Agenda

Minnetonka City Council

Regular Meeting, Monday, March 2, 2015

6:30 P.M.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Acomb-Wiersum-Bergstedt-Wagner-Ellingson-Allendorf-Schneider
4. Approval of Agenda
5. Approval of Minutes: January 26, 2015 regular meeting
6. Special Matters:
   A. Presentation of 2015 Reflections Award
   B. Proclamation for Empty Bowls event
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters not on the Agenda
9. Bids and Purchases: None
10. Consent Agenda - Items Requiring a Majority Vote:
    A. Resolution supporting dedicated state funding for city streets
    B. Ordinances amending various sections of city code regarding:
       1) Wetland Ordinance;
       2) Tree Ordinance;
       3) Grading Ordinance; and
       4) Illicit Discharge Ordinance
11. Consent Agenda - Items Requiring Five Votes: None
12. Introduction of Ordinances: None

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13. Public Hearings:

   A. 2015 Community Development Block Grant funds

       Recommendation: Hold the public hearing and adopt the resolution (4 Votes)

14. Other Business:

   A. Ordinance rezoning portions of properties generally located at the southeast corner of the County Road 101/Excelsior Boulevard intersection from R-1 to R-1A

       Recommendation: Adopt the ordinance (4 Votes)

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

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

15. Appointments and Reappointments:

   A. Appointment of Local Board of Appeal and Equalization Advisors

       Recommendation: Approve the appointments (4 Votes)

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

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

2. **Pledge of Allegiance**

All joined in the Pledge of Allegiance.

3. **Roll Call**

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

4. **Approval of Agenda**

Wiersum moved, seconded a motion to accept the agenda with the addenda adding a new item 14A, changing the previous item 14A to 14B, incorporating information from a change memo to item 14B. All voted “yes.” Motion carried.

5. **Approval of Minutes: December 15, 2014 regular meeting**

Wagner moved, Bergstedt seconded a motion to approve the December 15, 2014 regular meeting minutes. All voted “yes.” Motion carried.

6. **Special Matters:**

   A. **Citizens Lifesaving Award for Daniel Shaw**

   Police Chief Jeff Sebenaler presented the award.

   B. **Citizens lifesaving awards for Adriene Luxford, Meagan Matrejek and Nathan Krogstad**

   Sebenaler presented the award.

   C. **Recognition of Paul Lehman**

   Schneider read the recognition and presented a wooden plaque to Lehman. Lehman thanked the council and staff. He said his service was as beneficial to him as it was to the community.

7. **Reports from City Manager & Council Members**
Barone reported on the schedule for upcoming council meetings. Schneider provided an update on a recent meeting related to the Southwest Light Rail’s locally requested improvements. He also presented an update on the closed portion of the January 12, 2015 Study Session related to the city manager’s performance review.

8. Citizens Wishing to Discuss Matters not on the Agenda

No one appeared.

9. Bids and Purchases:

   A. Bids for diseased and miscellaneous tree maintenance and removal

   Barone gave the staff report.

   Bergstedt moved, Wiersum seconded a motion to award the tree removal contract to YTS Companies LLC. All voted “yes.” Motion carried.

10. Consent Agenda - Items Requiring a Majority Vote:

   A. 2015 general liability insurance and workers’ compensation renewals

   Wiersum moved, Acomb seconded a motion to renew the city’s insurance policies through LMCIT for package policies with the following options:
   • $25,000/$150,000 deductible for the package policies
   • 100% Open Meeting law coverage
   • No waiver of statutory limits
   also authorize renewal of the LMCIT workers’ compensation policy with a $10,000 deductible.

   All voted “yes.” Motion carried.

11. Consent Agenda - Items requiring Five Votes: None

12. Introduction of Ordinances:

   A. Ordinances amending various sections of city code pertaining to natural resources:
   1) Tree Ordinance
   2) Wetland Ordinance
   3) Grading Ordinance
   4) Illicit Discharge Ordinance

   City Planner Loren Gordon gave the staff report.
Bergstedt moved, Acomb seconded a motion to introduce the ordinances and refer them to the planning commission. All voted “yes.” Motion carried.

B. Ordinance amendment regarding snow removal restrictions

Barone, City Attorney Corrine Heine, and Public Works Director Brian Wagstrom gave the staff report.

Wagner said he appreciated staff bringing the item before the council. As the council discussed higher density and walkability in some of the village centers, the expectation was in the wintertime residents can walk those areas. Clarity on what the council expects of staff, residents, and business owners was pretty important. He said he provided information earlier in the day that there were parts of the ordinance and policy he felt needed clarification in terms of expectations. Part of this was the section on public sidewalks and the difference from an expectation standpoint with private sidewalks. He also felt the council should have a discussion at some point if it was the city’s or the property owner’s responsibility to plow the sidewalks. He thought it was important to get the ordinance and policy in place as soon as possible.

Wiersum said the proposed policy was a great start. He learned a lot and he felt it would help him better be able to objectively explain to residents the city’s process for plowing snow. His expectation has always been if residents have a sidewalk in front of their home it was their responsibility to clear it. Looking at the situation with County Roads 5 and 101 he would like to see the property owners step up and take responsibility for clearing the sidewalks. He thought this was worth discussing. He said as far as the mailbox policy he thought a dollar limit made sense.

Schneider said the council had placed a high priority for the village centers and Ridgedale area to provide pedestrian access and connectivity. This didn’t just mean the immediate sidewalks but being able to get to the areas. He thought if this was a priority for the city and residents there had to be a mechanism to make sure the sidewalks are plowed. He didn’t think the city needed to just rely on the general revenue tax base to do that. There were mechanisms associated with commercial areas where a special service district could be established. An assessment process would be put in place to allocate the costs. The advantage to this was the consistency, uniformity and predictability. People would know that after a snow fall they would be able to walk from point A to point B. As for mail boxes, he felt $200 was a reasonable limit. He noted in his private job he worked with many communities and for most subdivisions residents did not get mail boxes but instead got a postal service gang mail box down the street. Minnetonka missed that wave. He was concerned if the postal service started requiring this, the city had many streets where it would be
difficult to provide an area accessible to 30 different homes. He said this should be kept in mind in case the policy had to be amended.

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

13. Public Hearings:

A. Items concerning Legacy Oaks

1) Resolution vacating an obsolete drainage and utility easement at 15501 Legacy Oaks Trail

2) Resolution approving the final plat of LEGACY OAKS 2nd ADDITION

Gordon gave the staff report.

Schneider opened the public hearing at 7:20 p.m. No one spoke. He closed the public hearing at 7:20 p.m.

Wagner moved, Bergstedt seconded a motion to adopt Resolution No. 2015-006 vacating an obsolete drainage and utility easement at 15501 Legacy Oaks Trail. All voted “yes.” Motion carried.

Gordon gave the staff report.

Schneider opened the public hearing at 7:22 p.m. No one spoke. He closed the public hearing at 7:22 p.m.

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2015-007 approving the final plat of LEGACY OAKS 2nd ADDITION. All voted “yes.” Motion carried.

14. Other Business:

A. Approving and amending a conditional use permit for a restaurant at 10982 Cedar Lake Road

Gordon gave the staff report.

Acomb asked how the monitoring of parking in March, June, and September would be conducted. Gordon said in addition of getting feedback from the businesses the parking consultant would do the same type of observation that was done for the parking study. Acomb said the look back was a great way to handle it.
Wagner noted the staff report indicated a deficit on the east side. People do not like to walk 400 feet in the winter to get to a restaurant. The staff report indicated a net deficit of 10 parking spots. There were other considerations that stated if for some reason the space adjacent to the Lone Spur was occupied it would be another eight spots. He asked if this meant a deficit of 18 or if it meant the deficit was really 10 depending on if the space was filled. He said the resolution was appropriate because the council indicated it felt the restaurant was a positive addition to the community. At the same time restaurants were a very difficult business. The ability for patrons to park was very important. He had concern with the idea the situation would be monitored for a period of time when the report indicated a shortage between 10 and 18 spots. There was a row of proof of parking that was not very obtrusive to the operation and he thought there should be strong consideration to make sure both businesses succeeded. This could mean looking at part of the proof of parking or the area with 35 spaces next to Cedar Lake Road be considered versus waiting until the fall when people might have bad experiences causing the two businesses to suffer. Gordon said the 18 spaces were included in the table in the staff report. It was a cumulative evaluation of what the space actually was. This meant the deficit was 10 spaces. Wischnack said the difficulty was figuring out what the normal use would be.

Wiersum noted the owner of Lone Spur felt there were too few data points in the parking study and the observation occurred during one of the coldest days of the year. Wiersum said with too few data points and restaurant business being down in the winter, and being down even further on one of the coldest days, the numbers likely were on the low side. This caused him concern and he said could agree with Wagner’s comments about proof of parking. Wischnack agreed January was not the best time to measure the number of parking spaces.

Schneider said he agreed with Wagner and Wiersum that it was better to error on the safe side and have an additional 10-15 spaces. He said he was having difficulty supporting making that a condition of the permit. Wagner said he was not suggesting making it part of the permit and supported the item before the council to allow the Play and Learn Café to get up and running. He said according to the Lone Spur owner the peak time was in the May/June period. This meant there was time to deal with the parking issue. Schneider said it was common sense that the building owner would want the businesses to be as viable as possible so they could pay the rent. If it were to be more profitable to add the additional spaces, he would be the first to be asking that be done. If the additional spaces were needed, even during peak times when the real margins are gained, it would be better if the city allowed the spaces rather than requiring the owner to prove the need. Wagner said he thought staff should be encouraged to proactively require that proof of parking be put in
place. He was confused why the city would be hesitant when the study showed there was a problem.

Mark Ravich, owner of Lone Spur, said he did not have an objection to the Play and Learn Café going forward. The dispute was over the timing of the extra parking being discussed. It took many years to build the business and if the concerns were right and there was a parking problem, to have to wait 6-9 months for the study to be complete and construction of the spaces, the customers will go elsewhere and not come back. A mistake would cause irreparable damage to the business. The entire calculation of the parking study was from one data point on the coldest day of the year. He proposed the parking study be extended while the Play and Learn Café was being built. Just getting average data points would show the deficit would jump from 10 to 20, 30, or 40. He said a study was conducted of his customers, many of them repeat customers, who all indicated it was difficult to park. He wanted to be prepared to add the parking as soon as weather permits rather than waiting until the fall.

Chris Grote, from Lindquist & Vennum, said he represented the owner of the east buildings where the Play and Learn Café would be leasing space. He said the parties had a productive meeting earlier in the day and were committed to working through the cross parking easement issue within a 30 day period. There also appeared to be agreement that the condition should be removed from the permit to allow Play and Learn to proceed. His client supported getting the restaurant up and running while doing further evaluation of the parking. He said the consultant the city used was one of the best in the area and the council could feel comfortable with the study even with just one data point. The consultant likes to have 10 percent of the parking open to allow for better circulation. In this instance that added up to 18 spaces.

Ali Mishkee, general manager of Lone Spur, said he has 20 years of experience at the restaurant and the one issue that he and customers have identified was the lack of parking. When asked, his customers indicated they would not sit and wait for parking to open up if they could not find a space. A lack of parking would put a damper on the Lone Spur’s business. Most of his customers would not want to park in the back of the building and walk around to the front.

Wagner moved, Wiersum seconded a motion to adopt Resolution No. 2015-008 approving and amending a CUP for a restaurant at 10982 Cedar Lake Road.

Wagner said his recommendation would be not to wait until fall for staff to make a determination of proof of parking.
Wiersum said he would like to see all the parking figured out by Mother’s Day.

Wischnack said observations could occur during February, which was an important month; and May, if the Play and Learn Café was open. Staff believed there needed to be time for observation so September would be appropriate. When a business first opens there is a certain peak period of time that levels off. Based on the findings the property owners had to agree on the solution. She said part of the issue was no one had agreed to an actual solution. In order to get the parking in place there had to be an agreement between the property owners and tenants.

Schneider said it made good common sense that the landlord and both tenants would benefit from having the parking put in as soon as the weather permits. His direction to staff was to work with all the parties to enable the parking to occur as soon as possible. The city likes proof of parking to keep green space but in this case the parking was needed. Wagner said the proof of parking provision was from 1988 and the bottom line was if the city wanted the parking to be required there didn’t need the parties’ approval. He said he wanted two successful businesses. Schneider said what he was saying was that the people who had the need should be the ones to figure it out and get it done. Wiersum said he understood the staff position about having enough information to make a recommendation. He said he would like to be in the position to take action on the proof of parking by the last council meeting in April. The city had the authority to require the proof of parking be built and this should be leveraged to get the parking done by the end of May if needed. He didn’t want to be wrong and damage a successful business because of process. He would rather be action oriented.

All voted “yes.” Motion carried.

**B. Items concerning One Two One Development located at 14217 Stewart Lane**

Gordon, Wischnack, and Heine gave the staff report.

Acomb asked for setback information of other R5 buildings in the city. Gordon showed slides of other R5 buildings in the city.

Julie Murray, vice president of sales, marketing, and business development for Ecumen and co-chief manager for One Two One Development, said this building was not a care driven senior community. There would not be staff present 24 hours a day. The residents would not
be the same type of population who live across the street at the Glenn. The term was senior cooperative because it was for people 55 years old and up, but it would be the younger, active seniors looking for a maintenance free lifestyle who would be living in the facility. Ecumen’s need driven facilities typically are for people 84 years old or older. She said the team has listened to people in the community and wanted to be a good neighbor. They have done everything possible to make the project something positive for the community but it had to be financially feasible.

Tim Nichols from Lifestyle Communities, said One Two One had identified a huge demand in the growing empty nester population. These are the people who would be served by the development. The proposal would allow people who want to stay in the community to do so. This would also allow other people to move into the homes sold by the people who would move into the cooperative. He said One Two One looked at itself as life cycle housing developers. The site was a tremendous site. The proposal was largely consistent with the prior application from the prior developer. The neighborhood had been listened to which resulted in elements of the building to be brought in tighter. Numerous configurations were considered and the number of units were reduced from 60 to 54. Four units would be affordable. One concern with the townhome owners was the location of the path. Nichols said One Two One was fine with either path choice. Because it was so important to the townhome owners he endorsed building a path to the west even though the path would need steps and would cost more.

Link Wilson, the project architect, said at the last planning commission meeting there were a lot of comments about mass and density and that the building appeared large. Since the summer brick and metal and screened in porches were added to address concerns that people would be looking out from their decks. The number of units also went down to 54. There was an 11 inch height different to what was previously approved. He said this was somewhat deceptive because what was previously approved had an additional story that was exposed to everyone who viewed it from the lakeside.

Wiersum asked for more information about how cooperatives worked and how they were different from condominiums. Dena Meyer, from One Two One Development and Ecumen, said she has marketed between 500-600 cooperative units throughout the Twin Cities in the past 20 years. She said for this project there were 54 residences equating to 54 shares in the corporation. All the people who move into the cooperative will own a share and will own the building. The residents are governed by an elected board of directors. Unlike a condo, the residents do not get a deed. A cooperative gives people the option of paying less than they would in a condominium situation. For this development a share would range from
$45,000 to $150,000. There also is an ongoing monthly carrying charge. The value of the units range from $200,000 to $450,000.

Wiersum said for a person who buys a share at $45,000 for a $200,000 unit there was a difference of $155,000. He asked how this difference was paid for. Meyer said there was a 40 year fixed master mortgage for all the units. A resident chooses how much they want to buy into that mortgage. The difference in the monthly carrying charge is determined by how much the person buys into the mortgage. The monthly carrying charge covers a portion of the mortgage and includes property taxes, basic utilities, and required reserves. The reserve is required by HUD for future exterior and interior replacements. Schneider noted the board could hire a manager to maintain the property. Meyer said that was correct. Part of the carrying charge goes toward building management. Ecumen would be the onsite management for this proposal. One Two One would serve as the interim board for the first year.

Jim Zachman, 14194 Glen Lake Drive, provided historical information about FHA and HUD and the Pruitt Igoe housing project in St. Louis, Missouri. He said he was worried about the tax increment financing for this project. He noted the project started out with two phases, each with an affordable housing component. Both phases were successfully completed. Things did not go as originally planned and a third property was added. He said the site was needed to produce the tax increment financing. After the economy worsened there was a seven year extension granted for the collection of the TIF money. He said this was one of the ways TIF gets abused and the federal government no longer allowed the bonds to be sold with tax deductibility. There are now lots of restrictions that help ensure TIF money is used for what was planned. The $3 million is paid for by the people outside the TIF district. He said in 2010 it wasn’t necessary for Kinsel Point to be developed. The money was available through the additional seven years. The neighborhood wanted to see phase three completed but this was a great opportunity to lower the density and to achieve the original goal for the site- to increase the mixture of people who live in the area. This could still be achieved by lowering the density. He suggested putting the property up for sale to get the proper development. There were options to bring things back within the scope of what TIF was designed to do.

Jim Stroebel said he lived in the condos adjacent to the property. The condos were one of the few properties in area that met the setback requirements. He questioned why the city had setback requirements if they were waived every time someone wanted to make an investment in the community. An argument had been made that this development would allow residents to remain in the city while opening up other housing for families to move into Minnetonka. A sample of residents who live in Glen
Lake Shores showed that 10 percent, or three residents, moved in from other areas of the city. He questioned where the numbers that were used for this development had come from. He said the architect had compared this development with St. Therese and the Glenn. The building’s mass was not compared to the immediately adjacent property. Compared with the townhomes and condos, the development was massive and did not fit in. There were ways to access the park already and if staff was concerned about the accessibility of the path, looking at the east side was an option. He said at the planning commission hearing a comment was made that something was better than nothing. He found this appalling. The project had been around for eight years and needed to go away. He said the city was not looking at the project’s merits or if it met the goals of what the whole revitalization project was for in the first place. Instead what was being done was increasing the number of senior residents in the area. More than 50 percent of the senior housing in the city was in this area.

Carol Seiler, 4811 Spring Circle, said she and her husband live in a three story townhome and were looking for single level living. She had been searching for around six months. She wants to stay in Minnetonka but hadn’t found anything that would work until she went to an information meeting for this project. She asked the council to give careful consideration to the proposal because there were many residents in the city interested in the project.

Grace Sheely, 14325 Grenier Road, said she was disappointed to hear the legal opinion offered about the contract. When the contract had come up for renewal council was told it needed to be approved because the city could not have a contract that was out of compliance. She was told a proposal would go back through the planning process for review and none of the previous plans still existed. She thought this proposal would get a reasonable planning and council review because it was a new project. She didn’t see that happening and questioned if the legal advice had changed over the years. She noted the contract specified 45 units were to be built and they were to be high end condos. The city planner had indicated this proposal was similar to what was approved in 2006. She said the 2006 approval was for single mortgage deed homes and not cooperative living. In 2006 there were no age restrictions and this proposal was for people 55 years old and older. The 2006 approval was for homes with a half million dollar value as opposed to a quarter million dollar value. The parking used to be 124 spaces and now was 93 spaces. The setbacks used to be 100 feet and now they were 76 feet. The height used to be 68 feet and now was around 57 feet. The number of units used to be 45 and now was 54. She said the number of units was important because affordability had been removed from the project. Site A was supposed to be 100 mid-priced condominiums but was now 150 senior living memory care units. Site B
was supposed to be 32 condominiums and now was 52 apartments. The TIF district was different.

Sheely said in 2006 the city planner indicated if site C was looked at by itself it would be looked at differently. The changes to site A and B would not be all that different from the criteria in the guide plan. The changes to site C would be more dramatic. She said the building was too massive and large back then and still was. She questioned why variances should be granted for the proposal when half of the building was in the setbacks. This was not done for the neighboring properties. Given the setbacks for the property the building should be two stories. She provided information showing all the senior housing in Glen Lake. She asked the parking rules be fixed and put into the code. She said residents did not understand why setbacks rules were changed for developers but not residents. She suggested waiting until April and then redoing the contract.

Jean Maurice Ansolabehere, 14908 Glendale Street, said years back he used to walk his dog down Stewart Lane. On one property there were a half dozen junky cars. Another property had the power grid that was not fenced in like it is now. There was also a body shop in the area. Further down was a building that housed Al-Anon and the Gold Nugget that had outdoor tables. The council at the time decided to try to improve the area. He supported moving forward with the project.

Keith Weigel, 14209 Glen Lake Drive, said if the proposal was looked at as just a land transaction it did not warrant the variances. He noted the applicant said the city should be happy after a failed project to have this proposal. This would indicate the applicant viewed it as a different project. If the property was zoned correctly there would be no variances. Given the condemnation Weigel asked if the property would be transferred to the applicant or if it would go through the redeveloper since the redeveloper was the one who gave all the reasons why the property was taken from another developer. He asked the applicant what kind corporate policy they had in regard to using eminent domain for residential property. He said contracts are not one way streets where one party dictates the terms. He was thankful the planning commission said the building was too big. The building did not conform to the neighborhood because it didn’t conform to R3 townhomes. He suggested the city do not do piece meal planning in the area.

Ann Flanagan, 15024 Cherry Lane, said she had lived in her home since 1967 and had seen the city go from five and 10 acre lots to half acre lots. This was hard but she didn’t want to go back to the days of separate septic systems and wells. If she moved she did not want to move into a retirement community. When she first heard about the project she was very skeptical. She attended several meetings and thought the overall
design was much improved over what was previously approved. The flat roof flattened the profile. She said the cooperative was for healthy vital residents. She agreed there were other things that would be better for the site, like a park, but she didn’t think that would happen. While not perfect there had been a lot of thought that had gone into the proposal.

Dan Shannon, 5501 Dickson Road, thanked the applicant for all the work that was done. He was against the proposal. There were other places available for people looking for single level living. He said if the proposal was approved, Stewart Lane would need to be updated. It was dangerous now and adding additional traffic would make it worse.

Jeff Schultenover, 13424 Maywood Curve, said he walks the area often and since the slopes and the grade was a consideration for the path on the west side of the property, he measured the slopes on the east side of Kinsel Park, Kinsel Road and North Street. Currently the area has a paved path and at its steepest point for a run of 65 feet the grade is 21 percent. On the west side of the property the steepest location is 18 percent slope for a run of 50 feet. This would indicate that the argument the path could not be built on the west side was not valid. He asked if a drawing could be created to show a building that would fit on the site without any variances.

Melissa Pilney, 5524 Mayview Road, said she was never notified of any neighborhood meetings about the proposal even though she would have to look at the building all the time. She felt the building was too big and was concerned about the precedent being set.

Randall Neal, 14203 Glen Lake Drive, said everybody agreed the location was a beautiful setting. He was not happy with any of the massive projects that had been proposed. The ideal would be an extension of Kinsel Park. High end condos were preferable. A smaller footprint was preferable. He said it appeared the direction the city was headed was that something would happen on the site and it would have some size to it. He fully agreed that the west side was the ideal setting for the path. He said since it appeared something big would be built on the property, he reluctantly agreed the proposal might be the best option.

Schneider called a recess at 10:03 p.m. He called the meeting back to order at 10:15 p.m.

Joe Herzog, 5538 Mayview Road, noted there were no comments at the meeting from anyone who wants the development. He said if this project were approved the next one would be bigger. By giving into this the developer would be using part of the easement and would be closer to the park. The contract was good until June. Denying the proposal would give time to clean up the language. He noted the proposal for 54 units was 20
percent bigger than the 45 that were previously approved and there was no reason to approve such a big building.

Wischnack said the city had a signed redevelopment contract that covered all the tax increment provisions. The construction date in the revised contract is September 30, 2015 with an opening date of December 31, 2016. She noted that a lot of the comments indicated a belief that there was a lot of money to be made on the development. She said there was a little misunderstanding about this because there was a look back provision in the contract that was a methodology where the city will look at the properties sold and how it came back through the development and the qualified costs. Did the developer make a certain threshold of money according to the TIF contract? If there was too much money made by the developer, and she didn’t believe there was according to the contract, then the city could withhold the tax increment from the TIF note. This was the safety net to prevent the developer from making a large amount of money on the development.

Wiersum said looking at the history of the property, it was pretty clear something would be built. He shared the concerns about the setbacks. He questioned what a building would look like that met the setback requirements. Gordon displayed information about the buildable area. A building with one less story than the proposed building would have a setback of 61 ½ feet from the north and west property lines. This would be a conforming 41 foot tall building. Wiersum asked if there would be any buildable area left if the building had 100 foot setbacks. Gordon displayed information showing a 96 foot tall eight story building that would have a 100 foot setback. Wilson noted there was an unlimited height for the building as long as it conformed to R5 standards. He said it was possible to build a 20 story building that would cast a lot of shadows but would meet the setback requirements. Acomb noted the contract provided for only 45 units. Heine said that provision was for the tax increment financing. Wilson said the proposal was not for a 20 story building and was not any part of anyone’s thinking. It was information that was put together as an exercise for what another developer could do on the site.

Ellingson noted that for what was previously approved, most of the building was outside the buildable area. If that was what was proposed now for the first time it would not be approved. He said the council made a mistake nine years ago with its approval. The question was how to correct the mistake. A couple of council members indicated that it was difficult envisioning how big the St. Therese building would be until it was built and regretted their votes on that development. He said everybody knew what was being proposed was too big for this site. Half of the building would be outside the buildable area. He said it wasn’t realistic to not grant some variances because of the shape of the lot, but a shorter building could fit
on to the site. He agreed with the city attorney’s opinion that the council had some discretion about the setbacks but were limited by past actions. Several changes were being made to the development agreement and the council had to use its best efforts to approve something. He thought for the council to exercise its best efforts it should negotiate the setback requirements and the size of the building in the context of the development agreement since there were other things being changed in the contract. This was the way to correct the mistake that was made. He said this was the most somber discussion he could remember and it reflected the depth of feeling people had. The city was obligated to honor the development agreement but it was also obligated to the residents to get a good project.

Wiersum said the 2006 project was part of a package. There were pros and cons to what happened with the Glen Lake redevelopment. Meaningful blight was eliminated. Viable buildings were built. The Gold Nugget reopened. A nice grocery store did well for a while. The city got a lot of things that were hoped for but a lot of things did not happen. The Exchange was supposed to be condominiums but ended up being nice apartments. The Glenn was a nice building but it was a big building. What was being proposed was not a small building but would be the smallest of the three on the most sensitive site. He said the Glen Lake redevelopment did not go the way anyone expected it to. The challenge was he did not get to design a building he would like but he had to say yes or no to what was before the council. If the council approved the proposal it knew what would be built. If it voted no then it would not be known what would be built and when it would be built. The council was elected to vote yes or no while considering the community values and do the best job possible. He thought the proposed building was decent and the setbacks had been improved. Even though the buildable area was larger, the building was smaller. It was a challenging site that would always require variances.

Wagner said he reviewed his comments from 2006. He said the discussion was all about the package. There was blight that needed to be addressed and the city wanted affordable housing and a grocery store. Everyone struggled with site C and people wanted to a mix up the content of the residential mix in Glen Lake from where it was at the time. He agreed with Sheely that everything changed. Nothing that was originally approved is what is occurring in Glen Lake today. Some of this had to happen rather than have three properties sitting doing nothing. The dilemma is if this proposal aligns with the broader package and what options the council had. It was up to the council to gauge the risk with the contract. He said the proposed product was valued by residents who were looking for alternatives. At the same time, the council had to recognize the variances were some of the biggest that would be approved. He said this was one of the most perplexing discussions the council has had in a while.
because things had changed so much from the original intent. His biggest concern was that even though the situation changed the council had to decide if the proposal fit with the original intent.

Acomb said since she wasn’t on the council in 2006 there were a lot of sentiment expressed that she wasn’t a part of. Still the emails, phone calls and conversations she has had showed there was a lot of passion. She said the redevelopers did a good job at providing opportunities for the community to be a part of the conversation and being open to concerns. From the beginning her concerns have been about the setbacks and with them not being consistent with the rest of the R5 properties in Glen Lake. She thought the product was a great product and there were people in the community who desired it. She was concerned about the effect of the product on this site.

Bergstedt said he also was not part of the council when the original approval was made. It was and remains a very controversial decision. If there was no previous history with the site and this project was before the council on its own merits, most would agree it was too big and the setbacks needed to be decreased. The proposal before the council was very similar to what was previously approved. He didn’t see the change from condominiums to a senior cooperative as a real ownership difference. The demographics of who would live in the cooperative is similar to who would have lived in the condominiums. He didn’t consider this proposal to be like the Glenn or other senior housing. This was for active people who wanted to remain in the community. He said the developer had a stellar record and had done a good job in trying to work with the neighbors. This made it difficult in that a better developer likely would not come forward. The site had sat vacant for nine years. If there were a number of developers waiting in line proposing high end townhomes that may shade things differently. This was the first viable proposal that had come before the council. It was a big building and there was an attempt to balance a fragile site with the surrounding residences and something that would be an asset to the community. Reducing the number of units was not realistic because the building had to be economically feasible to work.

Schneider said everyone knew this was a challenging site that had been dealt with for many years. The first approval process was not easy and the current process had not been easy either. The city had entered into a binding contract through the TIF agreement that said the city would use its best efforts to facilitate a development as part of a package. Parameters were established as part of the approved site plan that was part of the package. For him best efforts included the height, the look, the trail access, and the setbacks that were stipulated in the site plan. Physically the proposed building fit within the envelope. There were some changes
from the original approval and the changes had to be evaluated to determine if they were a plus or a minus. He said for the original approval the council wanted home ownership, not necessarily condos, with some higher values to make the TIF and the rest of the development work. This proposal was for home ownership in a different format. There was a change in the number of units from 45 to 54 but during the process all of the affordable housing had been transferred to the Glenn. The developer was willing to add four affordable units. This was a plus. An even bigger plus was rather than having condos selling for three quarter of a million dollars or more, there now would be a few more units in the same footprint with much more diversity of pricing options. The condos may have generated more value but they could also lose value significantly. Traditionally cooperatives have been more stable. He viewed the change in the number of units as a net plus. Because of the new design the building would look less massive when viewed from the lake. He said he did not disagree about the comments about the Glenn being too big but if the residents who lived there were asked now, they would be highly supportive of their residence.

Wiersum said the Glen Lake redevelopment had a significant impact on the history of the city. He said the development contract was not an insignificant issue. It was prudent to avoid lawsuits. He agreed the building was improved and this proposal was for home ownership. He had not been in a meeting where people were asking for more expensive housing. The demand for one level housing in the city was great.

Acomb said she also compared the pros and cons. She identified a lot fewer pros for the community than cons. She agreed the product was good and was needed in the community. Her concern was the impact on the site. She walked the area where the trail would be and it was very crowded from the building location and the neighbors. She said while the proposal was improved, it still wasn’t quite good enough. The site and community deserved a little bit better. Having fifty percent to the building in the setbacks felt too great for her to support.

Bergstedt said given the emotional history he was impressed by everyone who contacted him and spoke on the item. He said people were respectful and worked to become educated and well informed on the issues. He supported the proposal because of the contract the city had entered into. The city attorney advised that if a developer came forward with a similar project to what was previously approved, the council would be hard pressed to legally deny it. The proposal came from a high quality developer with a great track record and was a product that likely would be a very popular product in the city. He said decisions should not be based just on potential legal issues, but in this case it was a major part of his decision. It was a big building and he wished it was smaller but he was
supportive because he truly felt the council gave its best efforts to help improve the proposal. This was an important parcel but there were several other nearby parcels that would be redeveloped in the near future. He hoped a timely process would be determined on how the city along with the residents could best figure out how to redevelop the area. The worst thing that could happen would be to make independent decisions on parcels on a piece meal basis.

Wagner said as he reviewed the history he was reminded that one of the things that was supposed to happen with site A was mid-priced affordable housing that was lacking. He agreed with Bergstedt’s comments about not wanting to make a decision based on potential legal action but at the same time there was a risk. It definitely was a consideration in his decision making on the proposal. Even though there was little neighborhood support for the project, a protracted legal process would not allow healing to occur. He thought there was some value being gained that wasn’t previously a part of site C with the additional affordable housing. He leaned toward supporting the development but some of the elements like the trail gave him some pause. He thought it was reasonable to have a further discussion about the trail.

Acomb said there had been a few comments about the contract and in some ways it felt like the council was picking and choosing the things it wanted to stick to in the contract. The contract specified 45 units and that number was being changed. She felt if the council decided to stick to the contract, the contract should strictly be followed. If not, there were other provisions that could be adjusted like the setbacks. She didn’t want the city to be sued but there were other provisions that could be discussed.

Schneider said there was a previous discussion about the number of units. The number had been changed to make the building slightly smaller. The importance of the 45 units was the value that was needed to factor into the overall TIF subsidy. He said the important thing was getting the same sized building that was previously approved and if the same projected value was there to make the TIF work. Wischnack agreed with Schneider’s comments about the unit count. She said the value of unit was definitely less. The unit sale price was much lower than what was anticipated in 2006. There would be around $900,000 of tax increment over the life of the district that this portion would create based on around $8 million in construction. Schneider noted the staff report indicated the numbers were adequate to pay off the note. The goal had always been to only collect the TIF needed to pay back the city. Wischnack said the pay back had improved with a smaller project. This was due to the value increases that happened with the other parts of the project that did better than expected. Schneider said a specific component of the previous approval was a site plan with specific criteria that included building shape,
height, volume, and the setbacks. If the general intent was met, no matter how many units, it would be difficult to say there was a substantial deviation from the original agreement.

Wagner said there was not a substantial difference to what was previously approved. The difficulty was because it was so far removed from the rest that was built, it felt worse. He was supportive after weighing the risks involved and the incremental improvements. He suggested the council discuss the trail.

City Engineer Lee Gustafson said a project engineer did an analysis and based on the grades the trail would work better where it was proposed. Wischnack said staff recommended the trail location on the north side to avoid having a multitude of stairways that would be needed if the trail was located on the west side. Gustafson said he did not see a way snow removal would work and how things would fit if the trail was on the west side.

Schneider said he was ambivalent about the location as long as there was a trail. He understood the preference of the owners of the townhomes of not having a trail right outside their window. The reality was the townhome owners would not be able to see people on the trail because the trail would be quite a ways below their homes and because of the retaining walls. The area was confined compared to the west area but with good landscaping the area could be made into a pleasant trail. He agreed with staff that the trail would be less impactful where proposed.

Acomb asked who would be responsible for removing snow from the trail. Gordon said the trail would be for public use. There would be a maintenance agreement and the owners would be responsible for snow removal. Wischnack said it would be the same arrangement that was made for the Tonka on the Creek development.

Wiersum questioned if the developer would be responsible for building the trail. He said the developer had indicated a willingness to come up with a trail that worked best for the site and the neighbors. He didn’t doubt what Gustafson said about the trail location but suggested the developer look at both locations. Schneider said he interpreted the developer’s comments to be that they could make both locations work but the preference was to locate the trail on the north location.

Wiersum moved, Bergstedt seconded a motion to:
1) Adopt Resolution No. 2015-009 approving final site and building plans and associated variances for One Two One Development at 14217 and 14301 Stewart Lane.
2) Adopt Resolution No. 2015-010 approving a Third Amendment to the Second Amended Contract for Private Redevelopment between the economic development authority, the city and Glen Lake Redevelopment LLC with the changes included in the staff change memo.

Ellingson asked why the price of the land was specified in the amendment to the contract. Wischnack said there was a reference in schedule H of the original contract to acquisition and purchase numbers. Ellingson asked the reason the price was included. Wischnack said it was related to the TIF look back provision. The original contract anticipated certain dollar amounts in land acquisition. The higher amount of repayment for the land, the more profit there was, the lower the increment. There was a ceiling for the amount of profit from the land sale. This was a protection element.

Ellingson asked if the number reflected the sale price for the land in the purchase agreement. Wischnack said to her knowledge the answer was no. This was a question for the developer. Ellingson said the developer would have to buy the land for at least that amount of money. Wischnack said her information indicated the number was lower than the amount actually being paid.

Wiersum, Bergstedt, Wagner, and Schneider voted “yes.” Ellingson and Acomb voted “no.” Motion carried.

15. Appointments and Reappointments:

A. Appointment

Wagner moved, Bergstedt seconded a motion to approve the following appointments and reappointments to the Minnetonka Boards, Commissions and Committees:

- Chris Gabler, to the park board, to serve a two-year term, effective February 1, 2015 and expiring on January 31, 2017.
- Deborah Calvert, to the planning commission, to serve a two-year term, effective February 1, 2015 and expiring on January 31, 2017.
- Kathryn Aanenson, to the EDAC, to serve another two-year term, effective February 1, 2015 and expiring on January 31, 2017.
- Benita Bjorgo, to the EDAC, to serve another two-year term, effective February 1, 2015 and expiring on January 31, 2017.
- Ken Isaacson, to the EDAC, to serve another two-year term, effective February 1, 2015 and expiring on January 31, 2017.
- Nelson Evenrud, to the park board, to serve another two-year term, effective February 1, 2015 and expiring on January 31, 2017.
Peggy Kvam, to the park board, to serve another two-year term, effective February 1, 2015 and expiring on January 31, 2017.

Elise Raarup, to the park board, to serve another two-year term, effective February 1, 2015 and expiring on January 31, 2017.

Brian Kirk, to the planning commission, to serve another two-year term, effective February 1, 2015 and expiring on January 31, 2017.

Heather Odland, to the planning commission, to serve another two-year term, effective February 1, 2015 and expiring on January 31, 2017.

Kathryn Aanenson as chair and Ken Isaacson as vice chair for the EDAC for 2015.

All voted “yes.” Motion carried.

16. Adjournment

Wagner moved, Wiersum seconded a motion to adjourn the meeting at 11:31 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
City Council Agenda Item #6A  
Meeting of March 2, 2015

**Brief Description:** Presentation of 2015 Reflections Award

**Recommended Action:** Recognize award winner

**Background**

In 1997 the city of Minnetonka began its Reflections Award program, designed to recognize individuals, business and programs whose outstanding contributions reflect positively on Minnetonka. The award is presented every other year.

This year’s winner is Brian Kuhnly, assistant store manager, Minnetonka Cub Foods.

Brian was nominated by Barb Westmoreland, Hopkins Schools volunteer coordinator, with a supporting endorsement from Peg Keenan, ICA Food Shelf executive director.

Barb wrote, “I am nominating Brian because of his enthusiastic and innovative service to the community members of Minnetonka, and his outstanding mentoring of our teens when they begin their first job at Cub Foods.”

Barb went on to list the many community activities to which Brian contributes, including Hopkins Empty Bowls, weekend car washes, weekend brat stands and bagging for tips. He also volunteers on ICA Food Shelf’s Executive Board of Directors for the ICA Food Shelf and Minnetonka Schools Diamond Club and is a past board member of several community organizations.

Peg Keenan wrote, “Brian…reflects a positive spirit and community commitment here in the City of Minnetonka…[he] is a Cub Community Manager, but not only in title. Brian’s actions always reflect his attitude of giving and caring.”

Congratulations to Brian Kuhnly. We appreciate all you do to make Minnetonka a quality community.

**Recommendation**

Recognize 2015 Reflections Award winner

Submitted through:

Geralyn Barone, City Manager  
Perry Vetter, Assistant City Manager

Originated by:

Jacque Larson, Community Relations Manager
City of Minnetonka
2014 Reflections Award Nominee

Brian Kuhnly
Cub Foods Minnetonka
Assistant Store Manager/Customer Relations & Community Outreach
4801 County Road 101
Minnetonka MN 55345
952-938-1404

Nominator:
Barb Westmoreland
Hopkins Schools Volunteer Coordinator
1001 Highway 7
Hopkins MN 55305
952-988-4069

I have known Brian Kuhnly for several years because of his leadership of partnerships between Cub Foods Minnetonka and Hopkins Schools.

I am nominating Brian because of his enthusiastic and innovative service to the community members of Minnetonka, and his outstanding mentoring of our teens when they begin their first job at Cub Foods (training and emphasizing leadership skills of punctuality, honesty, customer service, and taking pride in doing your best job at work).

From Brian, “I am grateful to the Haug Family (Cub Minnetonka owner since 1984) for my many years here as assistant manager. They encourage me to reach out and do all we can here at Cub to help out in our community. I’ve learned that everyone can overstep personal hurdles, keep moving and help take care of others. I can never sit in my office – I want to be where the action is! I’m inspired every day by the good work of volunteers here in Minnetonka.”

This is an abbreviated list of how Brian reaches out every day to make life great for the residents of Minnetonka:

- Hopkins Empty Bowls – Brian recruits sponsors, he volunteers for many hours at the event, and Cub provides deli trays for the volunteer leader thank you party.
- Weekend car washes – Brian enlists youth groups for their fundraiser in the Cub parking lot (Hopkins and Minnetonka Schools clubs & teams, scouts, church service groups).
- Three day weekend grilled brat/hotdog/pork chop stand – Brian enlists adult volunteer groups to grill & serve, and receive the proceeds and tips (Hopkins Empty Bowls, ICA Food Shelf, Minnetonka Diamond Club, civic and church groups, etc).
- Bagging for tips – on busy holiday shopping days, youth and adult groups are enlisted by Brian to help Cub customers pack their groceries and deliver to their cars.
- Brian welcomes ALL community groups to ask for Cub food products to help their cause (Eagle Scout projects, church volunteer events and fundraisers, civic group fundraisers, Minnetonka and Hopkins Police & Fire Department projects, Minnetonka and Hopkins Schools clubs, teams, PTOs, etc).
- Cub Foods Community Meeting Room – Brian encourages community groups to use this space free of charge.
- Brian volunteers as a current board member for ICA Food Shelf and Minnetonka Schools Diamond Club; he is a past board member for several community organizations.
Other awards Brian has received
• WCCO Good Neighbor
• Minnetonka Schools Spinnaker Award for Outstanding Service
• Spirit of Christ Service Award from Mount Calvary Church, Excelsior
• Person of the Year from Excelsior Chamber of Commerce

From Steve Kniss and Angie Kniss
Minnetonka Police Department

Brian Kuhnly is an asset to the Minnetonka community. He truly exhibits compassion for Minnetonka residents, is out of the box in his thinking when it comes to supporting non-profit organizations - both civilian and military service men and women. Brian goes out of his way - above and beyond to ensure that everyone he comes in contact with is treated as his number one priority. He consistently exceeds the expectations of those who seek him out to support their organization - the Down Syndrome Foundation and Down Syndrome Camp, the Minnetonka Police Department, and Delta Company 334 BEB Family Readiness Group, to name just a few.

Brian has a ready smile and a 'can do' attitude; he has great attention to detail and his follow-through is amazing. Brian is one of the few who 'walk the talk'. Cub Foods and the City of Minnetonka is lucky to call Brian one of their own!

From Sara Ahlquist and Jim Lundeen
Minnetonka Fire Department

Brian Kuhnly is an extremely giving member of our community. He is friendly and kind and truly enjoys reaching out to our community here in Minnetonka. As a Cub Foods manager of our local store here he has the opportunity to provide resources and services to our residents and he never misses an opportunity. He always says "yes"! Whether he is donating time, space or foods he is extremely generous. We strongly recommend Brian for the Reflections Award!!

Supporting Endorsement from Peg Keenan,
ICA Food Shelf executive director
Please see attached letter.
November 11, 2014

Reflections Award Committee,

I am excited to be able to support the nomination of Mr. Brian Kuhnly as one who most definitely reflects a positive spirit and community commitment here in the City of Minnetonka. Brian Kuhnly is a Cub Community Manager, but not only in title. Brian’s actions always reflect his attitude of giving and caring.

Brian is on ICA Food Shelf’s Executive Board of Directors. In that role Brian helps guide ICA to be an organization that is responsive to the need of our community especially as it relates to providing food to those neighbors in need. He is strategic in this thinking, yet also the first to volunteer to have ICA’s presence at Cub at Hwys 101 & 7. ICA currently has volunteers at Cub to “sell” Turkey Certificates, money for turkeys for clients to celebrate the upcoming holidays. He lets ICA participate in “Bagging for Tips” where our volunteers bag customer’s groceries and any tips they receive come to ICA. The Brat Stand, where food is donated by Cub and then customers can purchase a brat, hot dog or pork chop meal in the summer, is another fundraiser benefitting ICA.

My most favorite event that Brian orchestrates at his Cub store is the partnership with Cargill, ICA Food Shelf and Cub. For several years now on an October Friday evening, teams of Cargill employees do their Feed the City Challenge. Each team must carefully race through Cub to put specific items and specific quantities into their carts and be the first team to come back with their entire grocery list filled. It is a fun and a little bit crazy, but ICA volunteers then collect and sort all the food obtained, taking it back to ICA for our clients. Brian is involved in the planning and execution. Even awaiting real customers that night, Brian is ready to give them gift cards so that they leave with a positive shopping experience, as his customers dodge the Cargill racers.

The amazing thing is that Brian’s community outreach doesn’t only exist with ICA, but with many, many organizations in our community. Almost every weekend another nonprofit group, church group or a school club, benefits from Cub’s community outreach – Brian’s community outreach.

Within the Cub store, Brian’s care for customers and the community are reflected as he interacts with people. The other day I was at Cub and Brian was walking through the store needing to handle some situation. Yet a customer stopped Brian and asked about some product. Brian took time to walk with the customer to the location of the product and had a great conversation with him on the way. Brian is truly interested in people and his caring and commitment shows in all he does.

Thank you for considering Brian Kuhnly as a recipient of Minnetonka’s Reflections Award.

Peg Keenan
Executive Director, ICA Food Shelf
City of Minnetonka
Proclamation
2015 Empty Bowls Event
Tuesday, March 24, 2015

WHEREAS, Minnetonka's local ICA food shelf provided more than 14,000 food assists in 2014; and ResourceWest assisted more than 10,000 people in 2014; and

WHEREAS, Empty Bowls is an international grassroots project to raise money for local food shelves, and in the 16 years of Empty Bowls events in our community, more than $862,000 has been raised for local food shelves; and

WHEREAS, the 17th annual Empty Bowls event is Tuesday, March 24, at the Hopkins Center for the Arts, with the goal of raising $80,000 for local food shelves ICA and ResourceWest. Participants may choose a handmade bowl, enjoy soup and bread donated by local businesses, make a donation, then keep their bowl as a reminder of all the empty bowls in the community and the world.

NOW, THEREFORE, BE IT RESOLVED, that the Minnetonka City Council declares March 24, 2015, to be Empty Bowls Day in the city of Minnetonka, and urges residents to participate in the Empty Bowls event by making a donation, making a bowl, or volunteering.

Terry Schneider, Mayor  March 2, 2015
Brief Description: Resolution supporting dedicated state funding for city streets

Recommended Action: Adopt the resolution

Background

The League of Minnesota Cities (LMC) Board of Directors adopted a resolution on February 19 to show support for new dedicated state funding for city streets. The resolution, which is aimed at formalizing a directive enacted by the Board in January, supports “an omnibus transportation funding bill that provides additional dedicated state funding for city streets including funding that can be used for non-MSA (municipal state aid) city street maintenance, construction and reconstruction.” The resolution will be presented to legislators, Governor Dayton, and other stakeholders. LMC is encouraging cities to support this effort, and to consider adopting a similar resolution as soon as possible and sharing it with local legislators.

Although the resolution is somewhat vague as to the type of new funding, staff feels that this initiative should be supported and is recommending council adopt the attached resolution. Council adopted a similar resolution two years ago supporting street improvement district legislation. There is currently a new bill that has been introduced that would allow for the formation of street improvements districts. Minnetonka’s resolution from two years ago will be used to support this legislation. Staff is hopeful that some type of legislation gets passed that would aid the city’s need to make street improvements related to LRT and other areas that will undergo redevelopment, like the Ridgedale and Opus areas.

Recommendation

Adopt the attached resolution supporting dedicated state funding for city streets.

Submitted through:
  Geralyn Barone, City Manager

Originated by:
  Lee Gustafson, P.E., Director of Engineering
Resolution No. 2015-
Resolution supporting dedicated state funding for city streets

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

Section 1. Background.

1.01. Minnesota contains over 141,000 miles of roadway, and over 19,000 miles, or 13 percent, are owned and maintained by Minnesota’s 852 cities.

1.02. Over 80 percent of municipal streets are ineligible for dedicated Highway User Tax Distribution Fund dollars, and in Minnetonka this equates to 205 miles of non-MSA streets on our local street system.

1.03. The more than 700 Minnesota cities with populations below 5,000 are ineligible for dedicated Highway User Tax Distribution Fund dollars.

1.04. City streets are a separate but integral piece of the network of roads supporting movement of people and goods.

1.05. Existing funding mechanisms, such as Municipal State Aid (MSA), property taxes and special assessments, have limited applications, leaving cities under-equipped to address growing needs.

1.06. City cost participation in state and county highway projects diverts resources from city-owned streets.

1.07. Maintenance costs increase as road systems age, and no city, large or small, is spending enough on roadway capital improvements to maintain a 50-year lifecycle.

1.08. For every one dollar spent on maintenance, a road authority, and therefore taxpayers, save seven dollars in repairs.

1.09. Cities need greater resources, including an additional dedicated state funding source for transportation, and flexible policies in order to meet growing demands for street improvements and maintenance.

Section 2. Council Action.

2.01. The City of Minnetonka supports an omnibus transportation funding bill that provides additional dedicated state funding for city streets including funding that can be used for non-MSA city street maintenance, construction and reconstruction.

Adopted by the City Council of the City of Minnetonka, Minnesota, on March 2, 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 March 2, 2015.

David E. Maeda, City Clerk
Brief Description  Ordinances amending various sections of city code regarding:

(1) Wetland Ordinance;

(2) Tree Ordinance;

(3) Grading Ordinance; and

(4) Illicit Discharge Ordinance

Recommendation  Adopt the ordinances

Proposal

Staff has prepared several ordinances amending sections of the city’s existing environmental ordinances. The ordinances can be classified as: (1) housekeeping amendments; and (2) mandatory amendments.

(1) HOUSEKEEPING

Through the interpretation and enforcement of ordinances, staff sometimes finds that language needs to be modified to clarify the intent of the ordinance regulations or to reflect long-standing city practices. Staff is proposing the following housekeeping amendments:

<table>
<thead>
<tr>
<th>ORDINANCE</th>
<th>SUMMARY OF PRIMARY CHANGES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland</td>
<td>Clarifies how a wetland boundary will be determined if there is dispute</td>
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<td></td>
<td>Clarifies allowances for public utilities in wetlands and wetland buffers</td>
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<td>Clarifies setbacks for hot tubs, retaining walls, and uncovered structures</td>
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<td></td>
<td>Allows the city to require escrow to restore an altered wetland</td>
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<tr>
<td>Tree</td>
<td>Clarifies basic tree removal area for structures built on post footings</td>
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<td></td>
<td>Removes individual ash trees from the high-priority classification</td>
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<td></td>
<td>Clarifies how measurements are taken from roadways to groups of high-priority trees</td>
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<tr>
<td></td>
<td>Clarifies conditionally permitted uses in the R-1 district are held to different tree mitigation standards than a single-family home</td>
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</table>
(2) **MANDATORY**

Under the federal Clean Water Act, in order to discharge stormwater into area waterbodies, cities are required to hold a municipal separate storm sewer system (MS4) permit. The Minnesota pollution control agency (MPCA) issues and administers MS4 permits. An overview of the MPCA program for the MS4 permit is included on pages A1-A2. Like all cities that hold a MS4 permit, Minnetonka must maintain conformance with it through its regulations and practices. Conditions of the city’s MS4 permit include:

- public education;
- public participation;
- detecting and eliminating illicit discharges;
- controlling construction site and post construction runoff; and
- Implementing “good housekeeping measures.”

The goal of these conditions, and the MS4 permit itself, is to improve and protect surface waters by reducing pollutants found in stormwater discharges. To comply with the conditions of the MS4 permit, the city must adopt more restrictive ordinance language relating to grading and illicit discharges than exist in the current ordinances. Staff is proposing the following ordinance amendments:

<table>
<thead>
<tr>
<th>ORDINANCE</th>
<th>SUMMARY OF CHANGES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grading</td>
<td>Includes language as required by MPCA relating to the agency’s individual construction site permit</td>
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<tr>
<td>Illicit Discharge</td>
<td>Defines technical terms</td>
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<td>Exempts certain discharges</td>
</tr>
<tr>
<td></td>
<td>Prohibits certain discharges</td>
</tr>
<tr>
<td></td>
<td>Prohibits certain connections</td>
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</tbody>
</table>

**Planning Commission Hearing**

The planning commission considered the proposed amendments on February 5, 2015. Commissioners asked general questions about the levels of protection outlined in the existing tree ordinance and impact of the proposed amendments on this. Staff noted that but for removal of the ash trees from the high-priority designation, no substantive changes were made to levels of tree protection. A public hearing was opened to take comment. None was received. On a 7-0 vote, the commission recommended the council adopt the ordinance amendments. (See pages A43–A45.)
Staff Recommendation

Adopt the following:

1. An ordinance amending Minnetonka City Code §300.23 concerning the wetland overlay district. (Page A4–A15.)

2. An ordinance amending Minnetonka City Code §300.28 Subd.19 regulating tree protection. (Page A16–A27.)

3. An ordinance amending Minnetonka City Code §300.28 Subd. 16, 17 and 18 regulating grading and erosion control. (Page A28–A37.)

4. An ordinance amending Minnetonka City Code §§1205 and 300.28 regulating discharges into the municipal storm sewer system. (Page A38–A42.)

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

Originators:
Jo Colleran, Natural Resources Manager
Corrine Heine, City Attorney
Aaron Schwartz, Natural Resources Specialist
Liz Stout, PE, Water Resources Engineer
Susan Thomas, AICP, Principal Planner
The Municipal Separate Storm Sewer System (MS4) general permit is mandated by the federal regulations under the Clean Water Act and administered by the Minnesota Pollution Control Agency.

The MS4 permitting program gives owners or operators of municipal separate storm sewer systems approval to discharge stormwater to lakes, rivers and wetlands in Minnesota.

Environmental harm

Urban stormwater frequently contains litter, oil, chemicals, toxic metals, bacteria, and excess nutrients, like nitrogen and phosphorous. Polluted stormwater contributes to swimming-beach closings, fish-eating advisories, excess algae growth and poor water clarity in urban water resources, especially lakes.

In addition to human effects, poorly managed urban stormwater can drastically alter the natural flow and infiltration of water, scour stream banks and harm or eliminate aquatic organisms and ecosystems.

The primary goal of the MS4 general permit is to improve water quality by reducing pollutants in stormwater discharges. Specifically, the program aims to ensure proper management of stormwater discharges into waters of the state.

Defining MS4s

In general terms, MS4s are publicly owned or operated stormwater infrastructure, used solely for stormwater, and which are not part of a publicly owned wastewater treatment system. Examples of stormwater infrastructure include curbs, ditches, culverts, stormwater ponds and storm sewer pipes. Common owners or operators of MS4s include cities, townships and public institutions.

The MS4 general permit focuses on reducing the pollution that enters these public systems and discharges to wetlands, streams and lakes (“waters of the state”).

Owners and operators of MS4s which are required to get a permit are created in one of three ways: By federal rule, 40 CFR § 122.34 (a) and (b) (the Clean Water Act), state rule (Minnesota Rules Chapter 7090), or by public petition to the Minnesota Pollution Control Agency.

By federal rule, stormwater systems in urban areas are labeled Mandatory MS4s. In addition to these, Minnesota added other stormwater systems (Designated MS4s) to the list. These MS4s are only added if the stormwater system is located in an urban area that meets the criteria established in the State Rule for population and discharge points.

The number of MS4s in Minnesota is growing as urban areas expand. As of April 2008, there were 243 MS4s in Minnesota.

Public Process

After a term of five years, the MS4 general permit is improved and revised, if necessary, and re-issued. Public comment...
is encouraged before the re-issuance of new MS4 general permits and before the creation of new MS4s. In addition, the public is asked each year to share its opinion on plans the owner or operator of their local MS4 has made to manage stormwater. These opinions are shared at local meetings required by the permit.

**Requirements of the MS4 General Permit**

All owners or operators of MS4s are required to satisfy the requirements of the MS4 general permit; Minneapolis and St. Paul are required to meet customized individual permits, which are similar but which contain additional requirements.

Basically, the MS4 general permit requires the MS4 operator or owner to create a Stormwater Pollution Prevention Program with six important components:

1. Public education and outreach, which includes teaching citizens about better stormwater management
2. Public participation: Include citizens in solving stormwater pollution problems. This includes a required public annual meeting and an annual report.
3. A plan to detect and eliminate illicit discharges to the stormwater system (like chemical dumping and wastewater connections)
4. Construction-site runoff controls
5. Post-construction runoff controls
6. Pollution prevention and municipal “good housekeeping” measures, like covering salt piles and street-sweeping.

**Reducing Stormwater Pollution**

The MS4 general permit is a requirement, but also a tool in the hands of city, township and county officials who want to improve the quality of lakes and rivers that receive their stormwater discharges. MS4 administrators have can improve the quality of life for their citizens by protecting and restoring local water quality.

Citizens served by an MS4 are invited to encourage the owner or operator (normally their city, township or county) to tackle stormwater pollution problems, but the responsibility for water quality is not left in the hands of public officials.

Public and private spaces contribute to urban stormwater pollution. While MS4 administrators control the public sources of stormwater pollution, it’s ultimately in the hands of private citizens to change the way they do small things that will have a dramatic effect on the quality of their favorite fishing spot or swimming beach.

**Simple Steps for Better Water Quality**

You can make simple changes to reduce stormwater pollution and improve the quality of your local lake or river by following these tips:

- Fertilize established lawns with phosphorous-free fertilizer and don’t overspray fertilizer into the street.
- Rake leaves and sweep grass clippings away from curbs. Clean curbs mean clean water.
- When you wash your car or truck, direct water onto your lawn to soak up soap.
- Find attractive alternatives to large, impervious driveways and sidewalks.
- Direct your home’s gutters onto your lawn. Water that doesn’t make it to the curb can’t carry pollutants to lakes and streams.

**Detailed Information**

For more detailed information about the MS4 general permit or for further information about reducing stormwater pollution, please visit the MPCA stormwater program Web site: [www.pca.state.mn.us/stormwater](http://www.pca.state.mn.us/stormwater)
PROPOSED ORDINANCES
Ordinance No. 2015-

An Ordinance amending Minnetonka City Code Section 300.23, concerning the wetland overlay district

Section 1. Section 300.23 of the Minnetonka City Code is amended as follows:

SECTION 300.23. WETLANDS PROTECTION.

1. Purpose and Intent.

   a) The purpose of this section is to recognize, preserve and protect the environmental, aesthetic and hydrologic functions of the city's wetlands by regulating the use of wetlands and their adjacent properties. These functions include, but are not limited to, sediment control, pollution control, filtration, fish and wildlife habitat and aquifer recharge.

   b) The intent of this section is to protect wetlands to the maximum extent possible while allowing a reasonable use of the property. This section adopts the regulations and standards of the Wetland Conservation Act of 1991 (WCA), Laws of Minnesota 1991, chapter 354, as amended, and the rules adopted pursuant to the WCA. It also establishes a wetland overlay district. This overlay district further regulates the underlying land use as allowed by other districts or the WCA.

2. Designation of Protected Wetlands and Exemptions.

   a) The wetlands protected and regulated by this Section are types 1, 2, 3, 4, 5, 6, 7, and 8 wetlands, as defined in circular 39, “Wetlands of the United States”, 1971 edition, United States Department of the Interior. Protected wetlands are further generally defined as follows:

      Type 1 Seasonally Flooded Basins or Floodplains: Type 1 wetlands are seasonally flooded basins or flats in which soil is covered with water or is waterlogged during variable seasonal periods but usually is well-drained during much of the growing season. Type 1 wetlands are located in depressions and in overflow bottom lands along water courses. Vegetation varies greatly according to the season and duration of the flooding, and includes bottom land hardwoods, as well as herbaceous plants.

      Type 2 Inland Fresh Meadow: Occurs along the shallow edges of lakes, marshes and floodplains, or in perched depressions. The soil is usually without standing water during much of the growing season, but is waterlogged within at least a few inches of the surface. Vegetation includes grasses, sedges, rushes and various herbaceous plants.
Type 3 Inland Shallow Fresh Marsh: Soil is usually water logged during the growing season, often covered with as much as six inches or more of water. Vegetation includes grasses, bulrushes, cattails, arrowheads, smartweeds and other emergent aquatic vegetation.

Type 4 Inland Deep Fresh Marsh: Soil covered with six inches to three feet or more of water during growing season. Vegetation includes cattails, reeds, bulrushes and wild rice. Open water areas may contain pondweeds, naiads, coontail, water milfoils and other submergent aquatic vegetation.

Type 5 Inland Open Fresh Water: Water is usually less than 10 feet deep and is fringed by a border of emergent vegetation. Vegetation includes pondweeds, naiads, coontail, water milfoils and other submergent aquatic vegetation.

Type 6 Shrub Swamp: Occurs along sluggish streams or on floodplains. The soil is usually waterlogged during the growing season, and is often covered with as much as six inches of water. Vegetation includes alder, willow and dogwood.

Type 7 Wooded Swamp: Occurs along sluggish streams, on floodplains, on flat perched depressions and in shallow lake basins. The soil is waterlogged to within a few inches of its surface during the growing season and is often covered with as much as one foot of water. Vegetation typical to this wetland includes tamarack, white cedar, black spruce, balsam fir, red maple and black ash.

Type 8 Bog: Occurs along sluggish streams, on flat perched depressions and shallow lake basins. The soil is waterlogged and supports a spongy covering of mosses. Vegetation typical to this wetland type includes sphagnum moss, heath shrubs and sedges. Minnesota bogs contain leatherleaf, Labrador tea, cranberries and pitcher plants. Scattered stunted black spruce and tamarack also are common features of bogs.

b) Areas that exhibit wetland characteristics but were created for a purpose other than to create a wetland are exempt from this section. This includes areas such as storm water ponds, roadway ditches, or other areas that receive artificial hydrology. The landowner has the responsibility to prove by a preponderance of the evidence that an area is exempt under this paragraph.

c) The reconstruction and maintenance of existing public roads and associated public utilities are exempt from this section 300.23 as long as they comply with the WCA as approved by city staff.


This section establishes the presumptive wetland overlay districts. These districts are subject to additional requirements beyond those required by the WCA. The boundaries of the presumptive wetland overlay districts are identified by government survey section.
and contour elevation above mean sea level in Appendix A to this section. The city’s official wetland map graphically shows these boundaries.

If a specific wetland delineation has been done under WCA rules, then the boundaries of the wetland overlay district for that location will be as shown in the delineation rather than the presumptive boundaries. The city may require wetland delineations to determine compliance with WCA rules and this section 300.23; however, property owners may have wetland delineations done for their properties on their own initiative. The delineation must be done by a professional wetland delineator according to WCA rules and be acceptable to the planning director. Public waters and public water wetlands are included in the overlay district.

4. Interpretation of Wetlands Boundaries.

Whenever a delineated wetland boundary is disputed or uncertain, the city planning director or designee may convene the technical evaluation panel according to WCA rules. The owner must have the delineated wetland boundary staked in the field in order for the panel to evaluate the area. The technical evaluation panel and city planning director or designee may require additional information require the submission of a registered survey of the property and field staking showing the wetland delineation, and such other information as the director may require to resolve the dispute or uncertainty. No boundary change may be authorized on the basis of fill that was placed on the site after the city designated the area as part of the wetland overlay district. Persons aggrieved by a decision of the city planning director, or designee may appeal such the decision as provided in accordance with the provisions of section 300.0403, subdivision 61of this ordinance and the WCA rules as applicable.

5. Wetland Buffer Areas.

   a) This subsection establishes requirements for wetland buffer areas around protected type 2-8 wetlands. Buffer areas are necessary and beneficial to maintain the health of wetlands. Buffer areas protect the edge of wetlands from erosion while filtering sediment, chemicals and other nutrients from runoff that drains into wetlands. Buffer areas can improve the biological diversity and health of a wetland environment while reducing the adverse impacts of human activities.

   b) Buffer areas regulated by this section are areas of vegetative cover that are upland of the wetland edge, and that occur in a natural condition or through restoration. Buffer areas consist of shrubbery and trees, and native grasses or forbs or both that are not mowed, fertilized or manicured in any manner.

   c) Wetland buffer areas must be created or existing buffer areas must be maintained around all protected type 2-8 wetlands in the following situations:

      1) when wetlands are required to be replaced or restored;
2) when new development occurs. For purposes of this subsection, new development means:
   
a) any subdivision that creates a new lot that has no principal use on it;
   
b) construction of a principal use on an existing vacant parcel of land;
   
3) when redevelopment occurs. For purposes of this section redevelopment means the reconstruction of the principal structure if it includes the removal of the principal structure by more than 50 percent of the square footage of the building footprint or an increase of the square footage of the building footprint by more than 50 percent. This requirement does not apply if construction is the result of more than 50 percent of the building being damaged by an involuntary force, such as fire, wind, or vandalism;
   
4) when the city requires a buffer as part of a variance, expansion permit, conditional use permit, or a site plan review; or
   
5) on any preserve wetland when grading or construction is proposed that requires a city permit and the proposed activity could potentially impact the quality of the wetland by increasing hard surface run off, altering existing drainage, or impacting an existing buffer.
   
d) Buffer area widths will be based on the wetland classification in the city's water resources management plan. The following are the required buffer area widths:

<table>
<thead>
<tr>
<th>Wetland Classification</th>
<th>Width of Buffer Area From the Wetland Boundary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manage 2</td>
<td>16.5 feet</td>
</tr>
<tr>
<td>Manage 1</td>
<td>25 feet</td>
</tr>
<tr>
<td>Preserve</td>
<td>50 feet</td>
</tr>
</tbody>
</table>

  e) In cases of new development or redevelopment the city may require that vegetation in the wetland buffer be installed prior to the issuance of the certificate of occupancy. To ensure installation of the buffer the city may require a cash escrow or letter of credit equal to 150 percent of the cost to install the required buffer.

  f) The city may allow the disturbance of an existing buffer area during the course of construction activity. This disturbance must be kept to a minimum, soils must be decompacted to a level that will accommodate root growth, and the buffer area must be re-established as required by the city. The city will determine the amount of allowable disturbance. The city may require a cash escrow or letter of credit equal to 150 percent of the cost to re-establish the buffer to its original condition.
g) The city may require buffer area planting and maintenance when the city
determines that there is inadequate vegetation in the buffer area to meet the intent of
this section. The city may require a cash escrow or letter of credit equal to 150 percent
of the estimated cost of the vegetation and installation. The escrow or letter of credit
must be valid for up to two years and may be used by the city to replace any vegetation
that dies.

h) The affected property owner or homeowner association that is responsible
for the maintenance must:

1) maintain and repair damage to buffer areas from such activities as
mowing, cutting, grading or other prohibited activities, unless mowing is approved by
city staff as a buffer management strategy. Permission must be obtained from the city
before implementing buffer management strategies, which may include mowing,
burning, and the use of herbicides.

2) be responsible for maintaining only the permitted vegetation in the
buffer area and must remove all noxious weeds and invasive, non-native species such
as European buckthorn;

3) ensure that all soil surfaces in the buffer area are planted with the
permitted vegetation and that there is no open soil surface that may result in erosion.

6. Permitted Uses.

a) Within the wetland overlay districts no land may be used except for one or
more of the following uses:

1) native wetland vegetation, provided that no change is made to the
ground elevation;

2) wildlife and nature preserves;

3) public overhead utility lines and poles that are less than two feet in
diameter;

4) docks and reasonable access to the wetland, poles, posts or
footings that are less than two feet in diameter to be used for boardwalks and bridges,
and pervious hiking, skiing and horseback riding trails that comply with WCA standards.
Pervious will mean an area where water is able to infiltrate into the ground;

5) public and private flood control structures, ponding and drainage
facilities and associated accessory appurtenances;

6) environmental monitoring or control facilities, including those
related to water quality and wildlife regulation;
7) in wetlands where impervious, public trails exist, maintenance of the trail will be allowed as long as there is not an increased impact to the wetland.

b) Within wetland buffer areas no land may be used except for one or more of the following uses:

1) native vegetation, provided that no change is made to the ground elevation;

2) wildlife and nature preserves;

3) docks and reasonable access to the wetland, poles, posts or footings that are less than two feet in diameter to be used for boardwalks and bridges, and pervious hiking, skiing and horseback riding trails. Pervious will mean an area where water is able to infiltrate into the ground;

4) public and private flood control structures, ponding and drainage facilities and associated accessory appurtenances;

5) environmental monitoring or control facilities, including those related to water quality and wildlife regulation;

6) public overhead utility poles and lines that are less than two feet in diameter, under-ground public utility lines and distribution equipment, light poles, traffic signals, traffic regulatory signs, mailboxes and other equipment that provides an essential public service;

7) fences;

8) retaining walls if the city determines that the retaining wall will protect the wetland from existing conditions of erosion;

9) in wetland buffer areas where impervious, public trails exist, maintenance of the trail will be allowed as long as there is not any additional impact to the wetland buffer area.


Within the wetland overlay districts and the wetland buffer areas no land may be used for the following except by conditional use permit and except in conformance with the standards specified in subsection 8 of this section:

a) private and public recreational uses, including golf courses, impervious trails, picnic grounds and boat ramps;
b) public utilities not permitted under subdivision 6 of this section, including necessary structures;

c) other non-structural facilities similar to those permitted by this section which also meet the intent of this section, as determined by the city; or

d) public structures associated with recreational uses permitted by this subsection or by subsection 6 of this section that are designed in an environmentally sensitive manner and will withstand periodic flooding, except for structures designed or used for habitation or the storage of equipment.

8. Standards for Wetlands Districts, Buffer Areas and Neighboring Lands.

The following standards apply to all land within the wetland overlay districts, wetland buffer areas, and to neighboring lands:

a) Protection of wetlands and wetland buffer areas.

1) Except as modified or regulated by the standards of this subsection, all requirements of the underlying zoning district apply.

2) No structures are allowed in the wetland overlay districts, or wetland buffer area except those allowed as of right or by conditional use permit by subsections 6 or 7 of this section.

3) Activities including, but not limited to, building, paving, mowing, cutting, filling, dumping, yard waste disposal or fertilizer application are prohibited. Mowing may be permitted when approved by city staff as a buffer management strategy. However, invasive non-native vegetation, such as European buckthorn and noxious weeds, may be removed.

4) Before grading or construction near a wetland overlay district or buffer area, the owner or contractor must place erosion control fencing on the upland side of the perimeter of the wetland overlay district or wetland buffer area, whichever is more restrictive, or as required by the city. This fencing must remain in place until all development activities that may affect the wetland and the wetland buffer area have been finished and adequate vegetative cover has been established.

5) All structures must have a minimum basement floor elevation not less than two feet above the 100-year flood elevation.

6) All hard surface runoff must be treated in accordance with the requirements of the city and the appropriate watershed district. Treatment may include site retention, skimmers, weirs, bioretention or infiltration basins, or sedimentation ponds of appropriate scale. Structures and ponds serving this purpose must be properly maintained and serviced by the property owner.

The stricken language is deleted; the underlined language is inserted.
7) Discharge into the wetlands must occur at a rate no greater than allowed by the city engineer in accordance with the city's water resources management plan, and the appropriate watershed district requirements.

b) Setbacks.

1) All structures, except those permitted within the wetland overlay districts, must be set back at least 35 feet from a wetland overlay district and at least 10 feet from a required wetland buffer, whichever is greater. The distance for a pool will be measured from the water's edge of the pool. However, uncovered porches, decks, patios, sport courts, tennis courts, pool aprons, above ground hot tubs not exceeding 120 square feet, stairways, and walkways, as well as cantilevered building areas, porticos, and similar features may extend up to 10 feet into the required setbacks but not into buffer areas. For purposes of this section a pool apron is the hard surface or decking material that is contiguous to the water's edge of the pool.

2) Parking areas, roadways, driveway areas, trails and any retaining wall if it is structurally integral to the construction of these items must not be located within 20 feet of a wetland overlay district and must be outside of any required buffer area.

3) A setback is not required from the wetland overlay district for overhead public utility poles and lines that are less than two feet in diameter, underground public utility lines and distribution equipment, light poles, traffic signals, traffic regulatory signs, mailboxes, and other equipment that provides an essential public service.

4) A setback is not required from the wetland overlay district for fences, or retaining

5) Retaining walls, except that retaining walls may not be within 25 feet of a wetland unless needed to control existing conditions of erosion as field verified by city staff. In this instance the location of the retaining wall must be approved by city staff.

6) An existing structure, driveway or parking area meeting the required setback from a city-designated wetland boundary or buffer area is considered a legal nonconforming development if a later wetland delineation or implementation of a wetland buffer shows that the wetland or its buffer is closer than the required setback.


a) Removal of wetlands from a wetland overlay district requires a zoning amendment. An amendment must be made pursuant to the provisions of section 300.09 of this ordinance and WCA replacement rules. This amendment must be consistent with

The stricken language is deleted; the underlined language is inserted.
the purpose of this ordinance, the city’s water resources management plan and the goals and policies of the comprehensive plan. In determining the appropriateness of a rezoning request, the city council will consider the size of the wetland overlay district, the magnitude of the area proposed for removal, the overall impact on the function and value of the wetland, the hydrological and ecological effects and the type and function of wetlands involved in order to provide the maximum feasible protection.

b) Wetlands within an overlay district may only be removed according to WCA rules and if at least an equal area of new wetland is created to compensate for the wetland being filled. Unless otherwise approved by the city council, compensatory wetland area must be provided within the same subwatershed district as the wetland being altered, it must be located outside of any public easement and it must not result in the loss of regulated trees. The city may require cash escrow or letter of credit equal to 150 percent of the cost to mitigate for the wetland.

c) In addition to application requirements, the city may require submission and approval of the following information:

1) a concept plan showing ultimate use of the property;

2) a grading plan with appropriate drainage calculations and erosion controls prepared by a registered engineer;

3) a landscaping or revegetation plan;

4) such other information as may be necessary or convenient to evaluate the proposed rezoning; and

5) a determination of the function and value of the wetland using the most recent version of the Minnesota routine assessment method (MNRAM) for evaluating wetland functions or other approved assessment methodology.

10. Alteration of the Wetlands.

a) Except as provided below, no alteration of land within a wetland overlay district or a wetland buffer is allowed without a wetlands alteration permit, subject to recommendation by the planning commission and approval of the city council. The planning commission must hold a public hearing after notifying the property owners within 400 feet of the proposed alteration. Activities that constitute an alteration regulated by this section include changes to the size, depth or contour of the wetlands or its buffer, dredging, or alterations of wetlands or buffer vegetation.

b) A wetland alteration permit is not required:

1) when a wetland district is rezoned to another zoning classification;
2) to remove vegetation from the wetland or its buffer pursuant to a restoration management plan approved by qualified city staff;

3) to alter vegetation in a type 1 wetland;

4) to plant native wetland vegetation;

5) to selectively clear or prune trees or vegetation that are dead, diseased, noxious or similar hazards;

6) to remove vegetation in a contiguous width not to exceed ten feet in order to install a dock or gain access to the wetland as permitted in 6(a) or 6(b) of this section and as approved by city staff;

7) to repair and maintain existing public facilities such as ponds, trails, and utilities if the work does not result in an increased impact to the wetland or its buffer; or

8) to remove sediment and debris from the wetland that has resulted from erosion, public works projects, transportation projects or other similar activities. The removal of sediment must not result in the removal of hydric soil from the wetland basin and must be approved by city staff.

c) Alteration of land within a wetland overlay district will only be allowed if the wetland and its buffer are provided in an amount compensatory to that being altered removed. Unless otherwise approved by the city council, compensatory wetland area and its buffer must be provided within the same subwatershed district as the wetland being altered, it must be located outside of any public easement and it must not result in the loss of regulated trees. The city may require cash escrow or letter of credit equal to 150 percent of the estimated cost to restore the wetland and its buffer.

d) In determining the appropriateness of an alteration request, the city council will consider the size of the total wetland district, the magnitude of the area proposed for alteration, the impact on the overall function and value of the wetland, the aesthetic, hydrological and ecological effect, the type and function of wetlands involved, and such other factors as may be appropriate in order to provide the maximum feasible protection to the wetlands. Application for a wetlands alteration permit must be accompanied by such information as required by the city, including:

1) a concept plan showing the ultimate use of the property;

2) a grading plan, with appropriate drainage calculations and erosion controls prepared by a registered engineer;

3) a landscaping or revegetation plan;

The stricken language is deleted; the underlined language is inserted.
4) such other information as may be necessary or convenient to evaluate the proposed permit; and

5) a determination of the function and value of the wetland using the most recent version of the Minnesota routine assessment method (MNRAM) for evaluating wetland functions (MNRAM) or other approved assessment methodology.

11. Public Control of Wetlands.

   a) The city council may require that the owner of any property affected by this ordinance must record wetland and buffer area easements or restrictive covenants within the property's chain of title. These easements or covenants must describe the boundaries of the wetland and buffer area and prohibit any building, paving, mowing (unless approved as a management strategy), cutting, filling, dumping, yard waste disposal or fertilizer application within the wetland and the buffer area. The owner or developer must record these easements or covenants with the final plat, with deeds from a lot division or, if no subdivision is involved, before the city issues a grading permit or building permit for an affected property. The applicant must submit evidence that the easement or covenant has been submitted to the county for recording.

   b) If the city council does not require an easement or covenant, the city may record a notice of the wetland and buffer area requirements against the property. The property owner must still comply with the requirements of this section.

12. Wetland Buffer Markers.

When new development or redevelopment results in multifamily residential or a business use, the developer must place markers at the upland boundary of the wetland buffer edge at least every two hundred feet. The developer must use uniform markers provided by the city. The city will charge a reasonable cost for the markers.

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

Section 5. This ordinance is effective the day after publication.

 Adopted by the city council of the City of Minnetonka, Minnesota, on March 2, 2015.

Terry Schneider, Mayor

Attest:
David E. Maeda, City Clerk

**Action on this Ordinance:**

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

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on March 2, 2015.

_________________________

David E. Maeda, City Clerk

The *stricken* language is deleted; the *underlined* language is inserted.
The City of Minnetonka Ordains:

Section 1. Section 300.28, subdivision 19 of the Minnetonka City Code is amended as follows:

19. Tree Protection.

   a) Purpose. The goal of this subdivision is to preserve as much as practical Minnetonka's highly valued tree natural resources, ecosystems and viewsheds, while allowing reasonable development to take place and not interfering with how existing homeowners use their property. This subdivision provides incentives for property owners who wish to subdivide areas that include woodlands and high priority trees to use planned unit development (PUD), which allows the flexibility to both protect woodlands and property rights. Standards governing the preservation, protection, and planting of trees are necessary to:

   1) prevent tree loss by eliminating or reducing compaction, filling or excavation near tree roots;

   2) prevent or reduce soil erosion and sedimentation and stormwater runoff;

   3) improve air quality and reduce noise pollution;

   4) enhance energy conservation through natural insulation and shading;

   5) control the urban heat island effect;

   6) increase and maintain property values;

   7) maintain buffers between similar land uses and establishing and maintaining buffers between conflicting land uses; and

   8) preserve as much as practical the diversity and extent of the trees and woodlands that are an integral part of this city's identity, while allowing reasonable development and allowing existing homeowners freedom to use their land.

   b) Definitions. For the purposes of this subdivision, certain terms and words are defined as follows:

   1) "Basic Tree Removal Area" - consists of the following:
a. within the areas improved for reasonably-sized driveways, parking areas and structures without frost footings and within ten feet around those improvements;

b. within the footprints of, and 20 feet around, buildings with frost footings;

c. within the footprints of, and 10 feet around, structures with post footings such as decks or porches, if the structure is located at or outside of the area allowed by item 1)b; and
d. in areas where trees are being removed for ecological restoration in accordance with a city-approved restoration plan.

2) "Canopy" - The uppermost layer of a forest, formed by tree crowns.

3) "Critical root zone" - the minimum area around a tree that must remain undisturbed. The critical root radius is calculated by measuring the tree’s diameter at breast height. For each inch of tree diameter, 1.5 feet of root zone radius must be protected. For example, if a tree’s dbh is 10 inches, then its critical root zone radius is 15 feet (10 x 1.5 = 15).

4) "Diameter breast height (dbh)" - the diameter of a tree measured at 4.5 feet above the base of the tree. Multi-stem trees are considered one individual tree and each stem must be measured 4.5 feet above the base of the stem and added together to determine the diameter of the multi-stem tree.

5) "Protected tree" - a tree that is in a woodland preservation area, or is a high priority tree or significant tree.

6) "Redevelopment" -- reconstruction of the principal structure if it includes the removal of the principal structure by more than 50% of the square footage of the building footprint or an increase of the square footage of the building footprint by more than 50%.

7) "Sapling" - A young tree.

8) "Understory" - The trees, shrubs, and herbaceous plants that grow in the shade of the forest canopy, including trees that could potentially grow to reach the canopy.

9) "Woodland preservation area" - a remnant woodland ecosystem that is at least two acres in size regardless of property boundaries, is generally mapped in the city’s Minnesota Land Cover Classification System, and although it may be degraded it generally meets the criteria for one of the following types of ecosystems as reasonably determined by the city:

a. "floodplain forest" - an area populated by deciduous tree species tolerant of seasonal flooding and deposition of silty or sandy soils. The canopy cover is extremely variable, and mature trees are typically greater than 70 feet tall. The
dominant tree species in the canopy are silver maple and eastern cottonwood. In floodplain areas with severe flooding, the understory will be sparsely vegetated. Trees in the understory include saplings from the canopy species, green ash, black willow, slippery elm, American elm, boxelder, and hackberry;

b. "lowland hardwood forest" - an area with a flat terrain populated by deciduous tree species tolerant of periodic soil saturation from seasonally high water tables. The soils are moderately well to poorly drained. The dominant tree species in the canopy are American elm, black ash, basswood, bur oak, red oak, white oak, quaking aspen, paper birch, and red maple. Trees in the understory include saplings from the canopy species, slippery elm, green ash, butternut, sugar maple, quaking aspen, balsam poplar, and American hornbeam. The large shrub or small tree layer of the understory is typically dense and can include ironwood, pagoda dogwood, prickly ash, American hazelnut, gray dogwood, and speckled alder;

c. "maple basswood forest" - an area with well drained soils and populated by a variety of shade-tolerant, fire sensitive, deciduous tree species. The mature trees are straight with narrow crowns greater than 60 feet tall. The dominant tree species in the canopy are basswood and sugar maple but mesic species such as slippery elm, red oak, bur oak, green ash, white ash and black ash may be found as well. Trees in the understory include saplings from the canopy species, bitternut, black cherry, and ironwood. The large shrub or small tree layer of the understory is typically dense and can include ironwood, pagoda dogwood, prickly ash, American hazelnut, gray dogwood, and speckled alder;

d. "mesic oak forest" - an area populated by tall, single stemmed deciduous trees greater than 60 feet tall that lack spreading lower branches. Mesic oak forests may have a moderately moist habitat, but can be dry depending on the slope and aspect of the forest. The dominant tree species in the canopy include red oak, white oak, and bur oak. Trees in the understory include saplings from the canopy, and fire-sensitive species such as basswood, green ash, bitternut hickory, big-toothed aspen, butternut, northern pin oak, black cherry, paper birch, American elm, boxelder and red maple. The large shrub or small tree layer in the understory tends to be sparse with greater herbaceous plant diversity but can include ironwood, chokecherry, prickly ash, American hazelnut, prickly gooseberry, red-berried elder, nannyberry, juneberry/serviceberry, and pagoda dogwood;

e. "oak woodland brushland" - an area with a canopy more open than a forest but less open than a savanna. It is characterized by open-grown trees and a distinct shrub layer in well-drained sandy, gravelly soils. The dominant tree species include red oak, northern pin oak, white oak, bur oak, and aspen. When it exists, the trees in the understory include saplings from the canopy, black cherry and red cedar. The large shrub or small tree layer can include American hazelnut, ironwood, juneberry and chokecherry;

f. "tamarack swamp" - an area that is a forested wetland community dominated by patches of tamarack, a deciduous coniferous tree. The dominant tree species in the canopy include tamarack, black spruce, paper birch, and
red maple. The trees in the understory include saplings from the canopy and the large shrub or small tree layer can include speckled alder and red osier dogwood; or

g. "willow swamp" - an area that is a forested wetland community or an area with seasonally flooded soils and scattered-to-dense shrub cover. The dominant tree species in the canopy include black willow and speckled alder. The trees in the understory include saplings from the canopy and the large shrub or small tree layer can include several species of willow and dogwood.

10) "High priority tree" - a tree that is not in a woodland preservation area but is still important to the site and the neighborhood character, that is structurally sound and healthy, and that meets at least one of the following standards:

a. a deciduous tree that is at least 15 inches dbh, except ash, box elders, elm species, poplar species, willow, silver maple, black locust, amur maple, fruit tree species, mulberry, and Norway maple.

b. a coniferous tree that is at least 20 feet in height, except a Colorado spruce that is not in a buffer as described in subparagraph (b)(10)(c); or

c. a tree that is in a group of deciduous trees that are at least eight inches dbh or coniferous trees that are at least 15 feet in height, that provide a buffer or screening along an adjacent public street, and that are within 50 feet of an arterial road and 35 feet of a minor collector, local, or private street and a trail. This distance will be measured from the edge of the pavement or curb of the road, street or trail.

11) "Significant tree" - a tree that is structurally sound and healthy and that is either a deciduous tree at least eight inches dbh or a coniferous tree at least 15 feet in height.

c) City authority. To preserve protected trees, the city may:

1) require and enforce a tree preservation plan as described in paragraph (d) below;

2) specify trees or groups of trees for preservation;

3) specify grading limits;

4) require the clustering of buildings or the relocation of roads, drives, buildings, utilities or storm water facilities when this would preserve protected trees;

5) grant variances;

6) specify time periods in which tree cutting, trimming or injury may not occur in order to prevent the spread of disease; and

7) require conservation easements or other legal means to ensure that woodland preservation areas or groups of high priority trees or significant trees are not intentionally destroyed after the development has been approved.

The stricken language is deleted; the underlined language is inserted.
d) Tree Preservation Plan. A tree preservation plan is required as part of an application for a preliminary plat, lot division, conditional use permit, variance, expansion permit, grading permit, site and building plan review, wetland/floodplain alteration permit, or building permit. A tree preservation plan is not required for a grading permit or building permit on an R-1 zoned property containing a single-family home when tree mitigation is not required under (e)(1) below, except a grading permit and building permit for R-1 property when no tree mitigation is required under (e)(1) below.

If the exception applies and if a tree preservation plan is not required and if the property owner retains a contractor to do the work, the contractor must submit a plan showing the proposed construction limits on the property and must not remove any trees outside the specified construction limits. A tree preservation plan must include:

1) a tree inventory that meets the following criteria:
   a. The species, sizes, and locations of high priority trees, significant trees, and trees in woodland preservation areas must be shown, regardless of health. Dead or structurally unsound trees should be noted as such in the inventory.
   b. Canopy species that exist in woodland preservation areas, including those that are in the understory, must be inventoried if they are four inches dbh or larger. Understory trees, excluding canopy species, and large shrubs that exist in woodland preservation areas must be inventoried if they are two inches dbh or larger.
   c. The size of high priority trees and significant trees must be inventoried regardless of location.
   d. The size of coniferous trees must be recorded in dbh and approximate height.
   e. Invasive species such as buckthorn and honeysuckle should not be inventoried.

2) a site plan that shows the dbh, location and size of the critical root zone for each protected tree, the trees to be removed, the trees to be preserved, the proposed construction limits, and the proposed tree protection methods in addition to construction limit fencing. If grading or construction limits are outside of a woodland preservation area, the trees in that woodland preservation area may be grouped together.

e) Tree Removal and Preservation. Removal of protected trees is prohibited except as follows:

1) Existing Structures.
   a. R-1 zoned properties containing a single-family home: On property that is zoned R-1 and that has an existing principal structure in use as a single-family dwelling, protected trees may be removed without any mitigation if the principal structure has been in existence and not externally expanded for at least two years after
(1) a final building permit inspection or a certificate of occupancy was issued and (2) all of its final landscaping or ground cover was installed.

b. All other-zones properties: On any property that is not zoned R-1 and that has an existing principal structure but does not meet the requirements of clause 19(e)(1)(a) above, protected trees may be removed subject to the same standards applicable to R-1 property if no site improvements are undertaken and the owner complies with the required tree preservation and landscape plan for the property. In the event that a tree preservation or landscape plan is not on file with the city, any tree removed without authorization from the city will be considered to be part of the approved tree preservation or landscape plan.

2) Existing Vacant Parcels of Land, Redevelopment, Site Improvements.

a. R-1: For the construction of a principal structure single-family home on a vacant R-1 lot or for redevelopment of an existing R-1 lot by construction of a single-family home or additions to a single-family home, protected trees may be removed with no mitigation only within the "basic tree removal area".

b. All other zones: Except as provided in clause 19(e)(2)(a) above, an applicant may construct a principal structure on a vacant lot, redevelop an existing lot, or make site improvement to an existing lot and remove protected trees without mitigation only as follows:

   a. On property not zoned R-1 for the construction of a principal structure on a vacant lot with no principal structure, for redevelopment of an existing lot, or for site improvements to an existing lot, protected trees may be removed with no mitigation only:

      1. within the basic tree removal area; and
      2. within the width of required easements for public and private streets and utilities, except that only significant trees may be removed in areas of required surface water ponding. The removal of woodland preservation area trees or high priority trees for surface water ponding must be mitigated.

   c. The removal of protected trees under this subsection 2 must also comply with the general removal requirements under subsection 4 below.

3) Subdivisions.

a. Significant trees may be removed for any construction in a subdivision of land without mitigation only:

      1. within the basic tree removal area; and
      2. within the width of required easements for public and private streets and utilities, including areas required for surface water ponding.

b. If more than 35% of the site's high priority trees or more than 25% of a woodland preservation area on the site are to be removed for any construction

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in a subdivision of land, there can be no more than one lot per developable acre of land. High priority trees and trees within a woodland preservation area may be removed for any construction in a subdivision of land without mitigation only:

1. for the basic tree removal area; and
2. for the width of required easements for public and private streets and utilities, except in areas of required surface water ponding. The removal of high priority trees or trees in woodland preservation areas for surface water ponding must be mitigated.

c. A subdivision of land that proposes to remove more than 35% of the site's high priority trees or more than 25% of a woodland preservation area on the site can be developed up to the full density normally allowed under other development regulations in the applicable zoning district if the property is developed under an approved planned unit development (PUD). There is no minimum size required for a PUD in this situation. In reviewing a PUD application, the city will consider the extent to which steps are taken to preserve protected trees, such as:

1. using creative design, which may include the clustering of homes, reducing lot sizes, reducing or expanding normal setbacks, custom grading, retaining walls, buffers, and establishing the size and location of building pads, roads, utilities and driveways;
2. preserving the continuity of woodland preservation areas by developing at the edges of those areas rather than at the core;
3. exercising good faith stewardship of the land and the trees both before subdivision and after, including the use of conservation easements when appropriate; and
4. minimizing the impact to the character of the existing landscape and neighborhood.

d. The removal of protected trees under this subsection 3 must also comply with the general removal requirements under subsection 4 below.

4) General removal requirements. The removal of protected trees under subsections (2) and (3) must also comply with the following general requirements:

a. Principal structures and associated facilities must be located to maximize tree preservation. The city may specify the location of the principal structures and associated facilities in order to ensure a reasonable amount of tree preservation.

b. Any tree removed outside of the specified allowable tree removal areas must be mitigated as specified below.

c. The applicant must comply with any approved tree preservation or landscape plan.

The stricken language is deleted; the underlined language is inserted.
d. Trees required to be saved as part of a subdivision approval must remain on a lot for two years after the final building permit inspection or certificate of occupancy is issued for the principal structure, whichever is later. Any tree that dies solely of natural causes such as disease or wind is exempt from this section.

e. Each protected tree that is removed in violation of ordinance requirements is a separate violation of the city code.

5) Greater Public Good. The city council may allow the removal of protected trees contrary to the provisions in subparagraphs (1) - (4) if it determines that there is a greater public good such as:

a. providing reasonable use or access to the property;

b. providing affordable housing;

c. allowing for the creation or rehabilitation of a public road or trail;

d. providing for a public utility service, such as a transmission line, ponding or a water tower;

e. allowing for the creation or rehabilitation of a public park; or

f. enabling redevelopment in a designated redevelopment area.

f) Tree Mitigation.

1) When tree mitigation is required, the applicant must submit a tree mitigation plan for staff review and approval. The plan must indicate the number of inches or feet of mitigation trees, the species and quantity of each species, and the caliper size or feet and location for each replacement tree. The plan may not be comprised of more than 25 percent of the same species or size unless approved by the city. The plan must comply with the mitigation standards required below. The applicant must implement the tree mitigation plan approved by city staff.

2) Specific mitigation standards. Mitigation for tree removal of trees in woodland preservation areas, high priority trees, and significant trees must meet the following specific standards;

a. Mitigation rate.

1. A tree or large shrub that is in a woodland preservation area or is a high priority tree must be replaced at the rate of one inch for each inch in diameter of a deciduous tree that was removed and at the rate of one foot for each foot in height of a coniferous tree that was removed; and

2. A significant tree must be replaced with one two-inch tree.

b. Mitigation species.
1. Trees and large shrubs in woodland preservation areas must be replaced with species found in that eco-type as specified on the list of acceptable replacement species on file with the city;

2. High priority trees must be replaced with species of a similar type that are normally found growing in similar conditions and that are included on the list of acceptable replacement species on file with the city;

3. Significant trees may be replaced with any tree species other than ash, box elder, silver maple, willow, Norway maple, amur maple and Colorado spruce, as approved by city staff; and

   c. Mitigation size.

1. Replacement sizes for woodland preservation areas and high priority trees are:

   a) not less than one and one quarter inches but not more than three inches dbh for deciduous balled and burlapped trees, and not less than three inches but not more than six inches dbh for spade-moved deciduous trees;

   b) not less than 7 gallon stock for understory or small trees and not less than 3 gallon stock for shrubbery; and

   c) not less than six feet but not more than eight feet in height for balled and burlapped coniferous trees, and not less than eight feet but not more than 14 feet in height for spade-moved coniferous trees.

2. The city may allow larger balled and burlapped or spade moved trees if these trees are accompanied with a three year guarantee. Other size substitutions, based on site characteristics, may be allowed at the reasonable discretion of the city,

3. Replacement size for a significant tree is not less than a two-inches dbh.

3) General mitigation standards:

   a. All replacement trees and shrubs must meet the American Standard for Nursery Stock and the American National Standard relating to planting guidelines, quality of stock and appropriate sizing of the root ball for balled and burlapped, potted and spade-moved tree.

   b. If the city determines in its reasonable discretion that there is no appropriate location for some or all of the required replacement trees, those trees may not be required.

   c. Replacement trees must be planted on the same property or development area from which the trees were removed.
d. A tree will be considered removed if girdled, if 30 percent or more of the trunk circumference is injured, if 30% or more of the crown is trimmed, if an oak is trimmed between April 1st and July 15th, or if the following percentage of the critical root zone is compacted, cut, filled or paved: 30 percent of the critical root zone for all species, except 40 percent for ash, elm, poplar species, silver maple and boxelde

e. Development that is subject to landscape requirements in sections 300.27 and 300.31 must meet the minimum landscape requirements of the applicable section. Trees planted as part of a required landscaping plan may be counted as replacement trees under this section, at the city's discretion.

f. The required mitigation trees must be replaced by the current property owner if the trees have died, have severely declined or have been damaged after the end of the second full growing season following installation. A tree will be considered to be severely declined if more than 25 percent of the crown has died.

g. The city may require an escrow deposit to ensure the required planting and continued existence of the mitigation trees. The city will release the escrow deposit after the end of the second full growing season following installation of the mitigation trees and any replacement trees.

h. A tree or shrub that was required by the city to be saved but was removed must be replaced at a rate of 2:1 based on dbh for deciduous species and height for conifers. The city may also impose a financial penalty equal to $500.00 for each inch of dbh or foot of height removed, not to exceed $5000 for each tree or shrub. This provision also applies to a conservation easement area that is disturbed during or after development.

g) General tree protection standards.

1) Before construction, grading or land clearing begins, the city-approved tree protection fencing or other method must be installed and maintained at the critical root zones of the trees to be protected. The location of the fencing must be in conformance with the approved tree preservation plan. This fencing must be inspected by city staff before site work begins.

2) No construction, compaction, construction access, stock piling of earth, storage of equipment or building materials, or grading of any kind may occur within the critical root zone areas of trees to be protected.

3) A healthy protected tree that was not a hazard to personal safety or property damage and that was removed or otherwise destroyed by unnatural causes within three years before a development application will be regarded as if it were present at the time of construction or a development application. Except that on properties zoned R-1 with an existing principal structure in use as a single-family dwelling an owner may remove up to 5% of the healthy protected trees within five years before construction or a development application. In no case may healthy protected trees be removed from properties required to have a tree preservation or landscape

The stricken language is deleted; the underlined language is inserted.
plan unless first approved by the city. This provision does not apply if the number of
protected trees removed is less than 5% of the protected trees existing five years before
the application.

4) An area of new or compensatory water storage may not be located
where there are woodland preservation areas, high priority trees or significant trees,
unless approved by the city. Mitigation will be required for the loss of woodland
preservation areas and high priority trees due to ponding. The compensatory storage
area must be created in a manner that prevents erosion into any nearby water resource.

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

Section 5. This ordinance is effective the day after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on March 2, 2015.

__________________________
Terry Schneider, Mayor

Attest:

__________________________
David E. Maeda, City Clerk

Action on this Ordinance:

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

Date of publication:

The stricken language is deleted; the underlined language is inserted.
I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on March 2, 2015.

_____________________________________
David E. Maeda, City Clerk

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

An Ordinance amending Minnetonka City Code Section 300.28, subdivisions 16, 17 and 18, regulating grading and erosion control

The City of Minnetonka Ordains:

Section 1. Minnetonka City Code Section 300.28 subdivision 16, paragraph (a), clauses (5) and (6), relating to requirements for an application for grading permit or grading and erosion control plan, are amended to read as follows:

5) the location of any water body that is identified as impaired pursuant to section 303(d) of the Clean Water Act and meeting the specific impaired waters criteria of the Minnesota pollution control agency’s stormwater permit for construction activities and that is within one mile of the site;

6) a drainage plan that includes the existing and proposed direction of drainage, stormwater conveyance systems to which the site drains, any stormwater management practices that are required by the city’s water resources management plan WRMP and any engineering plans and specifications that may be deemed necessary by the city engineer, along with supporting calculations for all engineering work;

Section 2. Minnetonka City Code Section 300.28, subdivision 17 is amended to read as follows:


a) All plans must be consistent with the Minnesota pollution control agency’s construction general permit as applicable.

ba) Except as otherwise provided by the director of planning, a grading and erosion control plan and the work conducted under an approved plan must comply with all of the following requirements as applicable:

1) The work must be scheduled so as to minimize the amount of soil exposed at any one time. Land disturbance and removal of existing vegetation must be minimized to avoid adverse impacts to adjacent properties and natural resources. All exposed soil must be stabilized as soon as possible if the exposed soil has not been worked for 14 days.

2) Structures must be designed to conform to the existing site topography as much as reasonably possible.

The stricken language is deleted; the underlined language is inserted.
3) Temporary rock construction driveways or other acceptable best management practice must be installed and maintained as needed wherever vehicles enter and exit a site.

4) Streets must be cleaned and swept whenever tracking of sediments occurs and before sites are left idle for weekends and holidays. A regular sweeping schedule must be established. A copy of the street-sweeping service agreement and company contact information may be required before issuance of the permit.

5) Silt fence or equivalent sediment control measures to be used must conform to the city’s standard.

6) Silt fences or equivalent sediment control measures must be installed along the downslope and sideslope perimeters of the approved grading and construction limits. Perimeter controls should be located to maintain a buffer of existing vegetation during construction, as site conditions allow, along the edges of any curbs, wetlands, channels or other water resources that could receive sediment from the site.

7) Tree protection or construction fence must be installed to minimize impacts to the critical root zones of adjacent trees or to prevent impacts to adjacent properties.

8) The city may require heavy-duty fencing such as chain link or wire mesh along the approved grading and construction limits. The city may require signs to be posted that prohibit construction or grading activity beyond the required fencing.

9) Sufficient silt fence or equivalent is required to hold all sheet flow runoff generated at an individual site. Additional measures such as check dams, diversion, temporary or permanent sedimentation basins are required to handle channelized flow.

10) All erosion and sediment control and tree and wetland protection measures must be inspected on a weekly basis and maintained. Sediment must be removed from these measures when it accumulates to a depth of 1/3 of the designed capacity.

11) All storm drain inlets must be protected during construction.

12) Newly installed and rehabilitated catch basins must be provided with a sump area or grit chamber for collecting coarse-grained material as required by the city engineer. Such basins must be cleaned when they are half filled with material and at the time of project completion.

The stricken language is deleted; the underlined language is inserted.
13) Pipe outlets must be provided with temporary or permanent energy dissipation within 24 hours of connection to a surface water.

14) The normal wetted perimeter of any temporary or permanent drainage ditch or swale that drains water from the site, or diverts water around a site must be stabilized. Stabilization must be completed within 24 hours of connecting to a surface water. Portions of the ditch that are under construction must be stabilized within 24 hours after the construction activity in that portion has ceased. The normal wetted perimeter is defined as the area that is in contact with water during annual flow events.

15) Sediment, construction debris, or other temporary impacts from the activity must be removed from water resources, adjacent properties, or other areas that were intended to be protected as part of the city's approval. The removal must restore the sites to previous or improved conditions. The city must be contacted before removing sediment from a water resource, tree preservation area, or other protected area to ensure that the removal does not result in additional damage. A restoration plan may be required by the city.

16) Temporary soil stockpiles must have silt fence or other sediment controls in place if not already contained by perimeter controls, and must not be placed in any natural buffers, surface waters, drainage patterns or storm water conveyances.

17) Soil stockpiles and slopes equal to or greater than 3:1 that will not be worked for over 14 days must be stabilized with vegetation, mulch, tarps or other means unless no run-off from them is directed toward a watercourse, tree protection area, or the site perimeter. The city may require that slopes steeper than 12% that will not be worked for 14 days must be temporarily stabilized if directed toward a water resource, tree protection area, adjacent property, roadway, or other sensitive area.

18) The work must avoid creating or altering topography in a manner that appears artificial or out of place with adjacent property.

19) Slopes that are created may not be steeper than 3:1. The city may allow temporary or permanent created slopes steeper than 3:1 in an area where a retaining wall would pose a practical difficulty or in public improvements that serve the greater public good if the final grades are approved by the city engineer and the created slope:

   a. is not steeper than 2:1 in any event;

   b. is permanently stabilized with deep-rooted vegetation, rip-rap, boulders, or other groundcover adequate to control erosion and does not require mowing or other maintenance by equipment that would need to traverse the slope;
c. contains no unbroken slope length greater than 30 feet in order to maintain sheet flow and minimize rills and gullies;

d. is not directed toward a water resource;

e. does not inhibit snow storage or maintenance of a public improvement and is not located within a public easement;

f. does not obstruct a traffic sightline or pose a safety hazard; and

g. does not adversely impact drainage toward, or pose potential erosion onto, adjacent property.

20) When one or more acres of disturbed soil drains to a common location the site must be in compliance with the Minnesota pollution control agency’s construction general permit which includes the installation of a temporary sediment basin to provide treatment to the runoff before it leaves the site or enters surface waters. A temporary basin may be converted into a permanent basin after construction is complete. The city engineer may also require a temporary sediment basin for those sites that are less than one acre based on site conditions. In both instances the basin must be designed and constructed according to the city’s water resources management plan.

21) Dewatering and draining activities must be discharged to on-site temporary or permanent sediment basins whenever possible. Dewatering and draining activities must not result in the release of sediment toward or into water resources, the street, or other areas that were intended to be protected as part of the city’s approval. The dewatering rate and direction must be controlled and must incorporate energy dissipation to prevent flooding or other harm to water resources or adjacent property. The city must be notified of the dewatering schedule prior to the start of work.

20) Locations for cleaning concrete trucks designated as part of the grading and erosion control plan must be used to ensure that the discharge does not cause erosion, pollution or damage to trees or other natural resources.

22) All waste and unused building materials such as garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials must be properly disposed of and not allowed to be carried by runoff into a surface water, receiving channel or storm sewer conveyances.

a. Solid waste: All unused building materials and waste such as contaminated sediment, asphalt and concrete millings, floating debris, paper, plastic, and fabric must be disposed of accordingly and comply with disposal requirements set forth by the Minnesota pollution control agency.
b. Hazardous/toxic waste: Paint, gasoline, oil and any hazardous materials must be properly stored, including secondary containment, to prevent spills, leaks or other discharges. Access to the storage areas must be restricted to prevent vandalism. Storage and disposal of hazardous or toxic substance must be in compliance with the requirements set forth by the Minnesota pollution control agency.

c. Liquid waste: All other non-stormwater discharges such as concrete truck washout, vehicle washing or maintenance spills produced during the construction activity may not be discharged to any surface waters and must be properly disposed of.

d. External washing of equipment and vehicles, including concrete trucks: All external washing activities must be limited to a designated area of the site as provided on the approved grading and erosion control plan as applicable. All runoff must be contained and wastes from external washing activities must not cause erosion, pollution or damage to trees or other natural resources and must be disposed of properly. No engine degreasing is allowed on the site.

e. Wastes generated by concrete and other washout operations on sites that require a Minnesota pollution control agency construction general permit: All liquid and solid wastes generated by any concrete or other washout operations must be contained in a leak proof facility or impermeable liner. Concrete waste must not come into contact with the ground. Concrete waste must be disposed of properly and in compliance with applicable Minnesota pollution control agency regulations.

2324) Dust must be adequately controlled by site watering, temporary stabilization, or other means approved by the city.

2422) The burial of organic materials such as trees, lumber, and yard waste that could decompose is prohibited. No rock, concrete, or other construction material or debris may be buried unless approved by city staff.

2523) All on-site construction debris must be contained. A regularly scheduled trash removal service must be hired to remove this debris. A copy of the service agreement and company contact information may be required before issuance of the permit.

2624) All temporary erosion and sediment control, tree protection fencing, and other temporary protection measures must be removed within 30 days after permanent groundcover has been fully established, inspected, and approved by the city. The city may grant an extension for frozen ground conditions.

2725) At a minimum, the work must conform to the city’s water resources management plan, the current version of the Minnesota pollution control
agency's publication regarding protecting water quality in urban areas, and the Metropolitan Council's publication about urban small sites best management practices, or equivalent.

2826) A site that drains to a water identified as impaired pursuant to section 303(d) of the Clean Water Act and meeting the specific impaired waters criteria of the Minnesota pollution control agency's stormwater permit for construction activities and that is within a one-mile linear distance from that impaired water may be required to comply with additional site-specific standards, including:

a. stabilizing all exposed soil areas as soon as possible to limit soil erosion if the soil areas have not been worked for 7 days; and

b. using a temporary sediment basin for common drainage locations that serve an area with five or more acres disturbed at one time.

2927) The plan and work must comply with the performance standards regulating trees and steep slopes under subdivisions 19 and 20 below.

3028) During construction of an infiltration or biofiltration system, sediment controls must be used to prevent the discharge of sediment into the infiltration or biofiltration area. The area must not be compacted while the site is under construction. Infiltration or biofiltration areas must not be excavated to final grade until the contributing drainage areas have been permanently stabilized.

3129) As-built plans must be provided for ponding, infiltration areas or other areas as required by the city engineer. The city may also require as-built plans for final grades and structures such as retaining walls, foundations, and catch basins.

3230) Other measures may be required by the city if warranted at an individual site, such as:

a. screening retaining walls;

b. planting or re-vegetating large slopes with vegetation similar to that which was removed, except that turf grass must be re-vegetated with native deep rooted species;

c. providing a site maintenance inspection log to be maintained by the applicant or the applicant's contractor for compliance with the grading and erosion control plan or the construction management plan as required. The log must be a written record and include:

1) the name of the person who conducted the inspection;
2) the date of the inspection and any associated maintenance activity;

3) the findings of the inspection;

4) a description of corrective work completed, if any;

5) the date the corrective work was completed;

6) the date and amount of rainfall events in excess of 0.5 inches in a 24-hour period.

d. decompacting soils, outside the intact critical root zones of trees to be protected, to a depth of 18 inches;

e. spreading at least 6 inches of topsoil or other organic material and incorporating it into the underlying soil during final site treatment in order to increase infiltration or improve establishment of vegetation; and

f. imposing additional conditions to protect the public interest.

\[\text{cb) All items listed in subdivision 17(a) must be maintained throughout the course of construction and grading activity.}\]

\[\text{de) If a grading and erosion control plan has been implemented but is reasonably considered by the director of planning to be inadequate in achieving the policy objectives described in subdivision 15(a), the city may require the permittee to modify and implement the plan to achieve those objectives.}\]

\[\text{e) If a Minnesota pollution control agency construction general permit is required the applicant must obtain the permit, submit proof to the city that the permit has been acquired, submit proof to the city that the permit has been transferred if applicable, and comply with the regulation.}\]

\[\text{fd) Upon written notification from the applicant that all land-disturbing activities are complete, the site has been permanently stabilized or re-vegetated, and all temporary erosion and sediment controls, tree protection fencing and construction limit fencing have been removed, the city will inspect the site and release any security being held if the site is deemed to be in compliance with the approved grading permit and the grading and erosion control plan.}\]

Section 3. Minnetonka City Code Section 300.28, subdivision 18 is amended to read as follows:

The stricken language is deleted; the underlined language is inserted.
18. Grading and Erosion Control Enforcement.

a) No person may undertake, authorize or permit any excavating, grading, filling or any other land-disturbing activity that exposes soil:

1) if the person does not have a city-approved grading permit or city-approved grading and erosion control plan; or

2) if the action violates or is not in compliance with a city-approved grading and erosion control plan or a required grading permit issued by the city, or a Minnesota pollution control agency construction general permit if required, including the approved plans and all terms and conditions of the permit.

b) The city may inspect any property subject to an approved grading and erosion control plan or grading permit to ensure that erosion and sediment control and tree protection measures are properly installed and maintained. Upon request by the city the site maintenance inspection log must be made available within 24 hours of the request.

c) If the soil is not permanently stabilized through landscaping when a certificate of occupancy is issued, the city may require a cash deposit or letter of credit in a form acceptable to the city attorney not to exceed 150% of the estimated cost, or 125% of an actual bid, to ensure compliance with the approved grading and erosion control plan for the site.

d) A public nuisance exists when there is any violation of the provisions of subdivisions 15 through 18 or the Minnesota pollution control agency construction general permit if required. A public nuisance also exists when erosion or drainage from a property is causing, or has the likelihood of causing, serious harm to neighboring property, the city's stormwater system, or to natural resources such as significant trees, water resources, and wetland buffers. Serious harm includes actual damage as well as interference with reasonable use of the property.

e) Whenever the city finds noncompliance with any provision of subdivisions 15 through 18, or the Minnesota pollution control agency construction general permit if required staff will attempt to communicate with the permittee and the landowner to obtain immediate and voluntary compliance. If that person is not readily available or refuses to comply within reasonable deadlines, the city may take any or all of the following actions, provided that written notice of the noncompliance has been sent to the permittee and landowner or posted on the property:

1) implement the necessary corrective measures and pay for them with financial security deposited with the city;
2) initiate proceedings to abate a public nuisance under section 845 of this code; 

3) withhold inspections or any city approvals for the property in question until compliance is achieved; 

4) issue a stop work order for the project in question until compliance is achieved; 

5) revoke the permit; and 

6) pursue criminal and civil penalties under section 1310 of this code. 

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

Section 5. This ordinance is effective the day after publication. 

Adopted by the city council of the City of Minnetonka, Minnesota, on March 2, 2015. 

Terry Schneider, Mayor 

Attest:  

________________________________________ 
David E. Maeda, City Clerk 

**Action on this Ordinance:** 

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

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on March 2, 2015.

___________________________
David E. Maeda, City Clerk
The City of Minnetonka Ordains:

Section 1. Section 1205.005 of the Minnetonka City Code is amended as follows:

1205.005. Obstruction Prohibited. A person must not without prior approval of the city engineer, block, obstruct, or impede to any extent the flowage of waters:

1. through any portion of a storm sewer system owned and maintained by the city of Minnetonka; or

2. to or from a lake, pond, designated storm water detention area, stream, creek, ditch, backwater, other open body of water, or wetlands designated on the city's wetlands map.

The city engineer may not approve action when, in his/her professional judgment, it violates the standards in city code section 300.23, 300.24, 300.25 or the city's water resources management plan as defined in city code section 300.02, creates the potential for unreasonable flooding or property damage, or otherwise creates a danger to the public health and safety.

Section 2. Section 1205 of the Minnetonka City Code is amended by adding a section as follows:

1205.015. Illicit Discharge and Connections.

1. Definitions. For purposes of this section, the following terms have the meanings provided below:

   a. “Illicit connection” means (i) any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connection to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or (ii) any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an

The stricken language is deleted; the underlined language is inserted.
authorized enforcement agency.

b. “Illicit discharge” means any direct or indirect non-storm water discharge to the storm drain system, except as exempted by this section.

c. “Municipal Separate Storm Sewer System (MS4)” means the system of conveyances (including road with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the city and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.

d. “Pollutant” means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances and accumulations, so that the same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

2. Illicit discharge prohibition. No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing pollutants, other than storm water.

3. Exemptions. The following discharges are exempt from discharge prohibitions established by this section:

a. Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and water used in street sweeping activities.

b. Discharges or flow from firefighting, and other discharges specified in writing by the city engineer or designee as being necessary to protect public health and safety.
c. Discharges associated with dye testing, however this activity requires a verbal notification to the city engineer or designee prior to the time of the test.

d. The prohibition does not apply to any non-storm water discharge permitted under a National Pollutant Discharge Elimination System (NPDES) permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

4. Prohibition of illicit connections.

a. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

b. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

c. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

d. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the city engineer or designee.

e. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner of occupant of that property upon receipt of written notice of violation from the city engineer or designee requiring that such locating be completed. The notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the city engineer or designee.
5. Compatibility with other regulations. This section is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this section are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law. In case of conflicts in provisions, the provision that is more restrictive or imposes higher protective standards for human health or the environment shall control.

Section 2. Section 300.28(11) of the Minnetonka City Code is amended to read as follows:

11. Performance Standards Regulating Liquid or Solid Waste.

All uses shall be subject to: (1) applicable regulations of the city and the metropolitan waste control commission governing discharge into a public storm or sanitary sewer, waterway or stream; and (2) the waste controls found in city ordinance and water resources management plan.

Section 5. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 6. Section 1 of this ordinance is effective 30 days after publication. Sections 2 through 4 of this ordinance are effective the day after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on March 2, 2015

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

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

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

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on March 2, 2015

David E. Maeda, City Clerk
A meeting to look at alternatives for the south west Ridgedale area will be held February 18, 2015 from 4 p.m. to 5 p.m. at the community center of city hall. Residents are invited to look at ideas the consultant will provide and give comments.

The annual State of the City address will be February 11, 2015 at 7:30 a.m.

The next planning commission meeting is February 19, 2015.

Gordon welcomed Deb Calvert, a new planning commissioner.

6. Report from Planning Commission Members: None

7. Public Hearings: Consent Agenda: None

8. Public Hearings

A. Sign plan review for Ridgedale Center at 12401 Wayzata Boulevard.

This item was postponed until the March 5, 2015 planning commission meeting.

B. Ordinances amending various sections of the city code.

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

Thomas, Colleran, and Stout reported. Thomas recommended approval of the ordinances.

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

Kirk asked how significant trees are handled when a property is developed. Colleran explained the three tree classifications. A woodland preservation area is a remnant ecosystem. High-priority trees are any tree that is 15 inches or greater in diameter when measured 4.5 feet above the ground except for some species including boxelder and silver maple. A significant tree is any tree that is 8 inches in diameter. During development, tree removal is allowed in certain areas. A high-priority tree must be mitigated inch-for-inch. A 30-inch oak must be replaced with 30 inches worth of trees. Significant trees must be mitigated tree for tree. A 30-inch boxelder tree would have to be replaced with 1, 2-inch tree. Ash trees are now classified as high-priority trees by the current ordinance, but emerald ash borer is currently 6 miles away from the city limits so it is inevitable that it will
spread to Minnetonka. At that point, ash trees should not have the higher protection of high-priority classification.

Kirk said that the proposed ordinance changes would allow ash trees to be removed more easily. Colleran explained that the proposed ordinance would not cause a greater requirement of mitigation for removal of an ash tree. Once emerald ash bore reaches Minnetonka, the trees would not survive untreated. It does not matter what type of tree is in a woodland preservation area or floodplain forest. Those trees need to be mitigated inch for inch no matter what species of tree would be removed.

Thomas added that when the city council created the tree protection ordinance, councilmembers agreed on providing the highest level of protection to remnant ecosystems; the next level of protection to high-priority trees that include valuable mature species of trees; and the lowest level of protection to significant trees.

Kirk asked if the ordinance modifications would change how trees are handled during the tear down and rebuild of a single-family residential lot. Thomas answered in the negative. When a single-family house is torn down and rebuilt, a property owner is allowed to remove trees within the footprint of the building and a 20-foot perimeter without mitigation. That would not be changed by the proposal.

Kirk would support a policy change for the city to be able to regulate the amount of tree removal in teardown/rebuild or expansion situations.

Colleran noted that for a property that is not zoned R-1, site improvements or an addition could be done without mitigation. The redevelopment of a single-family home is similar to redevelopment of commercial property. A commercial property would provide a landscape plan.

In answer to Kirk’s question, Thomas explained that the tree preservation ordinance applies to every property during subdivision.

Magney asked if the MS4 permit applies to all municipalities in the state. Stout explained that it applies to communities of a certain size. Minneapolis and St. Paul have Phase 1 permits which were implemented in the 1980s. In 2003, the Minnesota Pollution Control Agency (MPCA) implemented a Phase 2 permit that looks at urban areas.

Magney has watched erosion control and stormwater measures develop over 35 years in the construction industry. It is all good stuff. He has seen the city
implement the requirements and has seen positive results for the environment. He remembered how the construction industry was upset about the MPCA requirements regarding ready-mix truck washout. The cost is minimal and it is easy to do now. He supports the positive changes.

*Kirk moved, second by Rettew, to recommend that the city council adopt the following:*

1. **An ordinance amending Minnetonka City Code §300.23 concerning the wetland overlay district** (page A4–A15 of the staff report).

2. **An ordinance amending Minnetonka City Code §300.28 Subd.19 regulating tree protection** (page A16–A27 of the staff report).

3. **An ordinance amending Minnetonka City Code §300.28 Subd. 16, 17 and 18 regulating grading and erosion control** (page A28–A37 of the staff report).

4. **An ordinance amending Minnetonka City Code §§1205 and 300.28 regulating discharges into the municipal storm sewer system** (page A38–A42 of the staff report).

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

9. **Adjournment**

*Rettew moved, second by Knight, to adjourn the meeting at 7:10 p.m. Motion carried unanimously.*

By: ____________________________
Lois T. Mason
Planning Secretary
City Council Agenda Item #13A  
Meeting of March 2, 2015

**Brief Description**  
2015 Community Development Block Grant funds

**Recommendation**  
Hold the public hearing and adopt the resolution

**Background**

Since 1974, the Community Development Block Grant (CDBG) program, overseen by the U.S. Department of Housing and Urban Development (HUD), provides federal funds to implement a range of economic and community development activities. Based upon the needs, priorities, and benefits to the community, CDBG activities are developed and the division of funding is determined at a local level. All funded activities must meet at least one of the three national objectives:

- Benefit low and moderate income persons
- Help prevent and/or eliminate slums and/or blight
- Meet other community development needs of particular urgency

**Minnetonka’s 2015 CDBG Allocation**

Minnetonka will again receive a direct allocation of funds from HUD for the 2015 program year. This amount will total $157,080, which is an increase of approximately one percent over the 2014 allocation. The city’s 2014 allocation was $155,775; however, due to non-compliance issues (explained below), the final amount was $137,775.

The CDBG program year is July 1 to June 30, which differs from the city’s fiscal year of January 1 to December 31. Because of this, the city’s budget only reflects CDBG funds spent during its fiscal year, and does not reflect the true annual CDBG allocation. All finances and allocation years in this report refer to the federal program year.

The key components of Minnetonka’s CDBG program include:

<table>
<thead>
<tr>
<th>COMPONENT</th>
<th>RECOMMENDED FUNDING</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Services</td>
<td>$23,300</td>
</tr>
<tr>
<td>Small Projects Housing Rehabilitation</td>
<td>$122,210</td>
</tr>
<tr>
<td>Administration/Fair Housing</td>
<td>$11,570</td>
</tr>
</tbody>
</table>

**Public Services**

HUD allows up to 15 percent of the annual allocation to be spent on public services (non-profits), and it has been the city’s practice to do so. For 2015, this is $23,300.
Public service recommended allocations followed the same process as in past years. In September 2014, non-profits seeking city funds submitted applications. These applications were reviewed by the Economic Development Advisory Commission at the October 16, 2014 meeting (minutes are attached on pages A1-A8). The EDAC’s recommendation for these organizations was incorporated into the 2015 budget, adopted by the city council in December. The funding amounts in the CDBG account budget were based on the city’s anticipated 2015 allocation at the time the budget was completed. If the council adopts the 2015 CDBG budget as proposed in the attached resolution, the budget will be amended to reflect the changes. Since HUD requires a public hearing on the city’s entire CDBG allocation, the city council must adopt a resolution with the funding amounts.

The 2015 recommended amounts are shown in Table 1, and page A9 shows the past five years of public service funding.

*Table 1: Public Service Funding Recommendations*

<table>
<thead>
<tr>
<th>Activity</th>
<th>2014 Funding Budget</th>
<th>2015 Recommended Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Action Partnership of Suburban Hennepin (CAPSH)</td>
<td>$3,978</td>
<td>$4,400</td>
</tr>
<tr>
<td>HOME Line</td>
<td>873</td>
<td>N/A</td>
</tr>
<tr>
<td>ResourceWest</td>
<td>3,978</td>
<td>4,400</td>
</tr>
<tr>
<td>Senior Community Services H.O.M.E.</td>
<td>3,980</td>
<td>5,500</td>
</tr>
<tr>
<td>Intercongregation Communities Association (ICA)</td>
<td>7,855</td>
<td>9,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$20,664</strong></td>
<td><strong>$23,300</strong></td>
</tr>
</tbody>
</table>

Due to continuing concerns by HUD about applicant eligibility verification for HOME Line, staff is recommending the program be funded at $2000 as per the EDAC’s recommendation, but that it be funded by the Development Account, rather than with CDBG funds.

A short description of each program listed above can be found on pages A10.

**Owner-Occupied Housing Rehabilitation Program**

The Owner-Occupied Housing Rehabilitation Program provides no-interest, deferred loans of up to $20,000. The loans are available to homeowners that wish to make major repairs. The loan is forgiven if the owner remains in their home for more than ten years after the improvements are made. In order to qualify, applicants must have an income at or below 80 percent of area median income, adjusted for size (Table 2).
Table 2: 2014 Income Limits (2015 limits are anticipated to be released shortly)

<table>
<thead>
<tr>
<th>Household Size</th>
<th>80% of Median Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 person</td>
<td>$44,750</td>
</tr>
<tr>
<td>2 persons</td>
<td>$51,150</td>
</tr>
<tr>
<td>3 persons</td>
<td>$57,550</td>
</tr>
<tr>
<td>4 persons</td>
<td>$63,900</td>
</tr>
<tr>
<td>5 persons</td>
<td>$69,050</td>
</tr>
<tr>
<td>6 persons</td>
<td>$74,150</td>
</tr>
<tr>
<td>7 persons</td>
<td>$79,250</td>
</tr>
<tr>
<td>8 persons</td>
<td>$84,350</td>
</tr>
</tbody>
</table>

The rehabilitation program began in 1975 and since then, over 550 Minnetonka homeowners have benefited from the program, utilizing over $4.1 million for home improvements. Table 3 describes the two–year performance of the program.

Table 3: Owner-Occupied Housing Rehabilitation Two-Year Program Summary

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum deferred loan allowed</td>
<td>$20,000</td>
<td>$20,000</td>
</tr>
<tr>
<td>Average deferred loan approved</td>
<td>$8,883</td>
<td>$4,934</td>
</tr>
<tr>
<td>Total Applicants</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>Qualifying Applicants</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>Projects Completed</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Projects Still in Progress</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>TOTAL EXPENDITURES</td>
<td>$34,441</td>
<td>$16,006</td>
</tr>
</tbody>
</table>

The Owner-Occupied Housing Rehabilitation loans are reserved for residents needing to make substantial improvements. After residents are screened, most are directed to the Small Projects Program unless there are substantial needs. The last time the program actively took new applications was in 2009. The three applicants in 2014 had extremely urgent needs that could not be addressed as quickly under the Small Projects Program or were related to nuisance issues on their property.

Staff recommends that no new funds be added to this program as there are previous years funds available.

Small Projects Program

The Small Projects Program (formally called the Emergency Repair Program) offers ten-year, no-interest deferred loans of up to $5,000. The program focuses on smaller and more urgent rehabilitation needs, providing more immediate assistance to homeowners.

The Small Projects Program has the same income limits as the owner-occupied program. Like the Owner Occupied rehab program, city staff is responsible for administering the
program from intake to project management, to filing of the loan documents. Table 4 describes the two-year use of the program. The number of qualifying applicants differs from total projects completed and in progress, because projects may take more than one year to complete.

Table 4: Small Projects Program Two-Year Program Summary

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum deferred loan allowed</td>
<td>$5,000</td>
<td>$5,000</td>
</tr>
<tr>
<td>Average deferred loan approved</td>
<td>$7,602*</td>
<td>$4,912</td>
</tr>
<tr>
<td>Total Applicants</td>
<td>18</td>
<td>49</td>
</tr>
<tr>
<td>Qualifying Applicants</td>
<td>16</td>
<td>45</td>
</tr>
<tr>
<td>Projects Completed</td>
<td>9</td>
<td>24</td>
</tr>
<tr>
<td>Projects Still in Progress</td>
<td>13</td>
<td>24</td>
</tr>
<tr>
<td>TOTAL EXPENDITURES</td>
<td>$99,480</td>
<td>$168,086</td>
</tr>
</tbody>
</table>

*There were three projects which exceeded the $5,000 due to lead based paint and other emergency repairs that were needed. These projects were approved by staff before they were started.

The Small Projects Program last took pre-applications in November 2014. A total of 32 pre-applications were received in two weeks before the program was closed. Because of the income verification requirements, full applications are distributed for eligibility once the project manager is ready to take on the project—therefore total application numbers shown above differ from the total pre-applications received. The 2015 recommended funding is $122,210.

General Statistics of the Owner-Occupied and Small Projects Program

Below are general statistics for the rehabilitation programs for 2013 and 2014 projects:
- Typical repairs for owner-occupied housing rehabilitation: furnace, frozen water pipes
- Typical repairs for small projects program: Furnace, windows, electrical, plumbing, small or partial roof
- Average age of structure: 51 years old
- Average income: $35,352 (42% of area median income for a family of four)

In most years, the city receives additional program “income” from loan repayments of homeowners who did not stay in their home for 10 years after the completion of the rehabilitation. In 2014, there was one loan repayment. In the last 13 years, out of 167 projects that have been completed:
- 27 homes have repaid their loans due to early move-out (16%)
- 43 households lived in their home for 10 years and the loan was forgiven (26%)
- There have been 5 foreclosures (3%)
- 92 loans are still outstanding in the 10 year period (55%)
Administration and Fair Housing Activities

Federal regulations allow up to 20 percent of the city’s allocation for administrative responsibilities. However, it is anticipated that approximately 6%, or $10,000, is needed to cover administrative costs. Costs are based upon staff’s time to administer the CDBG program, including quarterly reports to HUD, the annual action plan based upon the upcoming year’s allocation, the end of the year report, and the small projects program.

The city must also participate in fair housing activities. The city belongs to the Hennepin County Fair Housing Consortium and also participates in the metro-wide Fair Housing Implementation Council. To participate in these groups, one percent ($1,570) of the city’s allocation must go towards the consortium. Participation in this, as well as furthering fair housing within the city, covers fair housing requirements.

HUD Compliance

To receive CDBG funds, the city must comply with the regulations of the program, which are enforced by HUD. HUD ensures compliance through an on-site audit, and monitoring of the city’s spending of funds. An on-site audit was completed in February. There were two findings, which require the city’s action. Since the findings letter was recently received, staff is reviewing the findings and will be following up on these issues with HUD.

HUD also monitors the city’s spend down of funds. The city must be continually putting the funds into use. By May 1, 2015, the city can only have $206,662 of unspent funds (1.5 times the current grant amount). Currently, the city has $241,465 of unspent funds. There are 27 Small Projects Program projects at varying stages of rehabilitation, including projects with contracts totaling over $65,000 that are expected to be completed and for which funds will be drawn down within the next two months.

In 2013 and again in 2014, the city was not in compliance with the spend down regulation. Because of this, the city’s 2014 funding allocation was reduced by $18,000 which equates to the amount of unspent funds above the city’s maximum. To ensure that this will not happen again, staff is now administering all aspects of the program in-house, including the housing rehabilitation. There is additional staffing that was added, and more rehabilitation projects are underway at one time.

Future CDBG Funding

For many years, there has been discussion at the federal level regarding the future of CDBG funding. As outlined in the Economic Improvement Program, it is anticipated CDBG funding will continue to decrease and will no longer be available at some future time. Staff communicates with CDBG funding recipients, so as more information is known these recipients will be kept up to date.
Recommendation

Staff recommends the city council hold the public hearing on the use of 2015 CDBG funds, adopt the resolution (pages A11-A12) allocating the CDBG funds, and funding HOME Line $2000 from the Development Account.

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

Originated by:
   Elise Durbin, AICP, Community Development Supervisor
Minnetonka Economic Development Advisory Commission  
Meeting Summary  
October 16, 2014  
6:00 p.m.

1. Call to Order

Chair Aanenson called the meeting to order at 6:00 p.m.

2. Roll Call

EDAC commissioners present: Benita Bjorgo, Jacob Johnson, Jerry Knickerbocker, and Kathryn Aanenson were present. Michael Happe, Ken Isaacson, and Laurie McKendry were absent.

Staff present: Community Development Director Julie Wischnack and Community Development Supervisor Elise Durbin.

3. Non-profit funding requests

Carol Watson, Community Developer with Community Action Partnership of Suburban Hennepin (CAPSH), stated that:

- The program has received funding from the city for many years. CAPSH is part of 1,000 Community Action agencies across the United States as poverty-fighting agencies for low-income families.
- In 2013, 31,000 households were served that includes 62,000 individuals, in suburban Hennepin County.
- CAPSH is now serving 15,000 to 25,000 Minneapolis households with the energy-assistance program.
- CAPSH is requesting $5,000 from the city of Minnetonka to utilize for the home-ownership programs.
- CAPSH is the only HUD approved counseling agency in suburban Hennepin County. All counselors are MMFPA certified. The best foreclosure prevention is informed customers and doing counseling. The mode has shifted from crisis to recovery due to the improved economy.
- To date in 2014, CAPSH has serviced 66 Minnetonka households.
- The counselors now handle all programs including reverse mortgages and homebuyer education.
- Forty-five percent of households who receive counseling services are able to avoid foreclosure and get a loan modification. Reduction in household income is the primary cause of foreclosure. The decline of foreclosures is a great economic indicator.
- There is a gradual increase in the number of homebuyers completing the CAPSH workshops.
There is a 20 percent increase in the number of people attending the first-time home buyer’s pre-purchase counseling. Five Minnetonka households completed the homebuyer education. There were six Minnetonka participants who received counseling. There were 2,500 households in Minnesota that received homebuyer counseling.

CAPSH served nine Minnetonka households for reverse mortgage counseling and expect that number to grow with the improvement in the economy.

There were 32 Minnetonka households who utilized CAPSH’s home repair and maintenance program for low income and disabled seniors. That doubled from 2013. In addition to the 32, there are an additional 10 ongoing projects.

CAPSH provides transitional housing, energy assistance, free legal advice, food support, application assistance, car-repair program, and financial security for seniors.

Knickerbocker asked if the 32 Minnetonka households who utilized the home repair and maintenance program needed the service to stay in the house. Ms. Watson answered affirmatively. It is an affordability and safety issue. All of the clients have low incomes and are primarily seniors with 50 percent area-median income.

Johnson asked how many participants in the first-time homebuyers program purchased a house in Minnetonka. Ms. Watson explained that the participants were residents of Minnetonka who were in the process of evaluating the purchase of a house in Minnetonka, primarily. She was unsure if CAPSH tracks where the houses are purchased. She added that homebuyer education workshops are required by many lenders.

Deb Taylor, Chief Executive Officer of Senior Community Services (SCS), appreciated the opportunity to talk about the household and outside maintenance for the elderly provided by the organization. She provided an annual report to commissioners. This is the first one since 1980. She stated that:

- The strategic vision is to mobilize the community to reimagine aging.
- SCS provides three community-based programs and three state-wide programs.
- HOME serves the residents of Minnetonka who are age 60 years and older and provide services on a sliding fee scale for homemaking, home maintenance, handy work, interior and exterior painting, and lawn mowing and snow removal. Spring and fall yard cleanup is provided free by volunteers for any senior 60 or older.
- The services could not be provided without collaborative partners including the city of Minnetonka. Everyone has a responsibility to neighbors as they age.
- By the year 2020, more Americans will be over the age of 65 than school age. That has significant implications for SCS.
• She provided a before picture and an after picture of a property in Minnetonka that was cited by the city, but the resident could not afford anything. A local faith community did the job for the resident and purchased the paint. The homeowner was shown the pictures because she was unable to go outside her house because she was in a wheelchair.

Janet Lindbo, Homes Within Reach (HWR), also known as West Hennepin Affordable Housing Land Trust (WHAHLT), stated that:

• Over 18 months, there has been an increase in the average purchase price of a house from 12 percent to 20 percent due to the market rebounding, the limited inventory of entry-level houses, and greater interest from homebuyers. The market is similar to the market before 2007. There are multiple offers and lots of buyers looking. HWR must make its offers quickly. There is a lot of competition.
• The condition of houses has been far less quality than other years. Routine maintenance and substantial rehabilitation have been needed.
• The rehabilitation budget has increased over the last 12 months. The average was $60,000 this past year. Over the last 3 ½ years, 50 percent of the properties bought in Minnetonka, 6 houses, were purchased from seniors.
• The applicant pool of buyers is getting stronger.
• She provided a video that describes how the program has helped homeowners and the benefits and value.
• She thanked the city for its partnership.

In response to Knickerbocker’s question, Ms. Lindbo stated that it should be kept in mind that there will be a lot of resales in the years to come to sustain affordable home ownership.

Johnson asked what portion of the funds go to new properties. Ms. Lindbo answered all of it. Resales are the responsibility of the homeowners. All of the dollars are used for new opportunities to purchase homes.

Kate Frerich, of Treehouse, stated that:

• She appreciated the opportunity to speak to the commission.
• The mission of Treehouse is to bring hope to hurting youth and families leading to life transformation which include reducing at-risk behaviors, building healthy relationships, graduating from high school, and pursuing an educational or vocational track for the future.
• Treehouse serves 1,800 teens throughout the Twin Cities. Forty-two of those teens are Minnetonka residents. The group serves 7th through 12th graders.
• The Minnetonka Treehouse is located at Excelsior Covenant Church.
• One-to-one mentoring is provided to teach character qualities. Trips and activities are provided. Free transportation is provided for all of the programs.
• Opportunities are provided for teens to give back to the community.
• The majority of teens are at-risk who come from low-income households with mainly broken homes and suffer from behaviors such as cutting, substance abuse, teen pregnancy, bullying, and violence.
• Ninety-eight percent of the teens have reported decreasing at least one at-risk behavior. Eight-one percent reported a positive change with their relationships. Ninety-three percent of teens, grades 10 -12, reported making plans for the future. Twenty-four percent of Treehouse teens are more likely to graduate than their peers.

Knickerbocker asked how many of the teens served are low income. Ms. Frerich stated that 70 percent of the total Minnetonka residents who participate at Treehouse have free or reduced lunches. It is very likely that most of the 42 Minnetonka Treehouse participants live in households that are low income. To find those teens, she would find which have a low income and connect with their parents to sign a HUD form. The parent would indicate the household income for the child and the amount of staff time spent with that teen would be tracked to match up being reimbursed with CDBG funds to ensure that all of the CDBG funds would be used only for teens who live in low-income households.

Matt Eichenlaub, of HOME Line, stated that:

• HOME Line is a tenant-rights hotline for the entire state of Minnesota.
• HOME Line receives 12,000 calls a year. Last year, HOME Line received 124 phone calls from Minnetonka residents. So far this year, HOME Line has received 128 phone calls from Minnetonka residents.
• The group is requesting $4,800. The callers are classified as having a low or very low income.
• Most of the advice deals with evictions, security deposits, and foreclosures. The number of foreclosure calls has dropped off considerably.
• HOME Line has been operating for 22 years.
• HOME Line will refer a tenant to the city for housing code issues. HOME Line does offer training courses for landlords. Minnetonka’s inspection department will visit sites. Minneapolis provides a discount on the license if a landlord attends a HOME Line training session.

There was a brief recess.

Marilyn Peller Nelson, Associate Vice President of Resource Development for CommonBond Communities, stated that:
• CommonBond has a family-housing community in Minnetonka that the city has supported for many years.
• She has been with the organization eight years this week. She has worked with Crown Ridge and city staff.
• Crown Ridge has youth programs and helps residents find job opportunities.
• CommonBond raises funds for Crown Ridge and all of its communities; about $4 million annually to support 104 housing communities in Minnesota, Wisconsin, and Iowa.
• She is a staff person and study buddy in Minnetonka at Crown Ridge. She started with a student when she was in second grade and she is now in seventh grade. She can speak to how CommonBond has made a difference in the resident’s lives in the youth and families who need help finding a job or laddering up to a promotion.
• There are 14 pairs of study buddies.
• Social workers work with 2 families at a time at the advantage center which allows some privacy.

Knickerbocker liked the newsletter included in the application. In response to his question, Ms. Peller Nelson stated that her study buddy has lived in Crown Ridge seven years, which is over the average. Families usually live there an average of three years. Her mom helps with home health care and one of the clients died which reduced her income. The staff was able to help her. Residents include immigrants and every day folk who find themselves with an unexpected reduction of income and needing help.

Knickerbocker asked if swimming lessons were provided or could be partnered with the YMCA to provide. Ms. Peller Nelson stated that field trips to visit colleges are done. She will look into a partnership with the YMCA.

JoAnne Robinson, with the Ridgedale YMCA and Minnetonka Heights program, stated that:

• She appreciated the opportunity to apply for the funding and share information.
• There are 120 kids active in their programs this year. The summer program included computer-coding classes. Sixty-seven students were brought to the U of M to expose them to college. One hundred kids went through water safety and swimming lessons.
• Adults were helped with a workforce-readiness program.
• Eight high school students were hired as mentors.
• Job skills and coaching were provided.
• Bus tokens were provided to get to places to look for a job.
• A Thanksgiving meal was provided.
• Over 100 backpacks were given away this year. There was a back-to-school breakfast, pizza luncheon, and ice-cream social to reach all of the families.
Minnetonka EDAC Meeting
Meeting of October 16, 2014

- YMCA partners with most of the agencies present along with the Glen Lake Optimist Club, Boy Scouts, and Minnetonka School District.
- Resource West has provided backpacks and school supplies, ICA provides snacks, and CAPS is helping one of the families achieve citizenship.

Isaacson joined the meeting.

Barb Westmoreland, Interim Director of ResourceWest, introduced herself and Joyce Kurus. Ms. Kurus stated that she has worked at ResourceWest four years and has seen an increase in the need for one-on-one assistance and referrals. She stated that:

- Many people are already in crisis mode when they get to ResourceWest.
- Recently, a Minnetonka household came to the Project Starfish social worker to get help with fixing the brakes on their cars to get to work and school. They were concerned they would lose their jobs and be unable to get to food shelf and doctor appointments. The social worker was able to provide grant money to get the brakes fixed.
- ResourceWest has been helping members of the community for over 20 years.
- ResourceWest just moved to a new location to join Hennepin County at the new west suburban hub to serve clients in the west metro area. The Hennepin County Hub opened on Monday. Their social workers are already walking their clients to ResourceWest.
- Winter coats were provided for a mother with children. Children programs are often an entry point for families who are then introduced to the other programs.
- A Minnetonka pastor talked to the Project Starfish social worker about a family in Minnetonka that is homeless. The social worker will work with Hennepin County to help the family.
- Otto Bremer awarded ResourceWest $75,000 in September. Of that, $45,000 will be used to hire a second social worker in November in preparation for the increase in client referrals from Hennepin County.
- ResourceWest appreciates the support of the city of Minnetonka. The CDBG funding would be used to assist Minnetonka residents to stabilize their home environments.

Johnson asked if the brake repairs charged full price for the service. Ms. Kurus stated that the maximum grant amount is $300. ResourceWest finds local repair shops that will complete the work at a respectable price and are trusted and an individual may have to pay for some of the expense. Rather than giving money, ResourceWest works to stabilize people in their work environment so that their home environment stays stable.

Peg Keenan, Executive Director of ICA Food Shelf, stated that:
ICA has three basic programs consisting of the food shelf, employment services, and financial assistance. The CDBG funds would be used for financial assistance of Minnetonka residents who are finding it difficult to make ends meet temporarily with either rent, mortgage, or utilities.

- A Minnetonka client might be a pregnant mom who was ordered on bed rest and so she cannot work. She used her savings to pay the rent for a couple months, but she won’t be able to go back to work for three weeks. The CDBG money would help her through that time.
- A Minnetonka client may have lost a job and does not have a pay check for a couple weeks from the new job, but the rent is due.
- From July 13, 2013 to June 14, 2014, 13 Minnetonka residents were assisted using the $9,000 CDBG funds awarded to ICA from Minnetonka. During that time, ICA supported another 80 Minnetonka households with $56,000. The 80 families consisted of 219 Minnetonka residents who were able to keep their homes with that assistance.
- ICA is requesting $10,000 to be used for Minnetonka residents.

There was a brief recess.

Durbin explained that the EDAC would make a recommendation to the city council that will be part of the final 2015 budget. The Livable Communities Account recommendation will be adopted by the city council. CDBG funds will be reviewed by the city council February of 2015 during a public hearing process. The city will find out the CDBG grant amount later in the spring of 2015.

Knickerbocker asked if CAPSH could be funded by the Livable Communities Account since its program includes home rehabilitation. Wischnack explained that the projections for Livable Communities Account funds is that the account will be depleted by 2017.

Chair Aanenson noted that TreeHouse personnel are working towards tracking the income level of the recipients of the funds, but that has not definitively been done.

Isaacson said that the work being done by all of the organizations is tremendous. He was hard pressed to fund renewed programming when the funds are short. These are very hard choices.

Bjorgo said that it is hard to look at a per person cost, because some of the organizations provide a higher-valued service than others.

Johnson noted that TreeHouse is the only organization that targets the teen population. That is a pretty impressionable group of the city. Funds could go a long way there. HOME Line and CAPSH both deal with rent and mortgage funding assistance. He suggested taking funds from HOME Line to use towards TreeHouse. Aanenson noted that the concern is being able to document that the CDBG funds would be used for residents with low incomes. Durbin said that staff would verify that the appropriate...
documentation would be provided for CDBG funds. The appropriate documentation was received from TreeHouse in 2009.

Johnson would recommend $2,000 to HOME Line and $2,000 to TreeHouse.

Knickerbocker noted that there may be less money to work with next year. Funding a new program with $2,000 this year when next year there may be no funds may not be the best way to proceed. He favored supporting the groups the city is familiar with.

Isaacson was inclined to agree with Knickerbocker. Minnetonka residents are a very small part of HOME Line’s operation.

Knickerbocker would support giving more funds to CommonBond by reducing Homes Within Reach’s amount.

Bjorgo suggested funding Crown Ridge at $16,000 and reducing WHAHLT to $217,000. Knickerbocker supported that. Isaacson was not opposed to that, but noted that it was unfortunate that the commissioners who worked on the WHAHLT subcommittee were absent.

Isaacson said that CommonBond and Crown Ridge both directly impact Minnetonka residents.

**Knickerbocker moved, Isaacson seconded a motion to recommend the following non-profits be funded by CDBG funds: HOME Line $2000; ResourceWest $4000; CAPSH $4000; SCS $5000; and ICA $8500. The following non-profits will be funded by Livable Communities funds: Crown Ridge $16,000, Homes Within Reach $217,000, and Minnetonka Heights $10,000. If 2015 CDBG funds are different than the anticipated amount, then changes in funding to CDBG-funded agencies should be made on a pro-rata basis. Bjorgo, Isaacson, Johnson, Knickerbocker, and Aanenson voted yes. Happe and McKendry were absent. Motion passed.**

4. **Approval of Minutes**

**Knickerbocker moved, Isaacson seconded a motion to recommend that the EDAC approve the minutes from the June 19, 2014 minutes as included in the agenda. Bjorgo, Isaacson, Johnson, Knickerbocker and Aanenson voted yes. Happe and McKendry were absent. Motion passed.**

**Knickerbocker moved, Isaacson seconded a motion to recommend that the EDAC approve the minutes from the July 10, 2014 minutes as included in the agenda. Isaacson, Johnson, Knickerbocker and Aanenson voted yes. Bjorgo abstained. Happe and McKendry were absent. Motion passed.**
## PUBLIC SERVICE FUNDING 2010-2015

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<th>2012 Funding</th>
<th>2013 Funding</th>
<th>2014 Funding</th>
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<td><strong>TOTAL</strong></td>
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<td><strong>$23,500</strong></td>
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Overview of Public Service Agencies

Community Action Partnership of Suburban Hennepin (CAPSH)
Community Action Partnership of Suburban Hennepin (CAPSH) provides homeowner education, including: foreclosure prevention, reverse mortgage counseling, first-time homebuyer classes and other homeowner counseling services. In 2013, 55 Minnetonka residents were served. CAPSH projects serving 65 households in 2015.

HOME Line
HOME Line is a tenant advocacy and education service provider, which allows renters to receive legal advice on how to resolve conflicts with landlords as well as how to deal with a potential foreclosure of their building. These services are available to all Minnetonka residents, yet 98 percent of the callers are low- to moderate-income households. In 2013, HOME Line assisted 310 Minnetonka callers. In 2015 HOME Line expects to assist 400 Minnetonka callers.

ResourceWest
ResourceWest is a referral and service provider for those living in Minnetonka and who are at 80 percent or less of area median income. Referrals and services include:
- Back to school supplies
- Toy chest—toys for children
- Tax preparation assistance
- Winter warm wear clothing
- Project Starfish—one-on-one support
- HousingLink site—Offers a list of affordable housing in the area
- Referrals for anything (examples: car repair, transportation, food, etc.)

In 2013, ResourceWest had 177 contacts with Minnetonka residents for its Project Starfish program, which is the proposed program to be funded by CDBG funds. ResourceWest anticipates serving 190 people in 2015.

Senior Community Services H.O.M.E. Program (SCS)
Senior Community Services administers the H.O.M.E. (Household and Outside Maintenance Program for the Elderly) program in Minnetonka, which is a homemaker and maintenance program that is designed to assist the elderly and help them stay in their homes longer. Services include: window washing, grocery shopping, house cleaning, and others. In 2013, the H.O.M.E. program served 109 Minnetonka households, and they estimate serving 120 Minnetonka households in 2015.

Intercongregational Association (ICA)
ICA is the city’s local foodshelf and emergency financial assistance non-profit organization. The CDBG funds will be used for their Housing and More program, which assists those who may need help with a rent or mortgage payment. Those participating in the program must work with a case worker to discuss the situation. In 2013, there were 344 Minnetonka residents benefited from ICA’s Housing and More program. Approximately, 220 individuals are estimated to be served in 2015.
RESOLUTION NO. 2015-

RESOLUTION APPROVING THE PROJECTED USE OF FUNDS FOR YEAR 2015 OF THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

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

Section 1. Background.

1.01. The City of Minnetonka is eligible to apply to the U.S. Department of Housing and Urban Development for 2015 funding for the Community Development Block Grant (CDBG) program.

1.02. The City of Minnetonka has developed a proposal for use of CDBG funds made available to it, and held a public hearing on March 2, 2015 to obtain views of citizens on local housing and community development needs, and the city’s proposed use of $157,080 for Year 2015 CDBG funds.

Section 2. Council Action.

2.01. The City Council hereby approves the following projects for funding for the Year 2015 Community Development Block Grant program and authorizes submittal of the proposal to the U.S. Department of Housing and Urban Development.

<table>
<thead>
<tr>
<th>Project</th>
<th>Amount</th>
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<tr>
<td>Comm. Action Partnership of Suburban Henn.</td>
<td>$4,400</td>
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<td>ResourceWest</td>
<td>4,400</td>
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<td>ICA</td>
<td>9,000</td>
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<tr>
<td>Senior Community Services</td>
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<td>Small Projects Program</td>
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<td>Administration</td>
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<td>Fair Housing Activities</td>
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<td><strong>Total</strong></td>
<td><strong>$157,080</strong></td>
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</tbody>
</table>

2.02. The Mayor and City Manager are authorized to execute such letters, agreements, and other documents as may be necessary to implement these actions.
Adopted by the City Council of the City of Minnetonka, Minnesota on March 2, 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 March 2, 2015.

David E. Maeda, City Clerk
City Council Agenda Item #14A  
Meeting of March 2, 2015

**Brief Description**  
Ordinance rezoning portions of properties generally located at the southeast corner of the County Road 101/Excelsior Boulevard intersection from R-1 to R-1A

**Recommendation**  
Adopt the ordinance

**Background**

In 2014 the city council adopted the R-1A ordinance to address smaller lot development where appropriate. Under the ordinance, the review involves a two-step review process where the rezoning request must first be reviewed and acted upon. The review will be informed by submission of a conceptual plat. A formal plat application will be accepted and considered only if the rezoning request is approved. The ordinance was intentionally crafted with this two-step review process. Reviews cannot be considered simultaneously. (See pages A1–A12.)

**Request**

Lakewest Development is requesting that a portion of the properties generally located at the southeast corner of the County Road 101/Excelsior Boulevard intersection be rezoned from R-1 to R-1A. The submitted conceptual plat illustrates creation of seven new R-1A lots accessed via a new cul-de-sac. These lots would range in size from 15,000 to 27,000 square feet. The conceptual plat also illustrates five lots accessing Spring Lane. These lots – ranging in size from 22,000 to 36,000 square feet – would not require a rezoning, as they would meet minimum R-1 standards. (See page A8.)

**Evaluation**

Following the outline of the ordinance, the planning decision that needs to be made at this time is whether the requested rezoning from R-1 to R-1A is appropriate. Unlike other planning decisions – which must be made based on whether or not a proposal meets a list of code-defined standards – a rezoning decision must simply have a reasonable and rational basis. In evaluating a rezoning request, the ordinance suggests that R-1A zoning may be considered when:

1) The R-1A area would be appropriately integrated into the existing surrounding development; **AND**

2) **EITHER** more than a majority of existing lots do not meet R-1 standards **OR** the proposed R-1 area would be served by a new street.
In the opinion of staff, R-1A zoning would be appropriate in the location proposed by the applicant. Reasonable and rational arguments for rezoning the area from R-1 to R-1A include:

1) The R-1A area would be located at the intersection of two major roadways.

2) The R-1A area would not detract from the existing surrounding development, as it would be located at the edge of an existing neighborhood rather than within the middle of an existing neighborhood.

3) As presented on the conceptual plat, the R-1A area would be served by a new street (cul-de-sac), resulting in creation of a new neighborhood.

4) The rezoning is consistent with the city’s comprehensive plan.

Discretionary vs. Non-Discretionary

While the decision to rezone a property to R-1A is discretionary, the decision to approve a plat within the R-1A district is not. If the requested rezoning is approved, the applicant or some other party could submit a formal plat application. If the formal plat is substantially consistent with the conceptual plat, meets the lot standards of the R-1A district, and meets all other city standards – including natural resource protection and stormwater management standards – the city would be obligated to approve the plat.

Similarly, decisions regarding home construction within the R-1A district are not discretionary. Within traditional zoning districts such as R-1A, the city can regulate home construction only by the standards specifically outlined in the zoning ordinance. Within the R-1A district these standards include required setbacks and maximum height, floor area ratio, and impervious surface. If a formal plat is approved, the applicant or some other party could submit building permit applications. If the permit applications meet the construction standards of the R-1A district – and Minnesota State Building Code – the city would be obligated to approve the permits.

The city cannot regulate home design or pricing with a traditional zoning district. Such regulation is allowed only with the flexible, PUD zoning district.

Planning Commission Recommendation

The planning commission considered the rezoning on February 19, 2015. One commissioner expressed concern that the conceptual plat presented with the R-1A rezoning request would bind the city to approve a future plat of the same configuration, though perceptions and opinions of the conceptual plat may change over time. Staff responded that: (1) the R-1A ordinance requires submission of a conceptual plat; (2) the ordinance notes that “if a rezoning to R-1A is approved, future subdivision must be
substantially consistent with the conceptual plan”; and (3) as within any zoning district, the city has an obligation to approve the plat that meets all ordinance standards. It is important to note these ordinance standards include not only lot size and configuration standards of the R-1A zoning district, but also standards regarding natural resources protection, grading, stormwater management, etc. A rezoning to R-1A does not override or negate these other important ordinance standards.

Following the commission discussion, a public hearing was opened to take comment. None was received. On a 6-0 vote, the commission recommended the council adopt the rezoning ordinance. (See pages A18–A20.)

Staff Recommendation

Adopt an ordinance rezoning portions of the properties at 5290 and 5300 Spring Lane, 5325 Co Rd 101, 5301 and 5311 Tracy Lynn Terrace, and two properties with unassigned addresses from R-1 to R-1A. (See page A13–A16.)

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

Originated by:
  Susan Thomas, AICP, Principal Planner
SUPPORTING INFORMATION

Concept Plan Review

In April 2014, the city council reviewed a concept plan for subdivision of the site. As presented the area would have been divided into 22 lots ranging in size from just over 6,100 square feet to roughly 16,660 square feet. The council generally expressed concerns regarding: (1) the size of the proposed lots and the resulting density; and (2) the perceived lack of regard for natural resources on the site.

Neighborhood Meeting

In December 2014, the applicant held a neighborhood meeting to present the current 12-lot concept. Approximately 20 people were in attendance. The attendees generally agreed that the 12-lot conceptual subdivision was a significant improvement over the previously presented concept. They particularly noted that the size of proposed properties – whether the proposed R-1A lots or the R-1 lots – were appropriately located given the sizes of existing lots in the area. Smaller lots would be located “near” smaller lots on Tracy Lynn Terrance and larger lots across from larger lots on Spring Lane.

County Road 101 Project

County Road 101 and Excelsior Boulevard will undergo significant reconstruction in the area of the proposed rezoning. To accommodate aspects of the reconstruction – particularly a turn lane and a trail – the county will acquire roughly 2,500 square feet of the subject properties. The financial negotiation and transaction associated with this area will occur between the county and the landowner and should not impact the city’s decision regarding the requested rezoning. The county’s acquisition may impact the size and number of lots able to be subdivided in the future. However, just as with any subdivision, those details would be reviewed in conjunction with a preliminary plat application.

R-1 STANDARDS

The R-1A lot and setback standards are as follows:

<table>
<thead>
<tr>
<th>STANDARD</th>
<th>REQUIREMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Area</td>
<td>15,000 sq.ft.</td>
</tr>
<tr>
<td>Buildable Area</td>
<td>2,400 sq.ft.</td>
</tr>
<tr>
<td>Lot Width at Setback</td>
<td>75 ft</td>
</tr>
<tr>
<td>Lot Width at ROW</td>
<td>75 ft</td>
</tr>
<tr>
<td>Lot Depth</td>
<td>125 ft</td>
</tr>
</tbody>
</table>
Max. Impervious Surface | 50%
---|---
Max. Floor Area Ratio (FAR) | Lots > 17,500 sq.ft. = 0.22
 | Lots < 17,500 sq.ft. = 0.24
Front Yard Setback | 35 ft from streets exterior to the R-1A district
 | 25 ft from streets interior to the R-1A district
Side Yard Setback | 10 ft
Rear Yard Setback | 30 ft or 20% of lot depth, whichever is less

Based on the lot sizes on the conceptual plat, the following maximum impervious surface and floor area ratio would apply. However, please note that lot size may change slightly between conceptual plat and formal plat submittal. The resulting maximums would be recalculated and applied at the time of that formal application.

<table>
<thead>
<tr>
<th>LOT AREA</th>
<th>MAX IMPERVIOUS</th>
<th>MAX FAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot 4</td>
<td>15,001 sq.ft.</td>
<td>7,500 sq.ft.</td>
</tr>
<tr>
<td>Lot 5</td>
<td>15,001 sq.ft.</td>
<td>7,500 sq.ft.</td>
</tr>
<tr>
<td>Lot 6</td>
<td>27,001 sq.ft.</td>
<td>13,500 sq.ft.</td>
</tr>
<tr>
<td>Lot 7</td>
<td>25,256 sq.ft.</td>
<td>12,625 sq.ft.</td>
</tr>
<tr>
<td>Lot 8</td>
<td>15,534 sq.ft.</td>
<td>7,765 sq.ft.</td>
</tr>
<tr>
<td>Lot 9</td>
<td>15,000 sq.ft.</td>
<td>7,500 sq.ft.</td>
</tr>
<tr>
<td>Lot 10</td>
<td>15,128 sq.ft.</td>
<td>7,605 sq.ft.</td>
</tr>
</tbody>
</table>

* rounded down to closest 5 sq.ft.

**Floor Area and Floor Area Ratio (FAR)**

Based on code-definition and the city’s McMansion policy, floor area is the sum of the above ground horizontal area of a home, as measured from exterior walls and including attached garage space and enclosed porch areas, and one-half the horizontal area of any partially exposed level such as a walkout or lookout level. Floor area ratio is the floor area divided by lot area.
Location Map
Project: Saville Subdivision
Applicant: Lake West Development
Address: Co Rd No 101 & Excelsior (14002.15a)
SAVILLE SUBDIVISION

Minnetonka, MN

APPLICATION FOR
REZONING AND CONCEPT PLAN

January 12, 2014
INTRODUCTION
On behalf of Lake West Development Co., LLC, Landform is pleased to submit this application for rezoning and concept plan to create seven R-1A lots and four R-1 lots from seven lots at County Road No. 101 and Excelsior Boulevard. We are excited about this environmentally sensitive design and anticipate that it will be a great addition to the neighborhood.

REZONING AND CONCEPT PLAN
Lake West Development is requesting approval of rezoning seven proposed lots from R1 to R-1A and to subdivide an additional four lots in the existing R-1 zoning district (PID #s 29-117-22-33-0026, 30-117-22-44-0044, 30-117-22-44-0043, 30-117-22-44-0062, 30-117-22-44-0015, 30-117-22-44-0005, 30-117-22-44-0052). The subject properties are locating in the R-1 Zoning District and are guided low density residential in the Comprehensive Plan. Lake West plans to replat the lots for future construction of single-family detached residential dwelling units. There are four homes on the existing parcels. Lake West intends to retain two of the homes which are located at the corner of Excelsior Boulevard and County Road No. 101.

Ordinance 2014-22 requires that applicant submit a concept plan with a rezoning application to the R1-A District. The concept plan responds to the conditions on site with careful consideration to slopes, tree preservation and concerns of the neighborhood. The design team has worked to ensure that the concept is consistent with all of the City’s standards zoning standards. The concept plan will help the City achieve its goals of preserving existing neighborhoods while broadening housing choices and increasing the diversity of housing options.

Ordinance 2014-22 allows applicants to rezone to R-1A when the following conditions are met:

a) The proposed R-1A development will be appropriately integrated into existing and proposed surrounding development. This does not mean the R-1A development must reflect the specific standards of the surrounding area such as lot size, density, setbacks, or design. While integration may be achieved through such standards, it may also be achieved through continuation of existing land use types, architectural transitions, landscape buffering, or other means.

The proposed development will be appropriately integrated into the existing and proposed surrounding development. The attention to lot size and preservation of natural features will result in a minimal impact on the appearance or character of the neighborhood. The exterior boundaries of the lots will remain intact and new houses will be screened by the existing trees on site.
b) Either of the following is met:

1) At least 60 percent of existing lots within 400 feet of the proposed R-1A development, and along 1000 feet on both sides of street on which the proposed development is located, have lot areas less than the R-1 standards as outlined in city code section 400; or

2) All lots within the R-1A development will be served by a new street.

All proposed lots within R-1A development will be served by a new street. Lake West is proposing to extend a new street from Tracy Lynn Terrace terminating in a cul-de-sac.

Neighborhood Support:
The applicant met with area residents on December 17, 2014 to discuss plans for the subject properties. Residents were generally supportive of the proposed lot layout and concept. Residents said that they preferred the road extension from Tracy Lynn Terrace as shown in the plans over a road extending from Spring Lane. They appreciated the context sensitive design, the preservation of buffers and screening. A copy of the exhibits presented at the meeting have been included in the submittal package for your review.

Tree preservation:
Section 300.28, Subdivision 19 of the City Code requires that a tree preservation plan and survey be submitted with preliminary plats. Because trees are an important aspect of delivering a high-quality design, the concept plan was developed with respect to the location significant and high quality trees. The building areas, road placement, and lots are designed to remove the fewest number of trees possible. As proposed, the development is well under the allowable percentage of trees to be removed.

Steep Slopes
The site was analyzed to determine if there were any steep slopes on site, as defined by code. While there were none found on site, there are slopes over 20% on site. The concept plan was developed to minimize impact on the site’s slopes with a grade over 20%. Placement of lots, building areas, and the proposed road avoids slopes and integrates new residential properties into the landscape.

SUMMARY
We respectfully request approval of a rezoning from R-1 to R-1A as shown on the proposed concept plan at Excelsior Boulevard and County Road 101. We look forward to receiving feedback on the concept plan, and presenting plans to the Planning Commission on February 19, 2015 and City Council on March 2, 2015.
CONTACT INFORMATION
This document was prepared by:
Mary Matze, Planner
Landform
105 South Fifth Street, Suite 513
Minneapolis, MN 55330

Any additional questions regarding this application can be directed to Reid Schulz at rschulz@landform.net or 612.638.0245.
SAVILLE PROPERTY
MINNETONKA, MINNESOTA

DECEMBER 17, 2014

NEIGHBORHOOD ANALYSIS

View north along Tracy Lane

View toward Highway 101 from Tracy Lane

View southeast from Highway 101

View south along Spring Lane

Existing Area Summary

• 45 number of residential lots within 450-feet of project site
• 0.34 to 1.54 acre range of lot sizes
• 0.59 acre average lot size
Natural Context
The site has rolling topography with many of the existing high points currently occupied by single family homes. The tree canopy includes a variety of large evergreens and deciduous specimen. The wetland in the northeast corner is heavily wooded and requires buffers.

Man-made Context
Single family residential uses generally surround the site. While a node of institutional and office/services uses anchor the intersection of County Road 101 and Excelsior Boulevard. A high voltage utility and easement bisect the eastern side, which has vegetative implications as the utility corridor is maintained without tree cover.
SAVILLE PROPERTY
MINNETONKA, MINNESOTA

DECEMBER 17, 2014

SITE PLAN

Proposed Development Summary
- 12 number of residential lots
- Gross density 1.95 units/acre
- Net density 2.07 units/acre
- 0.49 acre average lot size

Proposed Lot Summary
- Lot 1 = 22,060 SF
- Lot 2 = 22,056 SF
- Lot 3 = 24,175 SF
- Lot 4 = 15,001 SF
- Lot 5 = 15,001 SF
- Lot 6 = 27,001 SF
- Lot 7 = 25,256 SF
- Lot 8 = 15,534 SF
- Lot 9 = 15,000 SF
- Lot 10 = 15,128 SF
- Lot 11 = 22,008 SF
- Lot 12 = 36,408 SF
Ordinance No. 2015-

An ordinance rezoning portions of existing properties generally located in the southeast corner of the County Road 101/Excelsior Boulevard intersection

The City Of Minnetonka Ordains:

Section 1.

1.01 Portions of the properties at 5290 and 5300 Spring Lane, 5325 Co Rd 101, 5301 and 5311 Tracy Lynn Terrace, and two properties with unassigned addresses are requested to be rezoned from R-1 to R-1A.

Section 2.

2.01 The area rezoned from R-1 to R-1A is legally described on Exhibit A of this ordinance.

2.02 The described area is depicted on Exhibit B of this ordinance.

Section 3.

3.01 Rezoning of these properties is appropriate. This action is based on the following findings:

1. The R-1A area will be located at the intersection of two major roadways.

2. The R-1A area will not detract from the existing surrounding development, as it would be located at the edge of an existing neighborhood rather within the middle of an existing neighborhood.

3. As presented on a conceptual plat, the R-1A area will be served by a new street, resulting in creation of a new neighborhood.

4. The rezoning is consistent with the city’s comprehensive plan.
Section 4.

4.01 This ordinance is effective upon approval the final development plan and final plat.

Adopted by the city council of the City of Minnetonka, Minnesota, on March 2, 2015.

Terry Schneider, Mayor

ATTEST:

David E. Maeda, City Clerk

Action on this ordinance:

Date of introduction: February 9, 2015
Date of adoption:
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on March 2, 2015.

David E. Maeda, City Clerk
EXHIBIT A

Legal Description to be Inserted Prior to City Council Action
PLANNING COMMISSION MINUTES
The next planning commission meeting will be March 5, 2015. The year-end report will be presented and there will be commissioner training after the meeting.

6. Report from Planning Commission Members

Kirk announced that he was appointed to the Southwest Light Rail Community Advisory Committee which will reviewing station area plans over the next couple of years. He will meet with the committee monthly and report to the commission what he learns.

7. Public Hearings: Consent Agenda: None

8. Public Hearings

A. Ordinance rezoning portions of properties generally located at the southeast corner of the County Road 101/Excelsior Boulevard intersection from R-1 to R-1A.

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

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

O’Connell asked why a concept plan would be part of the presentation. Thomas explained that the ordinance requires a concept plan be provided to give the city an idea of the number of potential lots.

Kirk felt it made sense to look at the application’s zoning requirements and later look at the plat. It allows residents to review the proposal twice and that may be a good thing. He favored an expiration of the term the rezoning in case the current applicant would not do the project. He asked for the maximum density that could happen on the site if it would be zoned R-1A. Thomas indicated that the proposal seemed to represents the maximum development allowed under R-1A zoning given the site constraints. There would possibly be an opportunity to connect the street from Tracy Lynn Terrace to Spring Lane and create one or two more lots, but that would create issues with natural resources. Staff’s recommendation includes a condition that would make the rezoning only effective upon approval of a plat.

Kirk asked if it would be possible for the concept to expire in a certain amount of time. Thomas said that staff had considered including an automatic expiration of...
the rezoning in early drafts of the proposed ordinance. The city attorney was concerned because zoning is tied to the property. The city has the right to rezone a property back to its original zoning at any time. Based on the city attorney’s suggestion, a sunset clause was not incorporated. Rezoning is evaluated in light of the proposed concept plan, but no action is taken on the concept plan itself.

Magney asked for data on the properties on Tracy Lynn Terrace. Thomas provided a slide with the information. Existing lot sizes range from 18,000 square feet to 30,500 square feet.

Magney asked how a utility easement cutting through Lots 5 and 10 would be handled. Thomas answered that a developer may relocate a sewer line, but it would be done at the developer’s expense.

Reid Schulz, of Landform Professional Services, on behalf of the applicant, Lake West Developement, stated that:

- He thanked staff for their work to help get to this point.
- Last spring, the city council felt a concept plan with 22 lots was a too dense. The current proposal would have fewer lots.
- Last December, the applicant held a neighborhood meeting. The comments and concerns received were taken into consideration.
- A neighborhood analysis and tree survey were completed.
- The wetlands and accesses were considered. The access point was considered off of Spring Lane as well as Tracy Lynn Terrace. The neighbors prefer the access to be located on Tracy Lynn Terrace.
- He was available for questions.

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

Kirk visited the site. He had no problem with the development. The struggle he has is with changing the zoning on the piece of property. He takes it seriously and wants to understand the implications for the neighborhood. Staff has done a good job of providing the reasons why a R-1A zoning classification would work for the site. Tree preservation and stormwater management would be looked at further down the line. Staff did a good job with the analysis. He supports the rezoning.

*O'Connell moved, second by Magney, to recommend that the city council adopt an ordinance rezoning portions of the properties at 5290 and 5300 Saville Properties Rezoning*
Spring Lane, 5325 County Road 101, 5301 and 5311 Tracy Lynn Terrace, and two properties with unassigned addresses from R-1 to R-1A (see pages A13-A16 of the staff report).

Kirk, Knight, Magney, O’Connell, Odland, and Odland voted yes. Rettew was absent. Motion carried.

This item is tentatively scheduled to be reviewed by the city council March 2, 2015.

9. Public Hearings

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

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

Thomas reported. She requested commissioners discuss the concept plan and provide the developer with feedback.

Brian Carey, of United Properties, appreciated the opportunity to receive feedback. He stated that:

- Minnetonka recently approved United Properties’ Applewood project.
- United Properties has been in business since 1916. He represents the residential division.
- From 1990 to 2010, there has been slow growth in senior housing. United Properties has since built 7 Applewood Pointe communities which serve about 1,000 residents and a Cherrywood Pointe community. There are 2 Applewood and 2 Cherrywood Pointe communities currently under construction.
- Senior housing will not age the community. Senior housing provides housing for people who serve as volunteers and have served as leaders in the community for many years.
- The houses seniors leave are sold to young families and improves the school environment.
- He showed photos of an Applewood Pointe community in Roseville.
- The comprehensive guide plan guides the site for high-density residential.
- The site is not included in the Ridgedale vision area, but the proposal would support keeping the area vibrant.
City Council Agenda Item #14B  
Meeting of March 2, 2015

**Brief Description**  
Concept Plan for Cherrywood Pointe Senior Cooperative at 2004 Plymouth Road

**Action Requested**  
Discuss the concept plan with the applicant. No formal action is required.

**Background**

United Properties Residential has submitted a concept plan to redevelop the existing residential property at 2004 Plymouth Road. The 3.4-acre property is currently zoned R-1, low-density residential, but is designated for high-density residential use in the 2030 Comprehensive Guide Plan. (See pages A1–A4.)

The submitted plan contemplates construction of a four-story, senior rental building. The building would contain approximately 129 units and include a mixture of independent, assisted, and memory care units. The building would be served by a surface parking lot adjacent to Plymouth Road, as well as underground parking. (See pages A5–A11.)

Construction of the submitted plan would likely require: (1) rezoning to planned unit development; and (2) site and building plan review.

**Review Process**

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

- **Neighborhood Meeting.** A neighborhood meeting was held on February 18, 2015. Approximately 20 people were in attendance. Area property owners raised questions and concerns regarding building height, density, and impact to natural resources.

- **Planning Commission Concept Plan Review.** On March 20, 2014, the planning commission conducted a review of the concept plan. The commission generally commented:

  1. The proposed land use is appropriate for the site.

  2. Any formal application presented should consider:
     - existing natural resources;
     - well defined building design, with comparison elevations; and
     - future “non-senior” use of the building.
One area property owner addressed the commission and requested the city:
(1) Insist that R-5 zoning classification be used.

(2) Scrutinize the proposed density.

(3) City recommending site specific setbacks based on the natural resources.

A full list of comments received as well as the planning commission meeting minutes can be found on pages A13–A27.

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

**Staff Recommendation**

Provide comment and feedback to assist the applicant with future direction that may lead to the preparation of more detailed development plans.

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

Originated by:
- Susan Thomas, AICP, Principal Planner
SUPPORTING INFORMATION

Next Steps

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

- **Neighborhood Meeting.** Prior to the planning commission meeting and official public hearing, an additional public meeting would be held with neighbors to discuss specific engineering, architectural and other details of the project, and to solicit feedback. This extends the timing that has historically been provided in advance of the planning commission review to allow more public consideration of the project specifics.

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

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

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

Roles and Responsibilities

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

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

- **Planning Commission.** The planning commission hosts the primary forum for public input and provides clear and definitive recommendations to the city council. To serve in that role, the commission identifies and attempts to resolve development issues and concerns prior to the council’s consideration by carefully balancing the interests of applicants, neighbors, and the general public.

- **City Council.** As the ultimate decision maker, the city council must be in a position to equitably and consistently weigh all input from their staff, the general public, planning commissioners, applicants and other advisors. Accordingly, council members traditionally keep an open mind until all the facts are received. The council ensures that residents have an opportunity to effectively participate in the process.

- **City Staff.** City staff is neither an advocate for the public nor the applicant. Rather, staff provides professional advice and recommendations to all interested parties, including the city council, planning commission, applicant and residents. Staff advocates for its professional position, not a project. Staff recommendations consider neighborhood concerns, but necessarily reflect professional standards, legal requirements and broader community interests.
LOCATION MAP
CHERRYWOOD POINT
Concept Plan Review
2004 Plymouth Road

This map is for illustrative purposes only.
Narrative for Minnetonka Plymouth Road Site

United Properties is a recognized leader in the development of senior housing in the Minneapolis/St. Paul metropolitan area. Since 2002, United Properties has developed and completed seven Applewood Pointe Senior Cooperative Communities. 2015 will see the opening of two new Applewood Pointe Communities, and construction beginning on two additional Applewood Pointe Communities. In recognition of our vision, leadership and commitment, United Properties was honored by the Senior Cooperative Foundation in 2010 with the Senior Cooperative Housing Leadership Award.

While United Properties will continue to build its Applewood Pointe Cooperative brand through the recently approved redevelopment of the Minnetonka Mills/Minnetonka Boulevard site, we are also committed to developing senior housing which offers services for our residents. We opened our first community providing senior housing with services, named Cherrywood Pointe, in 2012. 2015 will see the opening of two additional Cherrywood Pointe Communities in the greater Twin Cities area, and hopefully construction beginning on two additional Cherrywood Pointe Communities. We have established a strategic alliance with Ebenezer Management Services to assist with providing the care and service needed for our Cherrywood Pointe Communities. Ebenezer is a division of Fairview Health Systems, and has been serving the senior community in the Twin Cities for nearly 100 years.

Location

We have entered into an agreement to purchase the Carlson homestead at 2004 Plymouth Road, just south of the Ridgedale area. This approximately 4 acre site is the last underdeveloped site in this vicinity. We believe introducing senior housing with services at this location provides the Minnetonka community with needed senior services, and the convenience and synergy related with the Ridgedale area’s future vision. This community will offer a continuum of care including independent living with services, assisted living, memory care, and enhanced care suites.

Site Features

The existing site has wetlands on the south and west sides of the site. Therefore, the building orientation has been positioned to capture the views over the southern and western portions of the site, with the building entrance and parking area along Plymouth Road. The plan is to maintain many of the existing trees on the north, west, and south sides of the site.

The building that is being proposed will have a one story component along the south side of the property with the main body of the building at either four or five stories. An underground parking garage below the entire building footprint is being proposed. Exterior materials are somewhat flexible as we pursue the design of the building, but we are likely to have a mixture of brick or stone, different sidings and decks incorporated into the building design. Colors will likely be earth tones with certain accents to give the building architectural appeal. We are exploring both flat roof and pitched roof design ideas at this time.

The conceptual plans submitted for review show a building with 129 units and a total of 97 on-site parking stalls. Access to the site is proposed through a reconstructed driveway shared with the office property to the north of the site, and access at the southern end of the property.
The property is guided for high density housing and is surrounded by apartment and office uses. As mentioned, the site’s proximity to the Ridgedale area provides convenience for family members with loved ones in the facility, and also provides opportunity for residents of this new community to patron the businesses around Ridgedale area.

Typical amenities provided in our Cherrywood Pointe developments are:

- Spacious, bright apartments, many with decks
- Full kitchens with all appliances in every unit
- Enriching activities including wellness and life-long learning events
- Fine dining with chef prepared meals
- On-site beauty/barber shop
- Digital satellite TV programming
- Utilities including gas, electric, water, waste and recycling
- Individual climate control in every apartment
- Outdoor decks and lovely walking paths
- Concierge at front desk with fax and copy services
- Club room with bar
- Elegant lobby for cozy chats with neighbors by the fireplace
- Library
- Fitness and work out exercise areas
- Movie theater
- Guest suite for visitors
- Clinic space for visiting wellness and health practitioners
- Bistro
Cherrywood of Minnetonka
2004 Plymouth Road
Cherrywood of Minnetonka

2004 Plymouth Road

Option Summary
Option 6 / 5 Story U Shape
157,688 Finished SF
27,179 Garage SF
18,652 sf
129 Units / 132 Beds
97 Total Parking
1,222 sf/unit Avg.
Garage
73 Indoor Parking
Garage

18,652 sf

Garage

1st Floor
40,528 sf

2nd Floor
32,508 sf

3rd Floor
33,000 sf

4th Floor
33,000 sf

Unit Summary

Unit Type | MC Single | MC Double | Total
---|---|---|---
LL Floor | 10 | 1 | 11
1st Floor | 21 | 2 | 23
2nd Floor | 8 | 10 | 18
3rd Floor | 8 | 12 | 20
4th Floor | 8 | 12 | 20
Memory Care | 26 | 30 | 56
Total | 31 | 36 | 67

Unit Type | 1 Bed | 1 Bed + Den | 2 Bed | Studio | Total
---|---|---|---|---|---
1st Floor | 8 | 10 | 12 | 8 | 38
2nd Floor | 8 | 10 | 12 | 8 | 38
3rd Floor | 8 | 10 | 12 | 8 | 38
4th Floor | 8 | 10 | 12 | 8 | 38
Assisted Living | 24 | 30 | 30 | 4 | 90
Total | 4 | 28 | 30 | 30 | 90

Memory Care Units

Assisted Living Units

73 Indoor Parking

27,179 sf

33,000 sf

40,528 sf

5,750 sf

Cherrywood Pointe
2004 Plymouth Road
Concept Plan Review

Site Plan - Option 5
Scale 1" = 50'-0"
Cherrywood of Minnetonka

2004 Plymouth Road

1st Floor Summary

Total SF: 40,528 sf
27 Units

Memory Care
21 - Single Units
2 - Double Units

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

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

- 5 - Care Suites
- 10 - Single Memory Care
- 1 - Double Memory Care

Cherrywood of Minnetonka
2004 Plymouth Road

1 Garage Option
Scale 1" = 40'-0"
PLANNING COMMISSION COMMENTS
## CHERRYWOOD POINTE
Planning Commission Concept Plan Review
February 19, 2015

<table>
<thead>
<tr>
<th>TOPIC</th>
<th>QUESTIONS/COMMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LAND USE</strong></td>
<td>• Proposed land use is appropriate for the site, given surrounding land uses. (Magney, Knight, Kirk)</td>
</tr>
<tr>
<td></td>
<td>• Scrutinize the proposed density. Regency Woods to the south has a density of 15 units/acre. (Bertelsen, resident)</td>
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<td></td>
<td>• A more intimate/exclusive/upscale senior development with less density may be a better fit for the site. (Bertelsen, resident)</td>
</tr>
<tr>
<td><strong>SITE DESIGN</strong></td>
<td>• Many units will have nice views of the surrounding wetland. (Calvert)</td>
</tr>
<tr>
<td></td>
<td>• Consider pedestrian connections for active residents and guests. (Kirk)</td>
</tr>
<tr>
<td></td>
<td>• This is an environmental sensitive site. Final site design should take that into account. (Kirk)</td>
</tr>
<tr>
<td></td>
<td>• Consider city-recommended natural resources specific setbacks. (Bertelsen, resident)</td>
</tr>
<tr>
<td><strong>BLDG DESIGN</strong></td>
<td>• Building size is appropriate, given the context. (Kirk)</td>
</tr>
<tr>
<td></td>
<td>• Design of New Brighton Cherrywood Pointe is nice. That type of design would be appropriate here. (Kirk)</td>
</tr>
<tr>
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<td>• Elevations including various “broken up” features, rather than a solid wall, and variety of materials should be presented. (Magney)</td>
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<td>• Fully developed elevation drawings, with dimensions, would give everyone a better understanding of final result. (Odlund)</td>
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<td>• Consider a conversion plan, showing lower level memory care units converted to additional parking in the event the building becomes “non-senior” rental in the future. (Kirk, Calvert)</td>
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<td>• Provide an elevation showing the proposed building and the existing office building to the north for comparison. (O’Connell)</td>
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<td><strong>MISC.</strong></td>
<td>• Provide both an R-5 and PUD development proposal, so differences can be visualized. (Kirk)</td>
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<td>• Provide data regarding Cherrywood Pointe residents. What percentage of residents actually come from the community in which the development is built. (O’Connell)</td>
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<td>• Insist the site be developed under the R-5 zoning classification. No variances or deviations. (Bertelsen, resident)</td>
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Spring Lane, 5325 County Road 101, 5301 and 5311 Tracy Lynn Terrace, and two properties with unassigned addresses from R-1 to R-1A (see pages A13-A16 of the staff report).

Kirk, Knight, Magney, O’Connell, Odland, and Odland voted yes. Rettew was absent. Motion carried.

This item is tentatively scheduled to be reviewed by the city council March 2, 2015.

9. Public Hearings

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

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

Thomas reported. She requested commissioners discuss the concept plan and provide the developer with feedback.

Brian Carey, of United Properties, appreciated the opportunity to receive feedback. He stated that:

- Minnetonka recently approved United Properties’ Applewood project.
- United Properties has been in business since 1916. He represents the residential division.
- From 1990 to 2010, there has been slow growth in senior housing. United Properties has since built 7 Applewood Pointe communities which serve about 1,000 residents and a Cherrywood Pointe community. There are 2 Applewood and 2 Cherrywood Pointe communities currently under construction.
- Senior housing will not age the community. Senior housing provides housing for people who serve as volunteers and have served as leaders in the community for many years.
- The houses seniors leave are sold to young families and improves the school environment.
- He showed photos of an Applewood Pointe community in Roseville.
- The comprehensive guide plan guides the site for high-density residential.
- The site is not included in the Ridgedale vision area, but the proposal would support keeping the area vibrant.
Jill Makobie-Keizer, of United Properties, stated that:

- The average-aged resident is in his or her eighties.
- Family members and employees will help to support the surrounding area by taking their aging parents and themselves shopping.
- The proposal would be a fine addition for the area.

Mr. Carey continued:

- The site is surrounded by apartments on the south, a library on the northeast, a medical office building and retail, and single-family residences 1,250 feet from the site.
- There would be parking setbacks 10 feet and building setbacks 40 feet on the front. There would be a 50-foot wetland setback which exceeds what would be required. The building would fit within the setbacks.
- The site plan provided the intention of how the site’s traffic pattern would work. It would reduce and simplify the traffic in the area. It would allow the addition of a right-hand turn lane for exiting. It would improve the neighboring driveway and parking lot to do that. The exit would be right-in and right-out only. The building would be about 40,000 square feet on the first floor. There would be a courtyard in the middle to provide a safe walking area for residents in memory care.
- There would be 73 parking stalls.
- The first floor would have a dining area, movie theater, salon, offices, and memory care areas.
- He provided renderings of 11 senior communities to show the flexibility of what could be done on the site. There was opposition expressed for the 5-story model, so he provided a 4-story model that shows a classic looking building. The consensus seemed to prefer the classic, residential style over the modern look.
- He was happy to answer questions.

Kirk asked if there would be a point where there would be too much senior housing. Mr. Carey answered in the negative. It is not on the radar at all right now. All through 2040, there is a tremendous growth curve with many more seniors than there are today. For the next 25 years, the demand for senior housing will be in excess of twice what it is now and it will not drop then either.
Kirk asked if more parking could be added in the basement if the building would change from senior living to apartments. Mr. Carey answered that that could be considered in the future. Nothing has been built in the Ridgedale area in many years to provide assisted living. The demand for this type of use will exist for a long, long time. It would extend at least passed the useful life of the building.

Kirk felt that the Applewood Pointe New Brighton photo demonstrates what he would like in the area since it has a more residential look. Mr. Carey stated that the design work has not been done yet for the proposed four-story building. It would be attractive and be favored by the city council and commissioners. He will suggest the preferred style to the architect.

Kirk noted that the site may be environmentally sensitive. He asked for the wetland setback. Thomas answered 35 feet. The proposed 50 feet exceeds that.

Kirk asked how the proposal would fit into the Ridgedale redevelopment plan. Pedestrian connections would be a consideration. Mr. Carey stated that he is excited about the opportunities to work with Ridgedale. There would be some Cherrypointe residents walking to Target and there would be many adult children picking up residents to take them to the nearby Target and Byerly’s. He embraces the fact that buses serve the Ridgedale area. His employees could utilize the bus service.

Kirk supports senior housing. Diversity in housing in Minnetonka will occur when seniors vacate their houses to move into Cherrypointe and their houses are purchased by young couples. That is where the affordable housing would occur. This is a great opportunity for that. The site would support a building of the proposed size. The housing type would be appropriate. He supports the development. It looks good.

Calvert confirmed the location of the accesses. Mr. Carey explained that the primary access to the site would be the north access. Drivers exiting or entering the garage and heading south could use the south access.

Calvert clarified with Mr. Carey that the garage would be the lower level. Residents would have a nice view of the wetland.

Calvert knows that senior housing is needed. She asked how flexible the proposal would be to repurpose. Mr. Carey said that it would be very flexible. All of the units on floors two through four would have full kitchens, bathrooms, and closets. They would be very nice apartments. The parking area could be
expanded. That would be a very long way away. There is no indication that the senior population would decrease after 25 years.

O'Connell asked if the applicant has data from completed senior housing projects that show that seniors who own houses near the senior housing project move out of their houses. Mr. Carey said that 60 to 70 percent of Applewood Pointe residents come from the community. There are two main draws for this kind of a building: to be near their children and to be near other seniors.

O'Connell suggested providing elevations comparing the proposed building with the existing office building to the north at the next meeting. Mr. Carey said that was a good idea.

Wischnack added that the city required St. Therese to market only to Minnetonka residents for a certain period of time. Thirty percent of the initial seniors to move into St. Therese were Minnetonka residents who moved out of single-family houses. Wischnack has information regarding where Minnetonka residents are moving from and moving to through 2012 that she will forward to commissioners.

The public hearing was opened.

Annette Bertelsen, 13513 Larkin Drive, stated that she thought it was great that United Properties wants to bring high quality senior housing to the community. She looks forward to working with them through the development process. The site is unique. It is blessed with a slope, wetland, and woodland. The woodland is critical to protecting the wetland. She requested that the developer be required to follow Minnetonka’s R-5 high-density residential design standards and that the proposed density be scrutinized. High-density housing starts at 12 units per acre. The site has 3 acres of upland, so 36 units would qualify as high density. Regency Woods next door is 15 units per acre. The proposed plan would include 129 units and be 46 units per acre. Something more intimate in the beautiful setting would be a great opportunity. She requested that the city have the natural resources staff create site-specific setbacks.

No additional testimony was submitted and the hearing was closed.

In response to O'Connell's question, Thomas answered that a traffic study may be done to look at the number of trips that would be generated by 129 senior units.

Magney asked if site-specific setbacks could be implemented for a PUD. Thomas explained that the applicant is not necessarily requesting the site to be rezoned.
to a PUD. Senior housing is allowed in every zoning classification. A traditional zoning district has specific setbacks outlined in the ordinance. The city does have very strong natural resource ordinances including the tree ordinance. When an application is received, natural resources staff visit the site and verify the accuracy of the tree survey and wetland delineation.

Wischnack added that a PUD might help save more of the natural resources than a R-5 district would. Once an application is received, then saving as many trees as possible would be a goal.

Magney felt that the proposal is the right use for the site. He could not see single-family houses sandwiches between apartments, commercial uses, and a medical office building. The elevations with the broken up façade and different materials looks very nice.

Kirk liked that the comprehensive guide plan supports the use. It would be nice to compare a plan as a PUD with a plan that follows R-5 zoning ordinance requirements. The development is a good one.

Odland looks forward to seeing specific drawings that include the height of the proposed building.

10. **Adjournment**

*Magney moved, second by Kirk, to adjourn the meeting at 7:55 p.m. Motion carried unanimously.*

By: ____________________________

Lois T. Mason
Planning Secretary
WRITTEN COMMENTS RECEIVED
I want the Cherrywood Pointe proposal to be scaled back to preserve more woodlands is sufficient!!!
This is my home address: 2504 Cherrywood Road, Minnetonka, MN 55305.

I am going to try and make the Mar 2 meeting to make sure this is scaled back, please listen to the neighbors for once! Dee

Dee Thibodeau
Charter Solutions, Inc.
3033 Campus Drive, Suite N160
Plymouth, MN 55441
O 763 230 6101
F 612 220 6110
WBE Certified
Is it wise to have a 129 unit building at this location.
Traffic in the area is already congested at times.
Couldn't be scaled back to 40 or less to preserve trees,
Wet lands and space

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

Respectfully,

-Jennifer Indermaur

3822 Huntingdon Drive
Minnetonka, MN 55305
To: Susan Thomas and Tony Wagner

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

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

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

Best regards,

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

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

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

Pam Kaufman
2505 Cherrywood Road
Minnetonka, MN 55305
I am a Minnetonka resident who is passionate about keeping our city in line with its commitment to wetlands & green space. It is my understanding that this development is wanting to expand as much as possible to take advantage of every square inch available however the wetlands abutting the property line is presenting challenges. As a resident who honest to god has wetlands or rather what I call a bayou (mosquito breeding ground) in my backyard, I ask you to fight to urge to feel the need to develop, develop, develop. I see our city eroding away as I type this. I only moved to Minnesota 5 years ago and am absolutely shocked to see how people here talk about caring for nature, green space and wetlands and seconds after making these remarks, turns around and works towards the opposite goals. I know there is no money in protecting green space and wetlands but I care and so do a lot of people. If protecting wetlands and the surrounding land around them are a priority for you too, please think twice before allowing just another building to encroach upon its uniqueness for ease of construction.

Audra Johnson
Attorney-at-Law

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

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

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

Regards,
Margaret Krieser
13417 Tudor Road
February 23, 2015

To the Minnetonka City Council:

One of the City of Minnetonka’s goals states: “We will protect and enhance the unique natural environment of our community by carefully balancing growth and development with preservation efforts that protect the highly valued water and woodland resources of our community.”

That is why I am asking you to instruct United Properties to scale back its Cherrywood Pointe concept plan to something with a significantly smaller footprint.

- The proposed footprint would destroy many wetland-adjacent trees. Wetland-adjacent woodlands play a critical role in protecting our vital wetlands – they prevent erosion, function as a natural water filter, provide crucial wildlife habitat, and more.

- The proposed density is 46 units per acre – three times that of the high-density residential development (Regency Woods Apartments) located directly to the south.

- The proposal calls for 126 units, which is 57% more units than Cherrywood Pointe in Roseville (80 units).

I encourage each of you to look at a Google Maps satellite image of the property at 2004 Plymouth Road before the March 2 City Council meeting. You will clearly see multiple areas of protected wetlands on the property, as well as the large area of precious adjacent woodlands.

As our elected representatives, you have both the power and the responsibility to balance growth in a way that protects “the highly valued water and woodland resources of our community.”

Thank you.

Annette Bertelsen
13513 Larkin Drive
Minnetonka, MN 555305
February 22, 2015

To: Mayor Schneider and City Council Members

From: Kamel Aossey

Reference: Cherrywood Pointe

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

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

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

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

CC: Brian Carey, Executive Vice President, United Properties
3600 American Blvd. West, Suite 750
Minneapolis, MN 55431
Please forward my comments to the City Council.

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

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

Sincerely,

Lesley Doehr
13434 Larkin Circle
Minnetonka, MN 55305
City Council Agenda Item #15A  
Meeting of March 2, 2015

**Brief Description:** Appointment of Advisors for the 2015 Local Board of Appeal and Equalization

**Recommended Action:** Approve Appointment of the Advisors

**Background**

The first meeting of the 2015 Minnetonka Local Board of Appeal and Equalization is scheduled for April 20, 2015. Prior to the first meeting, the council appoints advisors to assist in the review of the market value appeals as provided by the City Charter. These advisors review each appeal, physically visit each property and offer their independent opinion of market value as of January 2, 2015. The advisors’ recommendations will be presented at the reconvened meeting on May 4, 2015.

This year staff recommends the appointment of four advisors. Three advisors have served previously and one is serving for the first time.

**John Powers:** Mr. Powers has been an agent since 1989 and has worked for Coldwell Banker Burnet since 1990. He has been a resident of Minnetonka since 1995. This will be his fifth year as an advisor.

**Lowell Johnson:** Mr. Johnson is an agent with Edina Realty. He has been a realtor since 1965. He has worked for Edina Realty since 1986. He has been a resident of Minnetonka since 1976. This will be Mr. Johnson’s fifth year as an advisor.

**Larry Kriedberg:** Mr. Kriedberg is an agent with Coldwell Banker Burnet and has worked there for 15 years. He has lived in Minnetonka nearly 20 years. Mr. Kriedberg served as an advisor for 6 years. This is his first year back after a three-year break.

**Susan Miller:** Ms. Miller has been an agent for 3 years, all with Coldwell Banker Burnet. She has lived in Minnetonka for 21 years and this will be her first year as an advisor.

**Recommendation**

Staff recommends Mr. Powers, Mr. Johnson, Mr. Kriedberg and Ms. Miller be appointed as advisors for the 2015 Minnetonka Local Board of Appeal and Equalization.

Submitted through:
- Geralyn Barone, City Manager
- Merrill King, Finance Director

Originated by:
- Colin Schmidt, SAMA, City Assessor