits to ensure compliance with the WCA mitigation standard. BWSR considered the relocation of the bus access as contributing to the County Road 101 safety improvements and included it in the purchase of program credits approval.

As these credits would be located outside of the watershed, the city council must approve the use of the Road Replacement Program credits for the new bus access area. This approval is an action separate from the wetland rezoning and may be adopted at the time the rezoning is formally considered by the council.

**Bus Access**

As part of the county road project, the Clear Spring Elementary School bus access will be relocated to Covington Road; the city has acquired a portion of the property on which the drive will be located. By separating bus and automobile traffic, the relocated access is intended to simplify site circulation and improve safety. The preliminary design of the access was approved by the council in August 2013. Under final design, an existing wetland must be filled and a larger ponding area must be created to accommodate the bus access and associated ponding requirements. This
ponding area will be constructed within a drainage and utility easement on private property.
CSAH 101 Improvements
S.A.P 27-701-019 | County Project No. 9917
From CSAH 62 to Hutchins Drive - Minnetonka, Minnesota
PRELIMINARY LAYOUT - SUBJECT TO CHANGE
Last Revision: August 7, 2013

Floodplain Alteration
Wetland to be removed

CO RD 101
Reconstruction Project
Floodplain, Wetland, Trees
CSAH 101 Improvements - County Project No. 9917
From CSAH 62 to Hutchins Drive - Hennepin County, Minnesota

Date: March 9, 2015

Floodplain Impacts: 1,433 sq ft Fill, 26 cu yd Fill

Drainage Area:
Pre - 3,683 sq ft impervious from CSAH 101
131,277 sq ft pervious

Post - 0 sq ft impervious from CSAH 101
117,296 sq ft pervious
Wetland to be removed
Wetland A
(Impacts: 7,238 sq ft Excavation, 5,466 sq ft Fill, 12,644 sq ft total)
(Impacts: 547 cu yd Fill)
Resolution No. 2015-

Resolution approving a floodplain alteration permit – in conjunction with the County Road 101 reconstruction project – at 6016 and 5609 County Road 101

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

Section 1. Background.

1.01 As part of the County Road 101 reconstruction project floodplain alteration is necessary to accommodate: (1) a new culvert at the Purgatory Creek crossing generally located at 6016 County Road 101; and (2) road widening north of Clear Spring Elementary School, generally located at 5609 County Road 101.

1.02 The areas to be altered are depicted on Exhibits A and B of this resolution.

1.03 On April 9, 2015, the planning commission held a hearing on the alteration. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended the city council approve the permit.

Section 2. General Standards.

2.01 City Code §300.24 Subd. 9(c), states that in reviewing alteration permits, the city will consider whether general standards are met. These standards are incorporated by reference into this resolution.

2.02 City Code §300.24 Subd. 9(d), states that an alteration permit will not be granted unless certain specific standards are met. These standards are incorporated by reference into this resolution.

Section 3. Findings.

3.01 The proposed alteration would meet the general standards outlined in City Code §300.24 Subd. 9(c):
1. The alteration area would be relatively small given the large floodplain area within the roadway corridor.

2. The alteration would not increase buildable area of either property.

3. The alteration would not negatively impact the hydrology of the floodplain, given the small area of fill relative to the larger area.

4. The floodplain mitigation area would not negatively impact adjacent properties.

5. The alteration would meet the intent of the city's water resources management plan and the subdivision and zoning ordinances.

6. The alteration would not adversely impact governmental facilities, utilities, services or existing or proposed public improvements.

7. The alteration would not have an undue adverse impact on the public health, safety or welfare.

3.02 The proposal would meet the specific standards outlined in City Code §300.24 Subd. 9(d):

1. Adequate water storage would be maintained and provided in an amount at least equal to that filled.

2. No floodplain would be filled for the purpose of creating buildable area.

Section 4. City Council Action.

4.01 The city council hereby approves the above described floodplain alteration permit based on the findings outlined in section 3 of this resolution.

4.02 As provided for under City Code §300.24 Subd. 9(d), the city council hereby allows the removal of regulated trees in conjunction with the floodplain alteration permit.

4.03 Approval is subject to the following conditions:

1. Subject to staff approval, the floodplain alteration must occur in substantial conformance with Exhibits A and B of this resolution.

2. No wetland impact is allowed for the creation of floodplain.
Adopted by the City Council of the City of Minnetonka, Minnesota, on April 20, 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 April 20, 2015.

______________________________
David E. Maeda, City Clerk
CSAH 101 Improvements - County Project No. 9917
From CSAH 62 to Hutchins Drive - Hennepin County, Minnesota

Floodplain 2

LEGEND

- Floodplain Impacts: 1,433 sq ft Fill, 26 cu yd Fill

Drainage Area:
Pre - 3,683 sq ft impervious from CSAH 101
131,277 sq ft pervious

Post - 0 sq ft impervious from CSAH 101
117,296 sq ft pervious
Ordinance No. 2015-

An ordinance removing area from the wetland overlay district at 5735 County Road 101 for relocation of the Clear Spring Elementary School bus access

The City Of Minnetonka Ordains:

Section 1. Background

1.01 As part of the County Road 101 reconstruction project the bus access to Clear Spring Elementary School will be relocated to the property at 5735 County Road 101. An existing wetland must be filled and a larger ponding area must be created to accommodate the relocated access and associated ponding requirements.

1.02 The property to be removed from the overlay district is depicted on Exhibit A of this ordinance.

Section 2. Findings

2.01 The removal of the area from the overlay district would not compromise the public health, safety, and welfare.

2.02 The removal of area from the overlay district would be consistent with the intent of the code and the comprehensive plan.

1. The wetland ordinance recognizes that the reconstruction of existing public roads may be necessary to improve functionality and safety and, therefore, exempts such reconstruction. Because the bus access is not existing, this exemption does not apply. However, the relocation of the bus access – and resulting wetland fill – is directly related to reconstruction of an existing road. It would improve the functionality and safety of the county road.

2. One of the primary transportation-oriented community values outlined in the comprehensive plan is to “enhance resident and business mobility with quality roads and transit.” The relocation of the bus access – and resulting wetland fill – is directly related to reconstruction of an existing road. It would improve the functionality and safety of the county road, thereby enhancing mobility.
Section 3. Action

3.01 The existing wetland area at 5734 County Road 101 is hereby removed from the wetland overlay zoning district.

3.02 This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on April 20, 2015.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this ordinance:

Date of introduction: March 23, 2015
Date of adoption: 
Motion for adoption: 
Seconded by: 
Voted in favor of: 
Voted against: 
Abstained: 
Absent: 
Ordinance adopted.

Date of publication:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on April 20, 2015.

David E. Maeda, City Clerk
EXHIBIT A

AREA TO BE REMOVED FROM WETLAND OVERLAY DISTRICT
Magney, Odland, Calvert, Knight, and Kirk voted yes. O’Connell and Rettew were absent. Motion carried.

Chair Kirk stated that the item is tentatively scheduled to be reviewed by the city council at its April 20, 2015 meeting.

C. Items concerning reconstruction of County Road 101 from Highway 62 to Hutchins Drive and associated new construction at 5735 County Road 101.

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

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

Calvert confirmed with Thomas that the floodplain alteration/mitigation amounts.

Chair Kirk asked how closely the city’s projects follow wetland mitigation and tree preservation ordinances. Thomas explained that the city’s ordinances provide allowances to replace public infrastructure. The proposal is being reviewed by the planning commission and city council because a developer would be required to go through the same review process. Colleran agreed. Additionally, the city does a good job of meeting the standards. The state law allows road credits to mitigate for impacts created by a roadway. It is up to the city council to agree that the wetlands could be replaced somewhere else as allowed by banking credits. That would be true of any other applicant. She provided Cantera Woods as an example. The applicant purchased wetland bank credits and mitigated wetland alteration with a previously created wetland. The city holds itself to the same standard, but recognizes that public infrastructure and facilities have more constraints, so flexibility is built into the ordinances.

Chair Kirk noted that the state and watershed district are two regulatory agencies that make sure that the city is following the rules. Colleran answered affirmatively. The Wetland Conservation Act is state law. The Board of Water and Soil Resources oversees that enforcement. There are also checks and balances done by the watershed districts.

Chair Kirk attested that curb and gutter improvements positively impact the control of an area’s runoff. He supports all of it.

Colleran explained that city ordinance allows private property owners to remove trees within a basic tree-removal area within the structure pad and 20 feet from
the structure and 10 feet from a parking lot or driveway. The same is true for a city application. Anything beyond that loss requires mitigation. That would be true for any applicant.

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

**Odland moved, second by Knight, to recommend that the city council:**

1. Adopt a resolution approving a floodplain alteration in conjunction with the County Road 101 reconstruction project at 6016 and 5609 County Road 101 (see page A6-A10).

2. Adopt the ordinance removing areas from the wetland overlay district at 5735 County Road 101 for relocation of the Clear Spring Elementary School bus access (see pages A11-A13).

3. Approve by motion use of BWSR Road Replacement Program Credits for wetland fill at 5735 County Road 101 relocation of the Clear Spring Elementary School bus access.

4. Approve by motion road reconstruction project landscaping in lieu of tree mitigation for the required stormwater ponding and relocated bus access.

**Magney, Odland, Calvert, Knight, and Kirk voted yes. O'Connell and Rettew were absent. Motion carried.**

Chair Kirk stated that the item is tentatively scheduled to be reviewed by the city council at its April 20, 2015 meeting.

9. **Adjournment**

**Odland moved, second by Knight, to adjourn the meeting at 7:28 p.m. Motion carried unanimously.**

By: __________________________

Lois T. Mason
Planning Secretary
City Council Agenda Item #14C
Meeting of April 20, 2015

**Brief Description**
Items concerning construction of a new convenience store/gas station at 3864 Hopkins Crossroad:

1) Conditional use permit;
2) Final site and building plans, with setback variance; and
3) Monument sign variance.

**Recommendation**
Adopt the resolutions approving the conditional use permit and final site and building plans, and denying the sign variance.

**Proposal Summary**

Croix Oil Company is proposing to redevelop the property at 3864 Hopkins Crossroad. The existing gas station was constructed on the site in 1967. As proposed, the existing station would be demolished and a new station constructed. The proposed gas station would have a north/south orientation and would include a 4,500 square foot convenience store and five, canopied gas pump islands. The building façade would be comprised of brick and EIFS components. The façade of the adjacent car wash, which was constructed in 2004, would also be updated to complement the new gas station.

**Planning Commission Hearing**

The planning commission considered the proposed redevelopment on April 9, 2015. The staff report from that meeting is attached and various plans and documents describing the proposed project may be found on pages A1–A27. At that meeting, a public hearing was opened to take comment; no comments were received.

Following the public hearing, the commission asked general questions regarding access to the site. Staff noted that all access points would remain the same.

**Planning Commission Recommendation**

On a 5-0 vote, the commission recommended that the city council approve the conditional use permit and site and building plan review, and deny the sign variance. Meeting minutes may be found on pages A48–A50. 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 following:

1. Resolution approving a conditional use permit for a “non-service station retail facility having gasoline pumps” at 3864 Hopkins Crossroad. (See pages A29–A34.)

2. Resolution approving final site and building plans, with setback variance, for a “non-service station retail facility having gasoline pumps” at 3864 Hopkins Crossroad. (See pages A35–A43.)

3. Resolution denying a variance to allow copy and graphic, dynamic display, and monument areas exceeding city code allowances on a monument sign at 3864 Hopkins Crossroad. (See pages A44–A47.)

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

Originator: Susan Thomas, AICP, Principal Planner
Brief Description

Items concerning construction of a new convenience store/gas station at 3864 Hopkins Crossroad:

1) Conditional use permit;
2) Final site and building plans, with setback variance; and
3) Monument sign variance.

Recommendation

Recommend the city council approve the conditional use permit and final site and building plans, and deny the sign variance.

Introduction

Croix Oil Company is proposing to redevelop the property at 3864 Hopkins Crossroad. As proposed, the existing gas station would demolished and a new convenience store/gas station would be constructed. (See pages A1–A10.)

Proposal Summary

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

- **Existing Station**

  The existing gas station was constructed in 1967 and met the zoning ordinance standards of the time. Those standards have changed significantly over the last 48 years and the station is now considered non-conforming. The station has an east/west orientation and is comprised of a roughly 1,800 square foot convenience store and four gas pump islands. (See pages A1 and A4.) A car wash was approved and constructed in 2004 following relocation of Minnetonka Mills Road. The station and car wash are technically located on two separate properties. (See page A5.)

- **Proposed Station**

  The proposed gas station would have a north/south orientation and would include a 4,500 square foot convenience store and five, canopied gas pump islands. The building façade would be comprised of brick and EIFS components. The building and canopy area would meet or exceed all but one zoning requirement. (See pages A6–A10.)
As part of the redevelopment, the façade of the existing car wash building would be upgraded to complement the façade of the new convenience store. No other changes would be made to the car wash.

- Proposed Signs

In conjunction with redevelopment of the gas station, the applicant is proposing new wall and freestanding signs. The proposed permanent wall signs would meet the standards of the sign ordinance and may be approved administratively through the sign permit application process. The proposed monument sign requires a variance to exceeding the size and dynamic display allowances of the ordinance. (See page A23.)
Primary Questions and Analysis

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

- **Is redevelopment of the site generally appropriate?**
  Yes. Redevelopment of the property as a gas station is appropriate for several reasons:

  1) The property’s location at the intersection of two major roadways is well suited for a gas station. This is “proven” by the fact that a viable station has occupied the site for nearly 50 years.

  2) The gas station use would meet all conditional use permit standards as outlined in the zoning ordinance. These standards may be found in the “Supporting Information” section of this report.

  3) The redevelopment would aesthetically improve both the property and the intersection.

- **Is the proposed site design, with setback variance, reasonable?**
  Yes. The proposed site design, including the requested side yard setback variance, is reasonable.

  1) The proposed location of convenience store and gas pump islands would result in an intuitive and appropriate circulation pattern on the site.

  2) It would not be possible to construct a gas station that would both meet the required side yard setback and maintain appropriate circulation patterns within the site.

  3) The proposed convenience store building would not encroach further into the required setback than the existing, non-conforming building.

- **Is the requested monument sign variance reasonable?**
  No. As the gas station and car wash are technically located on two separate properties, each would be allowed a monument sign by city code. The applicant’s intent is to essentially “combine” the code allowance of the separate monument signs. (See the “Supporting Information” section of this report.) While staff understands the intent, and the desire to maximize exposure/advertising, there is
nothing inherently unique about the property what would justify a variance or warrant approval of an individual sign plan.

Staff Recommendation

Recommend that the city council adopt:

1. Resolution approving a conditional use permit for a “non-service station retail facility having gasoline pumps” at 3864 Hopkins Crossroad. (See pages A29–A34.)

2. Resolution approving final site and building plans, with setback variance, for a “non-service station retail facility having gasoline pumps” at 3864 Hopkins Crossroad. (See pages A35–A43.)

3. Resolution denying variance to allow for copy and graphic, dynamic display, and monument areas exceeding city code allowances on a monument sign at 3864 Hopkins Crossroad. (See pages A44–A47.)

Originator: Susan Thomas, AICP, Principal Planner
Through: Loren Gordon, AICP, City Planner
Supporting Information

<table>
<thead>
<tr>
<th>Surrounding Land Uses</th>
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<tbody>
<tr>
<td>Northerly: Minnetonka Mills Road, office building beyond</td>
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<tr>
<td>Easterly: Hopkins Crossroad, commercial building beyond</td>
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<td>Southerly: State Highway 7, service building beyond</td>
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<td>Westerly: Perkins Restaurant</td>
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<table>
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<tr>
<th>Planning</th>
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<tbody>
<tr>
<td>Guide Plan designation: Commercial</td>
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<tr>
<td>Existing Zoning: B-2, limited business</td>
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<tr>
<th>City Actions</th>
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<tbody>
<tr>
<td>The applicant’s proposal requires the following city actions:</td>
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</table>

- **Conditional Use Permit.** By City Code §300.18 Subd.4(c), “non-service station retail facilities having gasoline pumps” are conditionally permitted uses in the B-2 zoning district. At the time of its construction, the existing gas station was zoned B-4 – a zoning category no longer used in the city. Gas stations were permitted uses in the B-4 zoning district.

- **Site and Building Plan Review, with setback variance.** By City Code §300.27 Subd.2(a), site and building plan review is required for construction of any new commercial building. By City Code §300.18 Subd.5(c), the proposed convenience store building must be set back 35 feet from the west property line. The proposed setback is 9 feet.

- **Sign Variance.** City Code §300.30 outlines the maximum copy and graphic, dynamic display, and total monument areas for monument signs located on commercial property. The proposed sign exceeds these allowable areas.

<table>
<thead>
<tr>
<th>CUP Standards</th>
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<tbody>
<tr>
<td>The proposed gas station use of the site would meet the general and specific conditional use permit standards as outlined in City Code §300.18:</td>
<td></td>
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</table>

**General Standards**

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

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

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

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

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

Specific Standards

1) No vehicles which are unlicensed and inoperable shall be stored on premises;

**Finding:** No such storage is contemplated by the owner. However, this has been included as a condition of approval.

2) No repair, assembly or disassembly of vehicles;

**Finding:** No repair, assembly or disassembly of vehicles is contemplated by the owner. However, this has been included as a condition of approval.

3) Gasoline pumps, stacking lanes or access drives shall not be located adjacent to low density residential properties unless separated from the low-density property by the principal structure or shall be screened from views from mid or high-density residential parcels, as designated in the city's land use plan;

**Finding:** The closest low-density residential property is located over 300 feet from the subject property. This area, and nearby medium-density residential areas, are separated from the existing gas station site by a public street and other non-residential buildings.

4) No public address system shall be audible from any residential parcel;

**Finding:** This has been included as a condition of approval.
5) Stacking for gas pumps shall be provided for at least one car beyond the pump island in each direction in which access can be gained to the pump. The required stacking shall not interfere with internal circulation patterns or with designated parking areas and shall not be permitted in any public right-of-way, private access easement or within the required parking setback;

**Finding:** The gas pumps would be appropriately located, meeting this requirement. (See page A12.)

6) No sales, storage or display of used automobiles;

**Finding:** No sales, storage or display of used automobiles is contemplated by the owner. However, this has been included as a condition of approval.

7) Shall be screened from adjacent residential areas;

**Finding:** The closest low-density residential property is located over 300 feet from the subject property. This area, and nearby medium-density residential areas, are separated from the existing gas station site by a public street and other non-residential buildings.

8) All canopy lighting shall be recessed lighting, flush mounted with canopy ceiling and having a flat glass lens; and

**Finding:** This property owner intends to install such lighting. Nevertheless, this has been included as a condition of approval.

9) Canopies shall be set back at least 20 feet from all property lines, but in no case shall the setbacks be less than 30 feet from land that the city’s land use plan designates for residential use.

**Finding:** The proposed canopy would exceed this setback requirement.

**SBP Standards**

The proposed convenience store/gas station use of the site would meet the 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:** Members of the city’s legal, community development, engineering, fire, and public works staff have reviewed the proposal and find that it is generally consistent with the city’s development guides.

2) Consistency with this ordinance;

**Finding:** Aside from the requested setback variance, the proposal would meet all ordinance standards.

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

**Finding:** The subject property is fully developed, with no area in a “natural state.” As required by code, the proposal would add landscaping on the site.

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

**Finding:** The subject property is fully developed, with no area in a “natural state” and little open space. As required by code, the proposal would add landscaping to the site.

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

   a. an internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors and the general community;
   
   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: The redevelopment of the existing site would improve vehicular and pedestrian circulation patterns, while aesthetically improving both the property and the intersection.

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: As new construction, the building would include code-required energy efficiencies, including installation of LED canopy lighting.

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

Finding: The proposal would allow for continued use of a site that has long been used as a gas station. It would not negatively impact adjacent properties or the neighboring area.

Variance Standards

The requested side yard setback variance would meet the variance standards as outlined in City Code §300.07 Subd.1(a) and Minnesota Statute §462.357 Subd. 6:

1) **Purpose and Intent:** The intent of the commercial side yard setback requirement is to ensure adequate separation between commercial buildings for aesthetic and safety purposes. The proposed nine foot setback would meet this intent. It would allow for redevelopment
resulting in: (1) aesthetic enhancement of the site and intersection; (2) intuitive and appropriate on-site circulation patterns; and (3) new construction with a fire suppression system.

2) **Consistency with Comprehensive Plan:** The comprehensive plan notes that in making decisions the city will be guided by certain principles. One such principal is that the city will support existing businesses and their reasonable expansion to remain competitive in the region. The requested variance is consistent with this principal; it allows for redevelopment of, and investment in, an existing commercial site and business.

3) **Practical Difficulties:**

a. **Reasonableness and Character of Locality:** The proposed 9 foot setback is reasonable.

   1. The proposed building would not encroach further to the required setback than the existing building.

   2. Though the proposed redevelopment would aesthetically improve the subject property and the intersection – positively impacting the character of the locality, the requested setback variance itself would not impact area character.

b. **Unique Circumstance:** The property’s location at the intersection of two major roadways is well suited for a gas station. This is “proven” by the fact that a viable station has occupied the site for nearly 50 years. However, it would be not be possible to construct a new gas station on the site that would both meet the required side yard setback and maintain appropriate circulation patterns within the site. In combination, this long standing use and difficulty in redeveloping the use under current requirements presents a unique circumstance.

The requested sign variance would not meet the variance standard as outlined in City Code §300.07 Subd.1(a) and Minnesota Statute §462.357 Subd. 6:
1) **Purpose and Intent:** The intent of the city’s sign ordinance is to provide for effective communication and identification while maintaining a high aesthetic standard. The maximum copy and graphic, dynamic display, and monument areas were established in code to achieve that intent. Given the subject property's location at the intersection of two major roadways, effective communication/identification can be achieved by a code-compliant monument sign. The proposed sign goes beyond this intent seeking maximum communication/identification.

2) **Unique Circumstance:** There is no unique circumstance inherent to the property justifying a sign with larger areas than allowed by city code. In fact, situated at the intersection of two major roadways, the property is highly visible to the traveling public.

**Stormwater**

Under current conditions, there are no existing stormwater management practices on the gas station site. Under proposed conditions, a new, private storm sewer system would capture runoff from the site and direct it to an underground filtration facility. This facility would ultimately outlet to the city’s storm sewer system.

The city’s water resources engineer has reviewed the stormwater management plan and finds it to be generally acceptable. The plans would meet the standards of the city’s Water Resources Management Plan, incorporating rate control, volume control, and water quality treatment.

**Signs**

The intent of the applicants sign proposal is to combine the code allowance for the gas station and car wash properties into one monument sign.

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<thead>
<tr>
<th></th>
<th>ALLOWED</th>
<th>Proposed</th>
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<tbody>
<tr>
<td></td>
<td>Station Property</td>
<td>Car Wash Property</td>
</tr>
<tr>
<td>Wall Sign</td>
<td>150 sq.ft.</td>
<td>150 sq.ft.</td>
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<tr>
<td>Monument Sign</td>
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<tr>
<td>Copy Area</td>
<td>60 sq.ft.</td>
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<tr>
<td>Dynamic Area</td>
<td>21 sq.ft.</td>
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<tr>
<td>Total Area</td>
<td>90 sq.ft.</td>
<td>90 sq.ft.</td>
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</table>
The applicant has provided renderings of signs that would be permitted by city code on both the convenience store/gas station and car wash sites. (See pages A25–A27.)

**Motion Options**

The planning commission has four options:

1. Concur with the staff recommendation. In this case a motion should be made recommending the city council adopt the resolutions approving the conditional use permit and site and building plan, and denying the sign variance.

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

3. Concur with some of staff's recommendations and disagree with the others. In this case a motion should be made recommending approval of the some and denial of the others. This motion must include a statement as to why denial is recommended.

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

**Pyramid of Discretion**

![Pyramid of Discretion Diagram]

**Neighborhood Comments**

In addition to various outside agencies, notices were sent to 61 area property owners. The city has received no comments to date.

**Deadline for Action**

July 7, 2015
Location Map

Project: Croix Oil Company
Address: 3864 Hopkins Crossroad (86088.15a)
Combined Written Statement  
Raze and Rebuild Project  
3864 Hopkin Crossroad, Minnetonka, MN 55343  

Items Covered by Written Statement:  
Site and Building Plan Application  
Conditional Use Permit Application  
Variance Application  
Sign Plan Review Application  

Introduction:  
The parcel of real estate located at 3864 Hopkins Crossroad, Minnetonka, MN 55343, is currently utilized as a small convenience store with Mobil-branded fuel. The intended use, after construction of the project described in the Conditional Use Application, the Variance Application, the Site and Building Plan Review Application and the Sign Plan Review Application, will remain unchanged. The purpose of our project is to demolish the current convenience store, fuel dispensing area (including canopy), and underground petroleum storage tank system and build a new convenience store with fuel. The redeveloped property will have Circle K branding for the convenience store and Mobil-branded fuel. Although relatively new to Minnesota, Circle K is one of the largest convenience store brands in the world and is currently growing in the Minnesota market. The raze and rebuild project being proposed by Croix Oil Company will serve as a Circle K showpiece in the Twin Cities market, being the first ground-up Circle K in Minnesota. Given the age of the current improvements located at the site and Croix Oil Company’s commitment to building a first-class facility, this project will significantly upgrade the appearance of the property which sits at the gateway to the City of Minnetonka.  

Conditional Use Permit and Site and Building Plan Review:  
As stated above, the use of the property will be that of a convenience store with fuel. Such use is identical to the current use and a conditional use under the Minnetonka Zoning Code. In working with City Staff, Croix Oil Company is committed to complying with all relevant conditional use permit standards contained in the zoning code (except to the extent variances are requested in conjunction with this submittal).  

Variance on Setbacks  
The proposed project cannot be completed without a variance to the setbacks. The back wall of the current building is located 8.5 feet from the property line (at its closest point). The project proposes a new building that will be located approximately the same distance from the rear property line. The primary difference between the current building and the proposed building is that the proposed building will be longer. As such, the rear setback variance being requested does not significantly alter the current imposition of the building into the applicable setback.  
The front and side setback variances being requested relate to the corners of the canopy. As outlined in the Practical Difficulties Worksheet related to this variance request, in order to minimize the setback encroachments, Croix Oil Company has reduced the width of the proposed canopy from 30 feet to 24 feet and reduced the number of dispenser islands from six to five.
Also, as mentioned in the Practical Difficulties Worksheet, the encroachment into the side setback caused by the canopy is encroaching toward another parcel of property owned by Croix Oil Company.

The foregoing variance requests, demonstrate that this project simply cannot be completed in the absence of the setback variances. In an effort to minimize the setback variances required, Croix Oil Company has chosen a building shape that is narrow from front to back, reduced the number of dispenser islands and reduced the canopy size. The circumstances giving rise to the variance request are the unique shape of the parcel, the size of the parcel and the existence of public easements (two right-of-way easements and one utility easement) along three of four sides of the property.

Sign Plan Review and Variance for Sign

A Sign Plan Review Application is being submitted for the purpose of requesting an individualized sign package. The overall signage proposal being requested has three elements: 1) the combination of two adjacent properties owned by Croix Oil Company into one sign package (the project property and the property located at 11208 Minnetonka Mills Road currently being utilized as a car wash); 2) a single monument-style ID/price sign ("ID Sign") that is larger than the standard size allowed by the applicable Code provisions (and which will identify the business activities of both properties); and 3) total building signage that is less than allowed on two properties (i.e. we will utilize less than 150 sq. ft. over both properties).

Croix Oil Company is requesting an ID Sign that will have 97.14 square feet of copy and graphics (per side) and 143.02 square feet in total size (per side). The normal maximum ID/price sign size allowed is 60 square feet of copy and graphics (per side) and 90 square feet in total size (150% of the copy and graphic area). The proposed ID Sign is 13.28 feet in height, which is within the maximum height specified by the applicable zoning code provisions (which is fifteen feet).

In requesting the size variation on the ID Sign, Croix Oil Company is willing to agree to have one ID sign for both the convenience store property and the car wash property and is willing to commit to a total building sign square footage of 146.34 combined for both parcels of property rather than 150 square feet per parcel (i.e. 300 square feet total). In addition, Croix Oil Company would locate the ID Sign a distance of approximately 17.5 feet from the front property line and 31.5 feet from the curb of Hopkins Crossroad. As such, the ID Sign will be further off the right-of-way than required. Finally, the proposed location for the ID Sign is further from the corner of Hopkins Crossroad and Highway 7 than the location of our current ID sign. The net effect of the foregoing concessions is that there will be less overall signage than allowed by the zoning code on the two properties owned by Croix Oil Company and that the ID Sign will be located in a manner that will reduce the appearance of clutter near the various rights-of-way.

Why the City Should Approve this Project:

The City should approve this project because it will significantly upgrade the property facilities and appearance while preserving the current use. Given that this property is located at one of the gateways to the City, this project will enhance the appearance of the City of Minnetonka as a whole.
LEGAL DESCRIPTION

PARCEL 3:

This parcel is the north half of the north half of the northwest quarter of Section 18, Township 96 North, Range 49 West of the 4th Principal Meridian, located in the City of Hopkins, Hennepin County, Minnesota. The property is bounded on the north by the 110th Avenue West, on the east by the 26th Avenue South, on the west by the 109th Avenue West, and on the south by the 27th Avenue South.

NOTES CORRESPONDING TO SCHEDULE B:

1. The survey of the parcel is to be performed by an independent surveyor.
2. The survey shall be conclusive and final, and all parties shall have the right to rely on it.
3. The survey shall be completed within 30 days from the date of issuance.

GENERAL NOTES:

1. The survey plan is attached and certified.
2. The property is subject to all applicable laws and regulations.
3. The survey plan shall be used for the purpose of determining the boundary lines.
4. The survey plan is for reference only and shall not be used for legal purposes.

BOUNDARY AND TOPOGRAPHICAL SURVEY

Site: Croix Oil Company

Hennepin County

Harry & Johnson Co. Inc.
Land Surveyors

3600 Lyndale Avenue South
Burnsville, MN 55337
(952) 935-7800
Fax: (952) 935-7801
www.harryjohnson.com

JANUARY 2014

Scale: 1 Inch = 30 Feet

Plot Number: 361056

20140107

1 Of 1
PROOF OF PARKING
CONSTRUCTION NOTE
Construction fencing to be marked around entire construction area. Contractors will share for fencing and gate tampering and unauthorized signage placement.

LAYOUT NOTES:
1. PLAN PREPARED FROM AN ALTA/AJDS LAND TITLE SURVEY BY
   HARRY B. JOHNSON CO., INC. LAND SURVEYORS
   7453 ULYSSES AVENUE SOUTH
   EDINA, MINNESOTA 55435
   (612) 964-5251
2. CURBS ARE EXTENDED TO FACE OF CURB.
3. CONCRETE SIDEWALKS AND ISLAND CEMENTS ARE DETAILED TO THE LIMITS OF THE PROPERTY LINE UNLESS OTHERWISE SPECIFIED ON THIS DRAWING.
4. UNLESS SHOWN OTHERWISE ON THIS DRAWING, RAIN WATER GUTTERS, FAST-DRIVE CURB AND GUTTER, AND EXPANSION JOINTS WILL BE BURIED IN SCAFFOLDING AND DURING PAVEMENT JOINTS SHALL BE 12 INCHES HIGH, WITH ALL OTHER JOINTS CONCRETE SHOWN.
5. ISLAND CONCRETE SHALL BE SMOOTH FINISHED.
6. EXPOSED CONCRETE SURFACES TO BE SEALANT CONCRETE SEALER.
7. EXPANSION JOINTS SHALL BE BACKED WITH SEALANT CONCRETE.
PROPOSED SIGNS
## Proposed Building Signs

**Crossroads Circle K / Mobil**  
3864 Hopkins Crossroads  
Minnetonka, MN 55305

<table>
<thead>
<tr>
<th>Sign</th>
<th>Name</th>
<th>Dimensions</th>
<th>Sq. Ft. (Each)</th>
<th>Quantity</th>
<th>Total Sq. Ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>circle k</td>
<td>Circle K LED Logo Sign</td>
<td>5'H X 5'W</td>
<td>25 sq. ft.</td>
<td>3</td>
<td>75 sq. ft.</td>
</tr>
<tr>
<td>mobil</td>
<td>Mobil LED Canopy Legend Sign</td>
<td>23&quot;H X 82&quot;W</td>
<td>13.1 sq. ft.</td>
<td>2</td>
<td>26.2 sq. ft.</td>
</tr>
<tr>
<td></td>
<td>Permanent Spanner Sign Frame with Changeable Copy &amp; Graphics</td>
<td>19.125&quot;H X 240.5&quot;W</td>
<td>31.94 sq. ft.</td>
<td>1</td>
<td>31.94 sq. ft.</td>
</tr>
<tr>
<td>car wash</td>
<td>Car Wash LED Sign</td>
<td>17.531&quot;H X 108.452&quot;W</td>
<td>13.20 sq. ft.</td>
<td>1</td>
<td>13.20 sq. ft.</td>
</tr>
</tbody>
</table>

**Grand Total Building Signs Sq. Ft.**  

146.34 Sq. Ft.
Canopy Fascia Elevations
Crossroads Circle K / Mobil
Minnetonka, MN

36" Canopy Fascia:
24" blue band of 3D LED illuminated
flex face
12" white ACM

Mobil Canopy Legend

SAMPLE
Monument (MID) Sign

97.14 Sq Ft (Copy & Graphics)

45.88 Sq Ft (Base)

143.02 Sq Ft (Total Copy, Graphics & Base)

Crossroads Circle K/Mobil
3864 Hopkins Crossroad
Minnetonka, MN 55305

Croix Oil
3864 Hopkins Crossroad
#86088.15a
Circle K
LED Logo Sign
5'H X 5'W

Crossroads Circle K / Mobil
Minnetonka, MN

Sample
Permanent Spanner Sign Frame
Crossroads Circle K / Mobil
Minnetonka, MN

Anodized Aluminum

Changeable Copy & Graphics

Sample

FILL ‘ER UP!

Circle K Premium Coffee & Cappuccino

Croix Oil
3864 Hopkins Crossroad
#86088.15a
**Instalation Requirements:**

1. Hand wiring to power supply box
2. Mounting hardware

**Electrical:**

Input: 120 volts 50 Hz 1.3-amps
Output: 30 volts DC 1.3 amps max.

**Note:**

ALL LEDs are wired in series circuits.

**All wiring and electrical connections on this display must be installed in accordance with the National Electrical Code and/or other applicable local codes. This includes proper grounding and bonding of the display.**

---

**Location Information:**

Croix Oil
3864 Hopkins Crossroad
#86088.15a
CODE-COMPLIANT MONUMENT SIGNS
March 31, 2015

Via Electronic Mail

Susan M. Thomas, AICP
Principal Planner
City of Minnetonka
14600 Minnetonka Blvd
Minnetonka, MN 55345

Re: Crossroad Raze and Rebuild Project

Dear Ms. Thomas:

In accordance with our discussion regarding the requested monument sign for the above-referenced project, as more specifically described in our Sign Plan Review Application (the "Sign Plan"), I am attaching hereto, elevations for two separate monument sign concepts that Croix Oil Company will utilize if the Sign Plan is rejected by the City. I thought it might be helpful for the Planning Commission and the City Council to see our backup monument sign plan. While the final design for these two signs might differ from these concepts, each sign would ultimately comply with the signage ordinance.

I would like to reiterate, however, that it is our strong preference that the City approve our Sign Plan rather than utilize the two monument sign (one for each of our properties) approach. In any case, if you have any questions or comments, or would like to discuss this matter further, please feel free to contact me.

Sincerely,

CROIX OIL COMPANY

Paul W. Muilenberg, Esq.
Manager of Corporate Affairs
Monument (MID) Sign B

Tuesday Special
CAR WASH
$1.99

Car Wash

59 Sq Ft (Copy & Graphics)
30 Sq Ft (Base)
89 Sq Ft (Total Copy, Graphics & Base)

Crossroads Circle K/Mobil
3864 Hopkins Crossroads
Minnetonka, MN 55305
RESOLUTIONS
Resolution No. 2015-

Resolution approving a conditional use permit for a “non-service station retail facility having gasoline pumps” at 3864 Hopkins Crossroad

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

Section 1. Background.

1.01 Croix Oil Company has requested a conditional use permit for a “non-service station retail facilities having gasoline pumps.”

1.02 The property is located at 3864 Hopkins Crossroad. It is legally described on Exhibit A of this resolution.

1.03 On April 9, 2015, the planning commission held a hearing on the request. The applicant was provided the opportunity to present information. 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 §300.21 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(b) lists the following specific standards that must be met for granting a conditional use permit for “non-service station retail facilities having gasoline pumps.”

1. No vehicles which are unlicensed and inoperable shall be stored on premises except in appropriately designed and screened storage areas;

2. All repair, assembly, disassembly and maintenance of vehicles shall occur within closed buildings except minor maintenance, including tire inflation, adding oil and wiper replacement;

3. No public address system shall be audible from any residential parcel;

4. Stacking for gas pumps shall be provided for at least one car beyond the pump island in each direction in which access can be gained to the pump. The required stacking shall not interfere with internal circulation patterns or with designated parking areas and shall not be permitted in any public right-of-way, private access easement or within the required parking setback;

5. No sales, storage or display of used automobiles, except when a conditional use permit is approved allowing automobile, truck, trailer or boat sales or rentals;

6. Shall not be located within 100 feet of any low density residential parcel or adjacent to medium or high density residential parcels, as designated in the city's land use plan. The city may reduce separation requirements if the following are provided:

   a) Landscaping and berming to shield the auto service use;

   b) Parking lots are not located in proximity to residential uses; and

   c) Lighting plans which are unobtrusive to surrounding residential uses;
7. All canopy lighting shall be recessed lighting, flush mounted with canopy ceiling and having a flat glass lens; and

8. Canopies shall be set back at least 20 feet from all property lines, but in no case shall the setbacks be less than 30 feet from land that the city’s land use plan designates for residential use.

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 City Code §300.21 Subd. 4(b).

1. As conditions of this resolution, the following would be prohibited on the site:

   a) Storage of unlicensed and inoperable vehicles;
   b) Repair, assembly or disassembly of vehicles;
   c) Use of a public address system audible from any residential parcel; and
   d) Sales, storage or display of used vehicles.

2. The closest low-density residential property is located over 300 feet from the subject property. This area, and nearby medium-density residential areas, are separated from the existing gas station site by a public street and other non-residential buildings.

3. The gas pumps would be appropriately located.

4. All canopy lighting will be recessed lighting, flush mounted with canopy ceiling and having a flat glass lens.

5. Canopies will be set back at least 20 feet from all property lines.


4.01 The above-described conditional use permit is hereby approved, subject to the following conditions:
1. Subject to staff approval, the property must be developed and maintained in substantial conformance with the site plan layout dated March 9, 2015.

2. The following are prohibited on the property:
   a) Storage of unlicensed and inoperable vehicles;
   b) Repair, assembly or disassembly of vehicles will occur on the property;
   c) Use of a public address system audible from any residential parcel; and
   d) Sales, storage or display of used vehicles.

3. All canopy lighting must be recessed lighting, flush mounted with canopy ceiling and having a flat glass lens.

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

5. 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 April 20, 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 April 20, 2015.

__________________________________
David E. Maeda, City Clerk
EXHIBIT A

Parcel 1:
The East 245 feet of that part of the following described property (as measured at right angles to the Easterly line of the said following described property):
That part of the East 990 feet by parallel lines, of the Northeast Quarter of the Northeast Quarter of Section 23, Township 117 North, Range 22 West. Lying North of the Northerly line of State Highway No. 7, as the same is now laid out and constructed, and lying Northeasterly of the Northeasterly line of the Minneapolis and St. Louis Railroad right-of-way, and Southerly of the center line of the old Minnetonka Mills road, now known as Highway No. 71, Hennepin County, Minnesota.

Parcel 2:
Lot 1, Block 1, Hopkins Crossroads Addition, Hennepin County, Minnesota.
Resolution No. 2015-

Resolution approving final site and building plans, with setback variance, for a “non-service station retail facility having gasoline pumps” at 3864 Hopkins Crossroad

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

Section 1. Background.

1.01 In 1967 a gas station, or “non-service station retail facilities having gasoline pumps,” was constructed on the property at 3864 Hopkins Cross Road. The property is legal described on Exhibit A of this resolution.

1.02 Croix Oil Company is proposing to redevelop the site. As proposed, the existing gas station would be demolished and a new convenience store/gas station would be constructed.

1.03 Croix Oil Company has requested approval of final site and building plans for this redevelopment. The request includes a side yard setback variance from 35 feet to 9 feet.

1.04 Minnesota Statute §462.357 Subd. 6, and City Code §300.07 authorizes the city to grant variances.

1.05 On April 9, 2015, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended approval of the final site and building plans, with a setback variance.

Section 2. Standards.

2.01 By City Code §300.27, Subd. 5, 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.

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

Section 3. Findings.

3.01 The proposal would meet site and building plan standards outlined in the City Code §300.27, Subd. 5.

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

2. Aside from the requested setback variance, the proposal would meet all ordinance standards.

3. The subject property is fully developed, with no area in a “natural state.” As required by code, the proposal would add landscaping on the site.

4. The redevelopment of the existing site would improve vehicular and pedestrian circulation patterns, while aesthetically improving both the property and the intersection.

5. As new construction, the building would include code-required energy efficiencies, including installation of LED canopy lighting.

6. The proposal would allow for continued use of a site that has long been used as a gas station. It would not negatively impact adjacent properties or the neighboring area.

3.02 The proposal meets the variance standard outlined in City Code §300.07 Subd. 1(a):
1. PURPOSE AND INTENT OF THE ZONING ORDINANCE: The intent of the commercial side yard setback requirement is to ensure adequate separation between commercial buildings for aesthetic and safety purposes. The proposed nine foot setback would meet this intent. It would allow for redevelopment resulting in: (1) aesthetic enhancement of the site and intersection; (2) intuitive and appropriate on-site circulation patterns; and (3) new construction with a fire suppression system.

2. CONSISTENT WITH COMPREHENSIVE PLAN: The comprehensive plan notes that in making decisions the city will be guided by certain principles. One such principal is that the city will support existing businesses and their reasonable expansion to remain competitive in the region. The requested variance is consistent with this principal; it allows for redevelopment of, and investment in, an existing commercial site and business.

3. PRACTICAL DIFFICULTIES: There are practical difficulties in complying with the ordinance:
   a) REASONABLENESS AND CHARACTER OF LOCATILTY:
      1) The proposed 9-foot setback is reasonable. The proposed building would not encroach further to the required setback than the existing building.
      2) Though the proposed redevelopment would aesthetically improve the subject property and the intersection, positively impacting the character of the locality, the requested setback variance itself would not impact area character.
   b) UNIQUE CIRCUMSTANCE: The property’s location at the intersection of two major roadways is well-suited for a gas station. This is “proven” by the fact that a viable station has occupied the site for nearly 50 years. However, it would not be possible to construct a new gas station on the site that would both meet the required side yard setback and maintain appropriate circulation patterns within the site. In combination, this long standing use and the difficulty in redeveloping the use under current requirements presents a unique circumstance.

   Section 4. City Council Action.
4.01 The city council approves the final site and building plans, with setback variance, for a “non-service station retail facility having gasoline pumps” at 3864 Hopkins Crossroad. Approval is subject to the following conditions:

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:
   
   • Site plan dated March 9, 2015
   • Stormsewer plan dated March 9, 2015
   • Exterior elevations dated March 9, 2015

2. Prior to issuance of a building permit:
   
   a) This resolution must be recorded at Hennepin County.
   
   b) The following must be submitted:

   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, utility, illumination and landscape plans, and a stormwater pollution prevention plan (SWPPP) for staff approval.

   a. Final site plan must include truck turning templates illustrating movement of gasoline delivery vehicles in and around the site. The city may require reduction in the total impervious surface, including width of the existing Minnetonka Mills Road access, based on these templates.
   
   b. Final utility plan must illustrate relocation of the water main away from the edge of the canopied area toward the center of existing easement while maintaining 10-foot horizontal separation from the sanitary sewer.
   
   c. Final landscaping and tree mitigation plans must meet minimum landscaping and mitigation
requirements as outlined in ordinance. New landscaping should be concentrated in the existing green space located between the gas station and car wash sites.

4) Stormwater maintenance agreement. This agreement must outline the timing and specific maintenance practices for both the underground filtration system and the sump catch basin. The agreement must be filed against the property.

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) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to construct utility improvements, install landscaping, 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 utilities have been completed according to the plans approved by the city has been submitted; and (3) required landscaping or vegetation has survived one full growing season.

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

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

- If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
8) If required, a copy of the approved MPCA NPDES permit.

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

3. The convenience store must be equipped with a fire suppression system.

4. The car wash drive must be signed and delineated to prevent blocking access to Hopkins Crossroads.

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

7. The resolution does not approve any signs. Separate sign permits are required.

8. A permit from Hennepin County for work with the Hopkins Crossroad right-of-way is required. Other permits may be required from other outside agencies including, Hennepin County, the Minnehaha Creek Watershed District, and the MPCA. It is the applicant’s responsibility to obtain any necessary permits.

9. Construction must begin by December 31, 2015, unless the planning commission grants a time extension.

Adopted by the City Council of the City of Minnetonka, Minnesota, on April 20, 2015.

_______________________________________
Terry Schneider, Mayor
Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on April 20, 2015.

__________________________________
David E. Maeda, City Clerk
EXHIBIT A

Parcel 1:
The East 245 feet of that part of the following described property (as measured at right angles to the Easterly line of the said following described property):
That part of the East 990 feet by parallel lines, of the Northeast Quarter of the Northeast Quarter of Section 23, Township 117 North, Range 22 West. Lying North of the Northerly line of State Highway No. 7, as the same is now laid out and constructed, and lying Northeasterly of the Northeasterly line of the Minneapolis and St. Louis Railroad right-of-way, and Southerly of the center line of the old Minnetonka Mills road, now known as Highway No. 71, Hennepin County, Minnesota.

Parcel 2:
Lot 1, Block 1, Hopkins Crossroads Addition, Hennepin County, Minnesota.
Resolution No. 2015-

Resolution denying a variance to allow copy and graphic, dynamic display and monument areas exceeding city code allowances for a monument sign at 3864 Hopkins Crossroad

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

Section 1. Background.

1.01 In 1967 a gas station, or “non-service station retail facilities having gasoline pumps,” was constructed on the property at 3864 Hopkins Cross Road. The property is legally described on Exhibit A of this resolution.

1.02 Croix Oil is proposing to redevelop the property at 3764 Hopkins Crossroad. As proposed, the existing gas station would demolished, a new convenience store/gas station would be constructed, and new wall signs and monument signs would be installed.

1.03 City Code §300.30 outlines the maximum copy and graphic, dynamic display, and total monument areas for monument signs located on the subject property. The applicant is requesting variances to exceed these allowable areas as follows:

<table>
<thead>
<tr>
<th>Allowed per Monument Sign</th>
<th>Proposed Monument Sign</th>
</tr>
</thead>
<tbody>
<tr>
<td>Copy and Graphic Area</td>
<td>60 sq. ft.</td>
</tr>
<tr>
<td></td>
<td>97 sq.ft.</td>
</tr>
<tr>
<td>Dynamic Area</td>
<td>21 sq.ft.</td>
</tr>
<tr>
<td></td>
<td>45 sq.ft.</td>
</tr>
<tr>
<td>Total Monument area</td>
<td>90 sq.ft.</td>
</tr>
<tr>
<td></td>
<td>143 sq.ft.</td>
</tr>
</tbody>
</table>

1.04 Minnesota Statute §462.357 Subd. 6, and City Code §300.07 authorize the city to grant variances.

1.05 On April 9, 2015, the planning commission held a public hearing on this request. The applicant was provided the opportunity to present information.
The commission considered all of the hearing testimony and the staff report, which are incorporated by reference into this resolution. The commission recommended denial of the variance.

Section 2. Standards

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

Section 3. Findings

3.01 The proposed variance does not meet the required variance standard for the following reasons:

1. Purpose and Intent of the Ordinance: The intent of the city’s sign ordinance is to provide for effective communication and identification while maintaining a high aesthetic standard. The maximum copy and graphic, dynamic display, and monument areas were established in city code to achieve this intent. Given the subject property’s location at the intersection of two major roadways, effective communication/identification can be achieved by a code-compliant monument sign. The proposed sign goes beyond the intent of the ordinance.

2. Unique Circumstance: There is no unique circumstance inherent to the property justifying a sign with larger areas than allowed by city code. In fact, situated at the intersection of two major roadways, the property is highly visible to the traveling public.


4.01 The above-described variance is hereby denied based on the findings outlined in section 3 of this resolution.
Adopted by the City Council of the City of Minnetonka, Minnesota, on April 20, 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 April 20, 2015.

David E. Maeda, City Clerk
EXHIBIT A

Parcel 1:
The East 245 feet of that part of the following described property (as measured at right angles to the Easterly line of the said following described property):
That part of the East 990 feet by parallel lines, of the Northeast Quarter of the Northeast Quarter of Section 23, Township 117 North, Range 22 West. Lying North of the Northerly line of State Highway No. 7, as the same is now laid out and constructed, and lying Northeasterly of the Northeasterly line of the Minneapolis and St. Louis Railroad right-of-way, and Southerly of the center line of the old Minnetonka Mills road, now known as Highway No. 71, Hennepin County. Minnesota.

Parcel 2:
Lot 1, Block 1, Hopkins Crossroads Addition, Hennepin County, Minnesota.
Gang Zhange, 14780 Summer Oaks Drive, asked staff to point out his residence on the map in relation to the proposed development. He learned that his residence is much further away from the proposed site than he previously thought.

Bill Baron, 2081 Meeting Street, was happy with the way the proposal would be laid out with the high-priority trees. He is happy with the proposed plan.

Female speaker stated that there are great trees on the property, so please save as many trees as possible.

No additional testimony was submitted and the hearing was closed.

_**Calvert moved, second by Knight, to recommend that the city council adopt the resolution on pages A11-A18 of the staff report with modifications provided in the change memo dated April 9, 2015 which grants preliminary and final plat approvals to Congregation Hill, a three-lot subdivision, at 2051 Meeting Street.**_

_Magney, Odland, Calvert, Knight, and Kirk voted yes. O’Connell and Rettew were absent. Motion carried._

Chair Kirk stated that the item is tentatively scheduled to be reviewed by the city council at its April 20, 2015 meeting.

_B. Items concerning construction of a new convenience store/gas station at 3864 Hopkins Crossroad including a conditional use permit, final site and building plans with setback variance, and monument sign variance._

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

Thomas reported. She recommended approval of the applications for a conditional use permit and final site and building plans, with setback variance, and denial of the sign variance based on the findings and subject to the conditions listed in the staff report.

Knight asked if the common access between Perkins and the gas station would stay as it is now. Thomas answered affirmatively. There would be no changes to the curb line of the existing station property. There would still be free flow of traffic between the Perkins site and the subject property.
Knight agreed that the sign variance should be denied. The property owner could decide to sell the car wash in the future which would then make it necessary to tear down the new, big sign to provide a sign appropriate for one business.

Magney asked why the application is for a setback variance rather than an expansion permit. Thomas explained that staff found that the request could have gone either way. Staff determined that it would be better to establish a variance for the site, thereby eliminating "non-conforming" rights.

Chair Kirk asked if the two lots were combined, would that change the sign-size requirements. Thomas answered that one monument sign with 60 square feet of copy and graphic area and 90 square feet of total size would be allowed.

Mark Ogren, president of Croix Oil Company, applicant, has owned the property for 15 years. It is a tired facility that does not properly utilize the site. It needs to be improved in order to compete in the competitive retail business. Remodeling the interior of the building was considered and found to be cost prohibitive. Staff's report was well stated. The existing building would be torn down. The only part that would remain would be the exterior of the carwash building. He was excited. This would be his first opportunity to do a rebuild. It would be good for the city and the developer because it would be a show piece he could show perspective franchisees. He was fine with two signs, instead of one large one.

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

Odland moved, second by Calvert, to recommend that the city council adopt the following for 3864 Hopkins Crossroad:

1. Resolution approving a conditional use permit for a non-service station retail facility having gasoline pumps (see pages A29-A34 of the staff report).

2. Resolution approving final site and building plans with setback variance for a non-service station retail facility having gasoline pumps (see pages A35-A43 of the staff report).

3. Resolution denying variance to allow for copy and graphic, dynamic display, and monument areas exceeding city code allowances on a monument sign (see pages A44-A47 of the staff report).
Magney, Odland, Calvert, Knight, and Kirk voted yes. O’Connell and Rettew were absent. Motion carried.

Chair Kirk stated that the item is tentatively scheduled to be reviewed by the city council at its April 20, 2015 meeting.

C. Items concerning reconstruction of County Road 101 from Highway 62 to Hutchins Drive and associated new construction at 5735 County Road 101.

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

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

Calvert confirmed with Thomas that the floodplain alteration/mitigation amounts.

Chair Kirk asked how closely the city’s projects follow wetland mitigation and tree preservation ordinances. Thomas explained that the city’s ordinances provide allowances to replace public infrastructure. The proposal is being reviewed by the planning commission and city council because a developer would be required to go through the same review process. Colleran agreed. Additionally, the city does a good job of meeting the standards. The state law allows road credits to mitigate for impacts created by a roadway. It is up to the city council to agree that the wetlands could be replaced somewhere else as allowed by banking credits. That would be true of any other applicant. She provided Cantera Woods as an example. The applicant purchased wetland bank credits and mitigated wetland alteration with a previously created wetland. The city holds itself to the same standard, but recognizes that public infrastructure and facilities have more constraints, so flexibility is built into the ordinances.

Chair Kirk noted that the state and watershed district are two regulatory agencies that make sure that the city is following the rules. Colleran answered affirmatively. The Wetland Conservation Act is state law. The Board of Water and Soil Resources oversees that enforcement. There are also checks and balances done by the watershed districts.

Chair Kirk attested that curb and gutter improvements positively impact the control of an area’s runoff. He supports all of it.

Colleran explained that city ordinance allows private property owners to remove trees within a basic tree-removal area within the structure pad and 20 feet from