Planning Commission Agenda

August 18, 2016—6:30 P.M.

City Council Chambers—Minnetonka Community Center

1. Call to Order

2. Roll Call

3. Approval of Agenda

4. Approval of Minutes: August 4, 2016

5. Report from Staff

6. Report from Planning Commission Members

7. Public Hearings: Consent Agenda

   A. Conditional use permit and site and building plan review for a cold storage building for the Hopkins Middle School West at 3830 Baker Road.

      Recommendation: Adopt the resolution approving the conditional use permit and building plan review (4 votes)

      • Recommendation to City Council (Tentative Date: September 12, 2016)
      • Project Planner: Drew Ingvalson

   B. Expansion permit to increase the height of the existing building at 5605 Green Circle Drive.

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

      • Final Decision Subject to Appeal
      • Project Planner: Ashley Cauley

8. Public Hearings: Non-Consent Agenda Items

   A. Items concerning a townhome development at 11901 Minnetonka Boulevard.
Recommendation: Recommend the city council approve the request (4 votes)

- Recommendation to City Council (Tentative Date: September 12, 2016)
- Project Planner: Ashley Cauley

9. Adjournment
Notices

1. Please call the planning division at (952) 939-8274 to confirm meeting dates as they are tentative and subject to change.

2. Applications and items scheduled for the September 8, 2016 Planning Commission meeting:

   Project Description: The applicant is proposing to combine two existing, vacant properties and construct a new home on the combined site at 16965 & 16957 Cottage Grove Ave & unassigned lot. The proposals requires: (1) preliminary plat, with lot area and buildable area variances; (2) variance to declare the combined property buildable; and (3) vacation and relocation of an existing sanitary sewer easement.
   Project No.: 16012.16a Staff: Susan Thomas
   Ward/Council Member: 3—Brad Wiersum Section: 17

   Project Description: TCF National Bank and Solomon Real Estate Group are proposing to redevelop the existing property at 1801 Plymouth Road. The existing, two-story bank building would be removed and a new, 1-story, 10,200 square foot building would be constructed. TCF would own and occupy the westerly portion of the building and various retailers would occupy the easterly portion. The proposal requires approval of: (1) site and building plans, with variances; (2) a conditional use permit for the bank drive-thru; and (3) preliminary and final plats.
   Project No.: 16020.16a Staff: Susan Thomas
   Ward/Council Member: 2—Tony Wagner Section: 3
WELCOME TO THE MINNETONKA PLANNING COMMISSION MEETING

This outline has been prepared to help you understand the public meeting process. The review of an item usually takes the following form:

1. The chairperson of the meeting will announce the item to be reviewed and ask for the staff report on the subject.

2. Staff presents their report on the item.

3. The Commission will then ask City staff questions about the proposal.

4. The chairperson will then ask if the applicant wishes to comment.

5. The chairperson will open the public hearing to give an opportunity to anyone present to comment on the proposal.

6. This is the time for the public to make comments or ask questions about the proposal. Please step up to the podium, speak clearly, first giving your name (spelling your last name) and address and then your comments.

7. At larger public hearings, the chair will encourage speakers, including the applicant, to limit their time at the podium to about 8 minutes so everyone has time to speak at least once. Neighborhood representatives will be given more time. Once everyone has spoken, the chair may allow speakers to return for additional comments.

8. After everyone in the audience wishing to speak has given his or her comments, the chairperson will close the public hearing portion of the meeting.

9. The Commission will then discuss the proposal. No further public comments are allowed.

10. The Commission will then make its recommendation or decision.

11. Final decisions by the Planning Commission may be appealed to the City Council. Appeals must be written and filed with the Planning Department within 10 days of the Planning Commission meeting.

It is possible that a quorum of members of the City Council may be present. However, no meeting of the City Council will be convened and no action will be taken by the City Council.
1. **Call to Order**

Acting Chair Odland called the meeting to order at 6:30 p.m.

2. **Roll Call**

Commissioners Powers, Calvert, Hanson, Knight, O'Connell, and Odland were present. Kirk was absent.

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Assistant City Planner Susan Thomas, Senior Planner Ashley Cauley, Planner Drew Ingvason, Water Resource Technician Tom Dietrich, and Natural Resource Manager Jo Colleran.

3. **Approval of Agenda**: The agenda was approved as submitted.

4. **Approval of Minutes**: July 21, 2016

   Hanson moved, second by Calvert, to approve the July 21, 2016 meeting minutes as submitted with the changes from the change memo dated August 4, 2016.

   Powers, Calvert, Hanson, Knight, O’Connell, and Odland voted yes. Kirk was absent. Motion carried.

5. **Report from Staff**

Gordon briefed the commission on land use applications considered by the city council at its meeting of July 25, 2016:

- Adopted a resolution approving a revision to a conditional use permit to turn a garage into living space on Spring Lake Road.
- Introduced an ordinance opting out of the Temporary Family Healthcare Dwelling statute.
- Reviewed the concept plan for Enclave at Regal Oak.
- Reviewed the concept plan for an apartment building on Jordan Avenue for Minnetonka Hills.
A joint meeting was held last week with Minnetonka and Hopkins planning commissions to discuss the zoning district for the Shady Oak Station area.

Gordon congratulated Tom Dietrich for completing his Master's Degree in water resources and Julie Wischnack who will be receiving the Planner of the Year Award from the Minnesota Chapter of the American Planning Association at the Minnesota conference in September.

6. **Report from Planning Commission Members**: None

7. **Public Hearings: Consent Agenda**

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

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

A. **Variance to allow construction of a covered porch and an expansion permit to reconstruct and increase the pitch of the roof at 12926 Rutledge Circle.**

Adopt the resolution on pages A11-A15 of the staff report. This resolution approves a front yard setback variance for a covered porch and an expansion permit to reconstruct and increase the pitch of the roof at 12926 Rutledge Circle.

*Powers, Calvert, Hanson, Knight, O'Connell, and Odland voted yes. Kirk was absent. Motion carried and the item on the consent agenda was approved as submitted.*

8. **Public Hearings**

A. **Setback variances to allow the installation of a solar array at 3528 Moorland Road.**

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

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

The public hearing was opened. No testimony was submitted and the hearing was closed.
Calvert felt that the applicant did what the commission had requested. She supports the solar array for environmental benefits and to encourage green technology.

Powers agreed.

Knight asked if the 38-foot, 11-inch measurement is accurate. Tim Parnell, electrical engineer for the applicant, stated that he forgot to adjust that length. Two panels were removed. Knight said that if the applicant is comfortable with the proposal, then he is also.

_Hanson moved, second by Powers, to adopt the resolution on pages A7-A10 which approves side and rear variances for a solar array at 3528 Moorland Road._

_Powers, Calvert, Hanson, Knight, O’Connell, and Odland voted yes. Kirk was absent. Motion carried._

Acting Chair Odland stated that an appeal of the planning commission’s decision must be made in writing to the planning division within 10 days.

**B. Items concerning a licensed daycare facility at 6030 Clearwater Drive.**

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

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

Acting Chair Odland asked if the example in Virginia is the same size as the proposed project. Cauley directed the question to the applicant.

Jay Joiner, with the Gardner School, applicant, stated that the school in Virginia has a larger footprint, but is similar in square footage to the proposal. The play area would be similar to the one at the Virginia site.

Knight asked if he had another facility with two stories. Mr. Joiner answered that there is one in Chicago that has 18,000 square feet. It would have the same capacity. That site utilizes a park across the street.

O’Connell asked when staff reviews the materials and colors. Cauley answered during the building permit process.
Knight asked if the state would license a daycare that would have two stories. Cauley responded that the facility would be required to meet all state licensing requirements. Wischnack noted that there is a daycare on Highway 7 and County Road 101 that has two stories. The building code addresses safety requirements.

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

**O’Connell moved, second by Hanson, to recommend that the city council adopt the resolution on pages A38-A45 of the staff report. This resolution approves a conditional use permit with building plans for a licensed daycare facility at 6030 Clearwater Drive.**

*Powers, Calvert, Hanson, Knight, O’Connell, and Odland voted yes. Kirk was absent. Motion carried.*

C. Items concerning Station Pizzeria at 13008 Minnetonka Boulevard.

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

Thomas reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report. Thomas pointed out the late comment and additional condition provided in the change memo dated August 4, 2016.

Hanson asked when the parking phases would be implemented. Thomas said that Phase 1 could likely be constructed as early as this year. The area is flat and construction would be easy. Phase 2 would be constructed only after consultation with area residents. The city engineer felt these would be viable options.

In response to Powers’ question, Thomas explained that Phase 1 had been considered before. The parking spaces would be public and available for any motorist.

In response to Acting Chair Odland’s question, Wischnack explained a variety of options to create more parking stalls.

Ryan Burnet, applicant, stated that he listened to the feedback from staff and residents and addressed the nuisance issues and parking. There is a parking agreement with St. David’s. He feels like the project is ready to go.
Calvert asked how patrons of the restaurant would get there from the St. David’s parking lot. Mr. Burnet thought a patron would walk on the sidewalk around St. David’s.

The public hearing was opened.

Dee Kennedy was representing Carrie Bret Martinson, owner of the Dairy Queen, who was unable to attend. She asked if there would be alcohol served, for the number of indoor and outdoor seats, the hours, and if the St. David’s 25 parking stalls would be a required condition of approval. The two stalls with 20-minute limits are abused by motorists who leave vehicles there for 2 hours. One person told her that she could not park there to go to the Dairy Queen and that the stalls were only for People’s Organic patrons. She was concerned with the snow removal and salting because that is a problem now. She asked if all of the parking spaces would be public.

Dorothy Janssen, 12709 Burwell Drive, stated that:

- There would be a parking problem. There are temporary “no parking” signs on Burwell Drive and a vehicle parked there right now.
- Vehicles were parked on both sides of the bridge during construction. She supports prohibiting parking on the bridge and north of the bridge.
- The street is narrow.

Melissa Williamson Heron, 12928 Minnetonka Boulevard, owner of Your Art’s Desire, stated that:

- She appreciated commissioners and staff listening to the concerns.
- She is grateful that more parking solutions have been identified.
- She has great reservations that St. David’s is a viable solution. Patrons would not be aware of the available parking. If it would not be signed, then it would not be found.
- She is a voice of deep concern, not resistance.
- People’s Organic was given a parking variance which caused a shift in parking patterns. Her patrons complained that they could not find a parking space and she saw a significant decrease in her businesses revenue.
- Accessibility issues have a crippling impact on her business.
- She asked what recourse she could take if the proposal causes hardships for her business.
• She has donated time and energy to the city.
• She requested that a sign be outside of the building directing traffic to the parking spaces at St. David’s.
• She asked for the duration of the contract with St. David’s for parking.
• She asked if there would be valet parking.
• She asked if the parking stalls would be signed only for Station Pizzeria.

Claudia Gundlach, 12901 Burwell Drive, stated that:

• She was concerned with heavy traffic decreasing her property value.
• Increasing traffic between Plymouth Road and Shady Oak Road would increase the high-accident areas.
• She asked if the parking agreement would be honored if Station Pizzeria became a different restaurant.
• She asked if the proposal meets the parking requirement.
• She asked who enforces a noise ordinance.
• She asked if there is a smell ordinance.
• She asked if there is a light and sign plan.
• One of SRF’s parking plans looked o.k. She likes the turnaround at the end of Bridge Street.
• Parking on both sides of the street makes it look like a parking lot.
• She is concerned with the health of the creek. She favored making the paved area pervious.
• She suggested adding bicycle and canoe parking.

Tom Aasen, 12915 Burwell Drive, stated that:

• He was concerned with having enough parking. He did not like phase two of the parking because it would make the corner difficult to navigate.
• Turning from Bridge Street to Minnetonka Boulevard is really hard. It would be more difficult with vehicles backing out of phase one.
• He asked if the Minnehaha Creek Watershed District would have to issue a permit for the proposal.

Tim Demars, 12925 Burwell Drive, stated that:

• There should not be 90-degree parking on Bridge Street. Parallel parking would be the only option.
• Accidents happen very often. It is very difficult to take a left on Minnetonka Boulevard. The volume of traffic has increased.
• Parking at St. David’s school is ridiculous. In the winter, it would be difficult to navigate the walk.
• The patio is too big for the area and it would create too much noise. He was surprised the size was not reduced.
• The neighbors have to live with it every day.
• He did not want to see this happening.
• The applicant addressed some of the noise issues.
• He questioned where patrons would be allowed to smoke.
• He questioned if service would end at 10:30 p.m. or if patrons would move inside at 10:30 p.m. He prefers patrons move inside at 10:30 p.m.
• His major issue is noise.
• He asked if more bar stools could be added.

Diane Alexander, owner of People’s Organic at 12934 Minnetonka Boulevard, stated that:

• She was hoping a restaurant would go there, but she has huge concerns about the parking. Hikers and bikers park in her lot and are gone for a couple hours. Adequate parking needs to happen.
• She questioned where other parking areas are located.

Peter Hill, 13212 McGinty Road, stated that:

• The proposal would probably never significantly impact him.
• He was disappointed in the quality of the application. The business plan refers to a location in Minneapolis.
• The largest issue is the parking. Two thirds of the parking listed in the report is located on Glenn’s property and Minnetonka Boulevard.

Dee Kennedy stated that one pint of oil makes a slick the size of a football field on a lake or water.

Tom Aasen clarified which streets were Bridge Street and Burwell Drive.

No additional testimony was submitted and the hearing was closed.
Calvert asked for the shoreland setback. Thomas answered that would remain the same. Thomas pointed out the paved surface that would not be removed in an effort to maintain as much existing surface as possible.

In response to the questions, Thomas explained that:

- An off-site parking agreement, such as the one with St. David’s, is required for this proposal. There is a condition in the resolution requiring a signed agreement before the building permit would be issued. It would be good to tie the parking agreement requirement to any restaurant use on the site.
- On-site directional signage to off-site parking areas is required as a condition of approval.
- A violation of the noise ordinance may be reported to the planning division during office hours and the police department after office hours.
- There is an odor ordinance based on the standards of the Minnesota Pollution Control Agency.
- A lighting plan would be submitted with the building permit application. There is a standard that must be followed.
- The hours of operation would be Sunday through Thursday from 11 a.m. to 10:45 p.m. and Friday and Saturday from 11 a.m. to 10:30 p.m. The outdoor area would be closed at 10:30 p.m. Some restaurants with patios have had police respond to enforce the patio time restriction when they were first opened.

Gordon provided that:

- Smoking is not allowed in city parks in areas of activity.
- The parking areas would be public and not signed for a specific business.

Thomas clarified that the second parking study’s intent was to identify areas lacking parking and the peak times of parking shortages in the Minnetonka Mills area.

Wischnack explained that the city council is the decision maker when it comes to liquor license regulations and businesses. That is not in the commission’s purview.

Thomas stated that:
• A condition of approval requires the installation of a bike rack.
• There is a canoe landing at the Burwell House.

Wischnack stated that staff will be meeting with the Minnetonka Mills business owners to review cooperative parking options and ways to identify amenities including bike racks and trails to patrons.

Gordon stated that Minnetonka does not generally see a reduction in property values when a commercial use is replaced by another commercial use.

Thomas stated that the parking options and comments from residents will be passed on to the city council. Traffic engineers created the options.

Dietrich explained that the proposal would not change the site’s amount of impervious surface, so there would be no storm water required, but the applicant would have to install one best management practice. The applicant would be responsible for cleaning up oil from the site. Gordon noted that fuel tanks have been removed from the site. A gas station has a much greater potential for environmental impact than a restaurant.

Thomas reiterated that residents should call the police if noise is occurring in violation of the noise ordinance.

Wischnack explained that changing the type of seating would not trigger a review of the conditional use permit or liquor license, but an expansion would.

Thomas and Gordon clarified that the variance would be to allow the site to have 19 parking stalls.

Mr. Burnet stated that:

• There will be free valet parking Fridays and Saturdays.
• Patrons would move inside when the patio would close.
• The outdoor seating is the size the applicant wants.
• Curbing would be added in front of the restaurant and there would be eight more parking spots.
• There will be outdoor signs on site designating off-site parking areas. Those areas will be listed on the website and provided when patrons phone the restaurant.
• The turnover rate is approximately 45 minutes to an hour and a half.
• There would be a sign for valet parking.
He hoped for a decent lunch business, but expected the most patrons for dinner.

Hanson noted that the restaurant operator wants things to run smoothly to have a successful business. Some issues would take care of themselves. There is a decent plan in place.

Calvert was concerned with the lack of parking stalls on and off site. The restaurant concept is very exciting. Something like this would bring vitality to the Minnetonka Mills area. That neighborhood has problems with access to Bridge Street.

Powers stated that the neighborhood meanders. Kids ride bikes to the area. The plan is different than the character of the area. It would change the overall feeling. Vitality is a healthy thing, but he is concerned with the proposal.

Calvert thought the outdoor area was too large, but she understood that a profit needs to be made. There is a lot of pedestrian and bicycle traffic in the area. She had safety concerns.

O’Connell supports the proposal. The applicant made changes in response to the requests of the planning commission. He was prepared to take action and encouraged commissioners who do not support the proposal to provide clear reasons.

Calvert thought that the parking situation still has to be resolved before approval is given. She agreed that the applicant came back with solutions.

Hanson said that he hopes that staff will be able to add more parking spaces. The increase in parking spaces may help the current parking shortage in the neighborhood. Residents may petition to prohibit parking on their street. If parking violations are occurring, residents should phone the police. Habits will change after enforcement of the parking laws.

Powers had a negative experience with permit parking in St. Paul. Wischnack noted that the city has not indicated that it would do permit parking and all residents of a street must petition the city to make it a “no parking” street.

_Hanson moved, second by Knight, to recommend that the city council adopt the following resolution approving a conditional use permit with the addition of a condition to require a parking agreement for off-site parking for any restaurant use; a condition to require off-site snow removal; and the changes made in the change memo dated August 4, 2016 for a_
restaurant and outdoor eating area with variances at 13008 Minnetonka Boulevard (see pages A35-A40 of the staff report) and a resolution approving final site and building plans with variances for site and building changes at 13008 Minnetonka Boulevard (see pages A41-A49 of the staff report).

Hanson, Knight, and O’Connell voted yes. Powers, Calvert, and Odland voted no. Kirk was absent. Motion failed.

The item is tentatively scheduled to be reviewed by the city council August 22, 2016.

D. Items concerning construction of that portion of the SWLRT line located in the city of Minnetonka.

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

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

Calvert asked if mitigation could be done. Colleran responded in the negative. There is nowhere in Minnetonka to recreate 2.99 acres of wetland, so wetland banking credits would be purchased. Unlike wetland rules, there is no state tree removal law. There would be no room to replant the trees that would be lost. Colleran explained the difference between permanent and temporary fill.

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

Powers moved, second by Calvert, to recommend that the city council adopt the following for construction of that part of the SWLRT project located within the city of Minnetonka:

1. An ordinance removing area from the wetland overlay zoning district (see pages A97–A101 of the staff report).

2. A resolution approving a wetland and floodplain alteration permit (see pages A102–A117 of the staff report).

3. A resolution approving wetland, wetland buffer, and floodplain variances (see pages A118–A121.)
4. A resolution approving a conditional use permit for impervious trails within wetland buffers (see pages A122–A124 of the staff report).

5. A resolution approving construction on a steep slope development and tree removal (see pages A125–A127 of the staff report).

Powers, Calvert, Hanson, Knight, O’Connell, and Odland voted yes. Kirk was absent. Motion carried.

E. Ordinance regarding Temporary Family Health Care Dwellings.

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

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

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

Hanson moved, second by Powers, to recommend that the city council adopt the ordinance opting out of the requirements of Minnesota Statutes, Section 462.3593 (see pages A1-A2).

Powers, Calvert, Hanson, Knight, O’Connell, and Odland voted yes. Kirk was absent. Motion carried.

9. Other Business

A. Concept plan for Crest Ridge Senior Living at 10955 Wayzata Boulevard.

Thomas reported. Staff recommends the planning commission provide comments and feedback to assist the applicant with future direction that may lead to the preparation of more detailed development plans.

Matt Rauenhorst, representing Opus at 10350 Bren Road West, applicant, stated that:

- A market study indicated a demand for this type of senior housing.
- Ebenezer, Inc. helped develop the product.
- There was a neighborhood meeting held on Tuesday.
- He looked forward to hearing the feedback.
Eric Reiners, applicant’s architect, stated that:

- Many neighbors warmed up to the idea of the use by the end of the neighborhood meeting.
- The structure would be four stories. There would be independent senior living to secure memory care.
- The building design and site was carefully planned with a wide range of amenities for the residents. There would be shared areas, coffee shops, a theater, and a library. The site would be connected to the surrounding neighborhood. Patios and gardens would be available for residents.
- There is a berm on the east property line. There would be good screening of the building with new plantings.
- The building would extend 45 feet above grade. The top of the Syngenta building would be 5 feet higher than the proposed building.
- The goal is to preserve all of the trees and vegetation.

Susan Farr, vice president of business development at Ebenezer, working with the applicant, stated that:

- Ebenezer is the largest third-party operator of senior housing. Ebenezer has been named a Top Work Place by the Star and Tribune for 6 years in a row.
- Ebenezer is all about incorporating the community.
- There is an emphasis on life-long learning.

Acting Chair Odland invited those present to provide comments.

Hope Mooney, 10925 Wayzata Boulevard, stated that:

- She was unable to attend the neighborhood meeting.
- She was concerned with traffic because there is a lane designated for Syngenta. It is very congested and confusing.
- She questioned what time construction would be allowed.
- She was concerned with tree loss.

Bergit Carlson, 1412 Archwood Road, stated that:

- This is the best proposal she has seen by far.
- It looks big, but the HCMC proposal would have had a huge parking ramp. Removal of the parking ramp is a big difference.
• There would be an underground garage, plan for garbage pick-up, and fewer vehicles on the service road. Seniors would not drive as much as office-building users.
• The site would be improved.
• The building looks nice.
• The berm would somewhat protect her view. She would like as much screening as possible.
• Spruce trees should be added behind the building to improve the look of the area.

Barb DeMeuse, 1509 Archwood Road, stated that:

• She agrees with Ms. Carlson. The neighbors are very pleased with this plan.
• She requested spruce trees be added between the back of the houses and the new development.

O’Connell confirmed with Thomas that the site is currently guided for an office building.

Knight noted that a commercial building would have three additional feet per floor than the proposed building.

Hanson thought that the proposal looks really good. He likes the roof line matching pitched and flat roofs together. He suggested a bus stop be located in front of the building. He liked natural-looking colors rather than white. He requested a few affordable units if that could be worked into the proposal.

Powers liked the overall concept. The setbacks look good. He liked the feel of it. He agreed with Hanson.

Calvert concurred with Hanson. Natural colors and materials would be preferred for the area. She liked the concept. Meeting setback requirements and keeping the berm would be important. Rich landscaping, many programs, and adding a bus line would add to the quality of life for the residents. She supports affordable units.

Knight concurred. He liked the outdoor walking path. This would be really nice. He asked if the roof would really be flat. Mr. Reiners stated that seniors like the building to look residential, so just part of the building’s roof would be flat. Balconies would be provided, but accessing and maintaining public spaces on
the roof area would be too difficult for seniors. Memory care would be on the main level. There would be a dedicated outdoor area.

Powers and Calvert encouraged incorporating trees.

10. Adjournment

*Calvert moved, second by Powers, to adjourn the meeting at 10:21 p.m.*

*Motion carried unanimously.*

By: ____________________________

Lois T. Mason
Planning Secretary
Minnetonka Planning Commission Meeting
August 18, 2016

Agenda Item 7

Public Hearing: Consent Agenda
MINNETONKA PLANNING COMMISSION
August 18, 2016

Brief Description       Conditional use permit and site and building plan review for a cold storage building for the Hopkins Middle School West at 3830 Baker Road

Recommendation         Adopt the resolution approving the conditional use permit and building plan review

Project No.             95012.16a

Property               3830 Baker Road

Applicant              Patrick Poquette, on behalf of the Hopkins School District

Proposal

Patrick Poquette, on behalf of the Hopkins School District, is proposing to construct a storage building as part of the Hopkins Middle School West campus. The proposed building would be located north of the existing tennis courts. The storage building would be 24 feet by 83 feet – or approximately 2,000 square feet in area – and 13 feet in height. Constructed on a new concrete slab, the building would be neutral stone color with slate blue accents. (See plans on pages A1–A8).

Staff analysis

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

1. **Is the request reasonable?**

   Yes. Construction of a storage building on school property is reasonable. The proposed building would:

   • Meet the required standards and ordinances for the conditional use permit and site and building plan review.

   • Would comply with all required setbacks.
• Would not result in an increase in impervious surface on the site, as the proposed building would be constructed on an existing asphalt area. (See page A2).

2. **Would the proposal negatively impact surrounding land uses?**

   No. The proposal would not negatively impact surrounding land uses, as:

   • The proposal will be appropriately buffered from surrounding residential properties.

   • The nearest residential property is over 240 feet from the proposed building.

**Staff Recommendation**

Recommend approval of the resolution on pages A9–A15, which approves a conditional use permit and final site and building plans for a storage building for Hopkins School Middle School West at 3830 Baker Road.

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

Surrounding Land Uses

Northerly: single family homes, zoned R-1

Easterly: Hopkins Middle School West campus and single family homes, zoned R-1

Southerly: Hopkins Middle School West campus

Westerly: Hopkins Middle School West campus

Planning

Guide Plan designation: Institutional

Zoning: R-1, Low density residential

Building Architecture

The storage building would be just under 2,000 square feet in size and would be comprised of both sandstone colored siding, a brick base, and slate blue metal roof materials. (See page A7–A8.)

Required Setbacks

The following chart describes the required setbacks. These setbacks are measured to the exterior property lines:

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<thead>
<tr>
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<th>Required by ordinance</th>
<th>Proposed</th>
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<tbody>
<tr>
<td>Northerly</td>
<td>50 ft.</td>
<td>± 250 ft.</td>
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<tr>
<td>Easterly</td>
<td>50 ft.</td>
<td>± 450 ft.</td>
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<tr>
<td>Southerly</td>
<td>50 ft.</td>
<td>± 800 ft.</td>
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<tr>
<td>Westerly</td>
<td>50 ft.</td>
<td>± 400 ft.</td>
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</tbody>
</table>

Screening

The proposed building would be located adjacent to the existing tennis court on the site and the parking lot. It would be located approximately 240 feet (across the Middle School parking lot) from the nearest residential property. Currently, there is vegetation on the residential lots and Hopkins School District property that screen the subject homes from the proposed cold storage building.

Parking

Based on the information provided by the applicant, it appears that the proposed cold storage building will cover two existing parking spaces. (See page A2.) However, removal of these two stalls would not significantly impact parking availability on the site.

SBP Standards

The proposed building would comply with site and building standards as outlined in city code.

1. Consistency with the elements and objectives of the city's development guides, including the comprehensive plan and water resources management plan;
Finding: The proposal has been reviewed by planning, engineering, building, natural resources, fire, and public works. Staff finds the proposal to be generally consistent with the city’s development guides.

2. Consistency with the ordinance;

Finding: The proposal would meet all minimum ordinance standards.

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

Finding: The proposed building would not increase the amount of impervious surface on the site. The building would be constructed on an existing asphalt surface north of the existing tennis court.

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

Finding: The proposed building would maintain a consistent relationship with the other storage buildings and elements of the property.

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

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

Finding: The proposed storage building would be located in a desirable location. It would be located adjacent to the existing tennis court and near an existing storage building.

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

Finding: The proposed building would be on an existing asphalt surface and would not reduce the amount of existing landscaping on the site.
c) materials, textures, colors and details of construction as an expression of the design concept and the compatibility of the same with the adjacent and neighboring structures and uses; and

**Finding:** Materials would be complementary to the adjacent structures, including the existing storage building to the west.

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

**Finding:** No vehicular or pedestrian circulation changes are proposed at this time.

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

**Finding:** The shed is proposed for an area that would not reduce the amount of landscaping on site and would preserve existing site features.

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

**Finding:** Adequate screening is provided through existing vegetation and parking lot.

### CUP General Standards

The proposed building would comply with the general conditional use permit standards.

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

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

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

**CUP Specific Standards**

The proposed building would comply with the specific conditional use permit standards as outlined in city code.

1. Site and building plans subject to review pursuant to section 300.27 of this ordinance.

   **Finding:** This standard has been addressed within the SBP Standards section of this report.

2. Direct access limited to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

   **Finding:** The subject property has access to Baker Road, an arterial roadway.

3. Buildings setback 50 feet from all property lines;

   **Finding:** The proposed building would have setbacks to the exterior property lines of the Hopkins Middle School West Campus that are greater than 50 feet.

4. Parking spaces and parking setbacks subject to section 300.28 of this ordinance; and

   **Finding:** The subject property would still meet parking requirements with the addition of the proposed building.

5. No more than 70 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped; and

   **Finding:** The proposed building would be located on an existing asphalt surface and would not increase hardcover on the property.

6. Stand-alone utility buildings, such as lift stations, are only subject to site and building plan review.
**Finding:** The proposal is for a cold storage building and is subject to the conditional use permit.

**Natural Resources**
Best management practices must be followed during the course of site preparation and construction activities. This would include installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing. As a condition of approval the applicant must submit a construction management plan detailing these management practices.

**Motion Options**
The planning commission has three options:

1. Concur with staff’s recommendation. In this case a motion should be made to recommend approval of the proposal based on the findings outlined in the staff-drafted resolution.

2. Disagree with staff’s recommendation. In this case a motion should be made recommending denial of the proposal. The motion should include findings for denial.

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

**Neighborhood Comments**
The city sent notices to 58 area property owners and received no comments.

**Deadline for Decision**
November 14, 2016
Location Map

Project: Hopkins West Junior High
Address: 3830 Baker Rd
Project No. 95012.16a

This map is for illustrative purposes only.

City of Minnetonka
Approximate Cold Storage Building Location
FLOOR PLAN

NOTES:

1. ALL WALL STEEL AT SLOPING WALLS WILL BE FIELD CUT TO FIT ON BOTTOM CLOSURE.

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

JOHN DIERBAUM

DATE: 07/06/2016
LICENSE #: 14426

AP5141805

3830 Baker Road
Project #99012.16a

COLUMBUS, OHIO 43215

11TH FLOOR

PH: 614-362-2200
FAX: 614-362-5080
www.hpp.com
Steel Colors for Lester Buildings

These swatches are representative only and are limited by printing and viewing conditions. For a better representation, look at actual painted metal color samples, available from your local dealer or rep.

<table>
<thead>
<tr>
<th>Color</th>
<th>Available on 26 gauge steel only</th>
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</thead>
<tbody>
<tr>
<td>Snow White *</td>
<td></td>
</tr>
<tr>
<td>White Sand *</td>
<td></td>
</tr>
<tr>
<td>Rawhide *</td>
<td></td>
</tr>
<tr>
<td>Regal Red *</td>
<td></td>
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<tr>
<td>Colony Green *</td>
<td></td>
</tr>
<tr>
<td>Antique Brown</td>
<td></td>
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<tr>
<td>Barn Red *</td>
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<tr>
<td>Pewter Gray *</td>
<td></td>
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<tr>
<td>Clay *</td>
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<tr>
<td>Antique Brown</td>
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<tr>
<td>Burgundy</td>
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<tr>
<td>Quaker Gray</td>
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<tr>
<td>Metallic Copper *</td>
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<tr>
<td>Metallic Champagne *</td>
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<td>Black</td>
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<tr>
<td>Liner White *</td>
<td></td>
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<tr>
<td>Unpainted Galvanized</td>
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Colors and components featuring colors are subject to change without notice. Custom steel panel colors available upon request. Must meet minimum square feet requirement. Rev. 6-2014.
For complete color coordination, all Lester Buildings colors and custom colors are available on doors and windows (surcharge may apply). Colors shown below are manufacturer colors (comes standard, with no additional surcharge). See Lester dealer/rep for model availability and lead times.

### Vinyl Windows

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<tr>
<td>Hayfield Beige</td>
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<tr>
<td>Hayfield Clay</td>
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### Entry Doors

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</tr>
<tr>
<td>AJ Clay</td>
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<td>AJ Brown</td>
<td><img src="image" alt="Swatch" /></td>
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<tr>
<td>Expi-Door White</td>
<td><img src="image" alt="Swatch" /></td>
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<td>Expi-Door Bronze</td>
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<tr>
<td>AJ Bronze</td>
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### Overhead Doors

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<td>Clopay Almond</td>
<td><img src="image" alt="Swatch" /></td>
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<tr>
<td>Clopay Sandtone</td>
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<tr>
<td>Clopay Hunter Green</td>
<td><img src="image" alt="Swatch" /></td>
</tr>
<tr>
<td>Clopay Gray</td>
<td><img src="image" alt="Swatch" /></td>
</tr>
<tr>
<td>Clopay Desert Tan</td>
<td><img src="image" alt="Swatch" /></td>
</tr>
<tr>
<td>Clopay Chocolate/Commercial Brown</td>
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</tbody>
</table>
Resolution No. 2016-

Resolution approving a conditional use permit and final site and building plans for a cold storage building at 3830 Baker Road

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

Section 1. Background.

1.01 Patrick Poquette has requested approval of a conditional use permit and final site and building plan for a cold storage building. (Project #95012.16a).

1.02 The property is located at 3830 Baker Road. The affected properties are located within an area described as unplatted 22 117 22, addition #79122 described as:

That part of the East 99 feet of the Northwest Quarter of the Northwest Quarter of the Northeast Quarter lying South of the North 240 feet thereof; also that part of the West 336.78 feet of the East Half of the Northwest Quarter of the Northeast Quarter lying South of the North 240 feet thereof; also that part of the South 303 feet of the Northeast Quarter of the Northwest Quarter of the Northeast Quarter lying East of the West 336.87 feet thereof and lying West of County Road No. 60 and lying Northerly of a line drawn from a point on the West line of said County Road distant 223 feet North of the South line thereof to a point on the East line of said West 336.87 feet thereof distant 203 feet North of South line thereof.

1.03 On August 18, 2016, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution.
Section 2. General Standards.

2.01 City Code §300.27, Subd. 5, states that in evaluating a site and building plan, the city will consider its compliance with the following:

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

2. Consistency with the ordinance;

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

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

5. Creation of a functional and harmonious design for structures and site features, with special attention to the following:
   a) an internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors and the general community;
   b) the amount and location of open space and landscaping;
   c) materials, textures, colors and details of construction as an expression of the design concept and the compatibility of the same with the adjacent and neighboring structures and uses; and
   d) vehicular and pedestrian circulation, including walkways, interior drives and parking in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking.

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

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

2.02 City Code §300.16, Subd. 2, states no conditional use permit shall be granted unless the city council determines that all of the following standards will be met:

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

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

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

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

2.03 City Code §300.16, Subd. 3, states that in addition to the general standards, no conditional use permit shall be granted unless the city council determines that all of the specific standards for a specific use will be met. For public buildings or facilities, except for recreational buildings that contain less than 1,000 square feet, and utility cabinets larger than 150 cubic feet:

1. Site and building plans subject to review pursuant to section 300.27 of the ordinance.

2. Direct access limited to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

3. Buildings set back 50 feet from all property lines;

4. Parking spaces and parking setbacks subject to section 300.28 of this ordinance; and
5. No more than 70 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped; and

6. Stand-alone utility buildings, such as lift stations, are only subject to site and building plan review.

Section 3. Findings.

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

1. The proposal has been reviewed by planning, engineering, building, natural resources, fire and public works and found to be generally consistent with the city's development standards.

2. The proposal would meet all minimum ordinance standards.

3. The proposed building would not increase the amount of impervious surface on the site. The building would be constructed on an existing asphalt surface north of an existing tennis court.

4. The proposed building would maintain a consistent relationship with the other storage buildings and elements of the property.

5. The proposed storage building would have minimal impact on the existing site. The proposed building would be located adjacent to the existing tennis court and parking lot, positioned on an existing asphalt surface, materials would be complimentary to the adjacent structures, and vehicular and pedestrian traffic would not be altered.

6. The shed is proposed for an area that would not reduce the amount of landscaping on site and would preserve existing site features.

7. Adequate screening would be provided through existing vegetation, parking lot, and distance.

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

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

3. The proposed cold storage building would not have an adverse impact on governmental facilities, utilities, services or existing or proposed improvements.

4. The proposed cold storage building will not have an undue adverse impact on the public health, safety or welfare.

3.03 The proposal would meet the general conditional use permit standards outlined in City Code §300.16, Subd. 3(l).

1. The proposed cold storage building would meet the site and building plan requirements, as outlined in section 3.02 of this resolution.

2. The subject property has access to Baker Road, an arterial roadway.

3. The proposed building would have setbacks to the exterior property lines of the Hopkins Middle School West Campus that are greater than 50 feet.

4. The proposed building would not significantly impact parking on the site.

5. The proposed building would be located on an existing asphalt surface and would not increase hardcover on the property.

Section 4. City Council Action.

4.01 The above-described conditional use permit and final site and building plan are hereby approved. Approval is subject to the following conditions:

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:

   - Site plan date stamped July 18, 2016
   - Building elevations dated July 18, 2016
   - Floor plans July 18, 2016
2. Prior to issuance of a building permit:
   
a) Submit the following items for staff review and approval:
   
   1) Cash escrow in an amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge:

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

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

3. Construction must begin by December 31, 2017, unless the planning commission grants a time extension.
Adopted by the City Council of the City of Minnetonka, Minnesota, on September 12, 2016.

____________________________
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 September 12, 2015.

____________________________
David E. Maeda, City Clerk
Brief Description
Expansion permit to increase the height of the existing building at 5605 Green Circle Drive

Recommendation
Adopt the resolution approving the expansion permit

Background
The existing building on the subject property received site and building plan approval in 1980. At that time, the ordinance required a 15-foot side yard setback for properties zoned B-3, general business district. The approved site and building plan indicated an 18-foot side yard setback.

The zoning ordinance was amended in 1986. This amendment established the following formula to determine side and rear yard setbacks within the B-3 district: required setback = 1.5 times the building height – 10 feet, to a maximum of 100 feet but in no case less than 20 feet from commercial, office, industrial, institutional and public parks. The existing building’s side yard setback became non-conforming.

In October 2015, the city approved a conditional use permit for an educational institution at 5605 Green Circle Drive. At that time, the proposal included a significant amount of interior remodeling but did not include any exterior modifications to the building.

Proposal
The applicant has discovered that the existing height of the building would not sufficiently accommodate a gymnasium. As such, the applicant is proposing to increase the height of a portion of the building, within the existing footprint, from 11 feet to 27 feet. The proposed addition would not encroach further into the existing 18-foot non-conforming setback. (See pages A1-A14.)

Staff Analysis
Staff finds that the proposed expansion meets the expansion permit provisions of the non-conforming use ordinance.

REASONABLENESS: The proposed vertical expansion is reasonable as:

- The existing building was constructed in the early 1980s. At that time, the building complied with all required property line setbacks. The setbacks became non-conforming when the zoning ordinance was amended in 1986.
• A majority of the vertical expansion complies with current city ordinance. Only an area of less than 300 square feet requires an expansion permit.

• The vertical expansion would allow for appropriate ceiling height for the gymnasium shown on the original floor plan reviewed by the city in 2015.

• The vertical expansion would not encroach further into the non-conforming setback.

NEIGHBORHOOD CHARACTER: The intent of property line setbacks is to ensure appropriate separation between adjacent properties and structures. The area which requires the expansion permit is over 280 feet away from the nearest adjacent structure to the east. Further, existing vegetation and parking lots would buffer the addition from adjacent buildings.

CIRCUMSTANCE UNIQUE TO THE PROPERTY: When the property was developed in the 1980s, the building met all required setbacks from property lines. The existing building’s setbacks became non-conforming when the ordinance was amended in 1986. The unique lot configuration and the building’s established setbacks are circumstances unique to the property.

Staff Recommendation

Adopt the resolution on pages A15–A18, which approves an expansion permit to increase the height of the existing building for a gymnasium at 5605 Green Circle Drive.

Originator: Ashley Cauley, Senior Planner
Through: Loren Gordon, AICP, City Planner
## Supporting Information

<table>
<thead>
<tr>
<th><strong>Property</strong></th>
<th>5605 Green Circle Drive</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Applicant</strong></td>
<td>Winther Johnson Robinson, Inc.</td>
</tr>
<tr>
<td><strong>Project No.</strong></td>
<td>5605 Green Circle Drive</td>
</tr>
</tbody>
</table>

### Surrounding Land Uses

- **Northerly:** Condos, zoned R-4, guided for mixed use
- **Easterly:** Office and warehouse, zoned I and B-2, and guided for mixed use
- **Southerly:** Hotel and office, zoned PUD, guided for mixed use
- **Westerly:** Wetlands and office beyond, zoned PUD, guided for mixed use

### Planning

- **Guide Plan designation:** Mixed use
- **Zoning:** B-3

### Expansion Permit

By City Code §300.29 Subd. 3(g) an expansion permit is required for any proposed expansion of a non-conforming structure when that expansion would not intrude into required setback areas beyond that of the existing non-conforming structure.

### Burden of Proof

By city code, an expansion permit for a non-conforming use may be granted, but is not mandate, when an applicant meets the burden of proving that:

1. The proposed expansion is reasonable use of the property, considering such things as:
   - Functional and aesthetic justifications for the expansions;
   - Adequacy of off-street parking for the expansion;
   - Absence of adverse off-site impacts from such things as traffic, noise, dust odors, and parking;
   - Improvement to the appearance and stability of the property and neighborhood.

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

3. The expansion would not adversely affect or alter the essential character of the neighborhood.
Approving Body  The planning commission has final authority to approve or deny the request. (City Code §300.29 Subd.7(c)(2))

Motion Options  The planning commission has three options:

1. Concur with staff’s recommendation. In this case a motion should be made approving the expansion permit based on the findings outlined in the staff-drafted resolution.

2. Disagree with staff’s recommendation. In this case a motion should be made denying the expansion permit. The motion must include findings for denial.

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

Appeals  Any person aggrieved by the planning commission’s decision about the requested permit may appeal such decision to the city council. A written appeal must be submitted to the planning staff within ten days of the date of the decision.

Neighborhood Comments  The city sent notices to 565 area property owners and received no comments to date.

Deadline for Decision  November 29, 2016
Location Map

Project: Lionsgate Academy
Address: 5605 Green Circle Dr
(89011.16a)

This map is for illustrative purposes only.
<table>
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**DESCRIPTION OF EXPANSION REQUEST**

Request to increase building height within existing footprint for new gymnasium.

**OWNER’S STATEMENT**

I am the owner of the above described property and I agree to this application. By signing this application, I certify that all fees, charges, utility bills, taxes, special assessments and other debts or obligations due to the city by me or for this property have been paid. I further certify that I am in compliance with all ordinance requirements and conditions regarding other city approvals that have been granted to me for any matter. (If the owner is a corporation or partnership, a resolution authorizing this action on behalf of the board or partnership must be attached.)

David Wellington  
Deputy Manager of Wellington Properties  
07-29-16

**APPLICANT’S STATEMENT**

This application should be processed in my name, and I am the party whom the city should contact about this application. I have completed all of the applicable filing requirements and, to the best of my knowledge, the documents and information I have submitted are true and correct.

07-29-16

Lionsgate Academy  
5605 Green Circle Drive  
89011.16a
DESCRIPTION OF PROPERTY SURVEYED:

For Stewart Title Guaranty Company, Washington County, State of Minnesota, October 23, 2015, issued by Land Title, Inc.

Lot 1, Block 5, Unit 1, Minnesota

Surveyors Certificate of Title No. 60866

PLAT RECORDING INFORMATION


TITLE COMMITMENT

Survey Group No. 30052-15, issued by Land Title, Inc., was noted upon on this record of title.

Schedule II Exception:

C. The area requiring expansion permit.

GENERAL NOTES

1) The area requiring expansion permit is shown on the plat of the Survey Group and is subject to all conditions of the plat. Ownership interest is subject to the plat.

2) The plat of the Survey Group is filed for recording on October 23, 2015, issued by Land Title, Inc.

3) This plat is not a survey that is subject to surveying.

4) The plat is a copy of the Survey Group.

5) This plat is a survey that is subject to surveying.

6) The plat is a survey that is subject to surveying.

AREA NOTED:

1) The area requiring expansion permit is shown on the plat of the Survey Group.

2) The plat is a survey that is subject to surveying.

3) The plat is a survey that is subject to surveying.

4) The plat is a survey that is subject to surveying.

AREA:

The area requiring expansion permit is shown on the plat of the Survey Group.

REMARKS:

1) The area requiring expansion permit is shown on the plat of the Survey Group.

2) The plat is a survey that is subject to surveying.

3) The plat is a survey that is subject to surveying.

4) The plat is a survey that is subject to surveying.

SURVEYOR'S CERTIFICATION:

This plat of the Survey Group was filed for recording on October 23, 2015, issued by Land Title, Inc.

Land Title, Inc.

This plat was filed on October 23, 2015, in the office of the Recorder of Washington County, Minnesota.

The plat was filed on October 23, 2015, in the office of the Recorder of Washington County, Minnesota.
Planning Commission Resolution No. 2016-
Resolution approving an expansion permit to increase the height of a portion of the existing building at 5605 Green Circle Drive.

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

Section 1. Background.

1.01 On October 15, 1980 the city approved final site and building plans for construction of a building at 5605 Green Circle Drive.

1.02 The property is legally described as:

Lot 1, Block 5, Opus 2 Fourth Addition, Hennepin County, Minnesota.

1.03 As approved, the two-story building had an 18-foot side yard setback from the east property line, which met the 1980 setback requirement.

1.04 The zoning ordinance was amended in 1986. This amendment established the following formula to determine side and rear yard setbacks within the B-3 zoning district: required setback = (1.5 times the building height) – 10 feet, to a maximum of 100 feet but in no case less than 20 feet from commercial, office, industrial, institutional and public parks. The existing building’s side yard setback became non-conforming.

1.05 On October 12, 2015, the city approved a conditional use permit to allow an educational institution on a property zoned B-3, General Business District. The approved floor plan indicated a gymnasium in the southern portion of the building.

1.06 Winther Johnson Robinson, Inc., on behalf of Lionsgate Academy, has submitted an application to increase the height of a portion of the existing building to allow for construction of a gymnasium with a more appropriate ceiling height.
1.07 A portion of the vertical addition would be within the building’s non-conforming side yard setback.

1.08 Minnesota Statute §462.357 Subd. 1(e)(b) allows a municipality, by ordinance, to permit an expansion of nonconformities.

1.09 City Code §300.29 Subd. 3(g) allows expansion of a nonconformity only by variance or expansion permit.

1.10 City Code §300.29 Subd. 7(c) authorizes the planning commission to grant expansion permits.

Section 2. Standards.

2.01 City Code §300.29 Subd. 7(c) states that an expansion permit may be granted, but is not mandated, when an applicant meets the burden of proving that:

1. The proposed expansion is a reasonable use of the property, considering such things as: functional and aesthetic justifications for the expansion; adequacy of off-site parking for the expansion; absence of adverse off-site impacts from such things as traffic, noise, dust, odors, and parking; and improvement to the appearance and stability of the property and neighborhood.

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

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

Section 3. Findings.

3.01 The application for the expansion permit is reasonable and would meet the required standards outlined in City Code §300.29 Subd. 7(c):

1. Reasonableness and Neighborhood Character: The vertical expansion is reasonable and would not negatively impact the character of the surrounding neighborhood as:

   a) The existing building was constructed in the early 1980s. At that time, the building complied with all required property line
setbacks. The setbacks became non-conforming when the zoning ordinance was amended in 1986.

b) A majority of the vertical expansion would comply with city ordinance. Only an area of less than 300 square feet requires the expansion permit.

c) The vertical expansion would allow for appropriate ceiling height for the gymnasium on the original floor plan reviewed by the city in 2015.

d) The vertical expansion would not encroach further into the non-conforming setback.

2. Unique Circumstance: When the property was developed in the early 1980s, the building met all required setbacks from property lines. The existing building’s setbacks became non-conforming when the ordinance was amended in 1986. The unique lot configuration and the building’s existing setbacks are circumstances unique to the property.

Section 4. Planning Commission Action.

4.01 The planning commission approves the above-described expansion permit based on the findings outlined in section 3 of this resolution. Approval is subject to the following conditions:

1. Subject to staff approval, the property must be developed in substantial conformance with the following plans, except as modified by conditions below.

   • Proposed survey date-stamped July 29, 2016.
   • Floor plans dated March 17, 2016.

2. Prior to issuance of a building permit:

   a) This resolution must be recorded with Hennepin County.

   b) Install a temporary erosion control and tree protection fencing for staff inspection. These items must be maintained throughout the course of construction.

3. This expansion permit approval will end on December 31, 2017,
unless the city has issued a building permit for the project covered by this expansion permit approval or approved a time extension.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on August 18, 2016.

_________________________
Brian Kirk, Chairperson

Attest:

_________________________
Kathy Leervig, Deputy 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 Planning Commission of the City of Minnetonka, Minnesota, at a duly authorized meeting held on August 18, 2016.

_________________________
Kathy Leervig, Deputy City Clerk
Minnetonka Planning Commission Meeting
August 18, 2016

Agenda Item 8

Public Hearing: Non-Consent Agenda
Brief Description

Items concerning ELDORADO VILLAS, located at 11901 Minnetonka Boulevard:

1) Major amendment to the Minnetonka Townhomes master development plan;

2) Final site and building plans; and

3) Preliminary and final plats.

Recommendation

Recommend the city council approve the proposal.

Background

In 2004, the city considered plans for Big Willow Townhomes, formally known as Cross Country Townhomes, a subdivision for a four-unit townhome at 11907 Minnetonka Boulevard. While the adjacent property at 11901 Minnetonka Boulevard had not been included in the developer’s original plans – at the time the owner of the property was not interested in redevelopment – the city determined that the 11901 property should be taken into consideration to promote orderly future development. Ultimately, both the 11907 and 11901 Minnetonka Boulevard properties were rezoned to planned unit development (PUD) and a master development plan was approved covering both properties. After the approval, four townhomes and an access drive were constructed on the 19907 site, while a single family home remained on the 11901 property. (See pages A25–A28.)

Proposal

Gatehouse Properties, Ltd.is now proposing to construct a three-unit townhome at 11901 Minnetonka Boulevard. (See pages A1–A9.)

The proposal requires:

- **Master Development Plan Amendment.** By city code, a major amendment to an approved master development plan is required when the number of residential dwelling units would increase or decrease by more than five-percent. The existing master development plan calls for the construction of a four-unit townhomes on the site. As proposed, a three-unit townhome would be constructed on the site.

- **Site and Building Plan Review.** By city code, site and building plan review is required for construction within a PUD.
• **Preliminary and Final Plats.** A subdivision of the existing property would allow for future separate ownership of the individual townhomes.

**Staff Analysis**

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

• **Is the amendment to the existing master development plan appropriate?**

Yes. The requested amendment is reasonable, as it would allow for development generally consistent with the previously approved master development plan. The requested amendment would reduce the number of townhome units from four to three units. While this is more than a five-percent decrease in residential units, the proposed plan would still be consistent with the site’s medium-density comprehensive guide plan designation. (See existing master development plan on page A25.)

• **Is the proposal an appropriate use for the property?**

Yes. The proposal is consistent with the city’s comprehensive guide plan. The property is guided for medium-density which is defined as 5-12 units per acre. While the proposed density for the subject property is 4.4 units per acre, when averaged with the Big Willow Townhomes property the proposed density increases to 5.8 units per acre for the entire development. Staff finds it is reasonable to average the densities for both properties as they are governed by the same master development plan.

Further, the conceptual development of the property was reviewed in 2004 concurrent with the Big Willow Townhomes project. At that time it was anticipated that the subject property would develop with a townhome project in the future. But for the reduction of one unit, the proposal is consistent with the conceptual plan reviewed at that time.

• **Is the proposed site and building design appropriate?**

Yes. The proposed site and building plans are reasonable and generally consistent with the previously contemplated plan for the site. Further, the plan would meet all site and building plan standards outlined in city ordinance. Proposed grading and tree impacts are generally reasonable and appropriate to accommodate the proposed townhome units. More information related to the proposed grading, tree impacts, and site and building plan standards is outlined in the “Supporting Information” section of this report.
Access. Several access locations were contemplated as part of the 2004 development review and again as part of the current proposal. In 2004, the developer of Big Willow Townhomes proposed a “temporary” drive access be constructed to serve the townhomes. This temporary access would serve the townhomes until such time that the 11901 Minnetonka Boulevard property were to develop. At the time of that development, the temporary access would be removed and a permanent access serving both townhome properties would be constructed. The developer’s intent was clearly illustrated in the master development plan and outlined in the Declaration of Covenants, Conditions and Restrictions, which were recorded against all of the Big Willow Townhome properties and the subject property. The current proposal is consistent with the access location included on the approved master development plan and recorded Declaration of Covenants, Conditions and Restrictions. Both Hennepin County and the city have found that the proposed access is reasonable.

Staff Comment

Staff finds that the applicant’s proposal is generally consistent with the previous master development plan. The current proposal would result in a one-unit reduction in the number of residential units, and would still be consistent with the previously approved medium-density land use designation.

Staff Recommendation

Recommend the city council adopt the following pertaining to 11901 Minnetonka Boulevard:

1. Ordinance approving a major amendment to the existing Minnetonka Townhomes master development plan (see page A45–A47);

2. Resolution approving final site and building plans for the proposed townhomes (See pages A48–A57);

3. Resolution approving preliminary and final plats (See pages A58–A60).

Originator: Ashley Cauley, Senior Planner
Through: Loren Gordon, AICP, City Planner
Supporting Information

**Project No.** 16015.16a

**Property** 11901 Minnetonka Boulevard

**Applicant** Gatehouse Properties, Ltd., represented by David Carlson

**Surrounding Land Uses**
- **Northerly:** Big Willow Park
- **Easterly:** Private drive for Windmill Ridge and single family homes on properties zoned R-1 beyond.
- **Southerly:** Windmill Ridge Townhomes, zoned PUD
- **Westerly:** Big Willow Tonwhomes, zoned PUD and Guilliam Field beyond

**Planning**
- Guide Plan designation: Medium Density
- Zoning: PUD, Planned Unit Development

**Neighborhood Meetings**
The developer held a series of neighborhood meetings. The following is intended to summarize those meetings.

**January 14, 2016.** The developer held a neighborhood meeting to discuss the concept plan. Representatives from the Windmill Ridge and Big Willow Townhome Homeowner's Associations were present. Ten people were in attendance.

**March 10, 2016.** The developer held another neighborhood meeting to discuss alternative access options. Five people attended the meeting. Representatives from 11811 Minnetonka Boulevard and Big Willow Townhome Homeowner's Association were present.

**March 21, 2016.** The developer met with Windmill Ridge to discuss access onto the private drive. Seven people attended the meeting.

**Existing Site Features**
The site is generally located south of Big Willow Park, east of Guilliam Field, and north of the Windmill Ridge Townhomes. The property is 31,000 square feet in size and is currently improved with a single family home.

**Topography**
The property generally slopes "upwards" from north to south with the highest part of the property is along the south property line. The overall grade change is approximately 20 feet.
Trees
The property is not encumbered by a woodland preservation area but has 22 high priority trees and 13 significant trees as classified by the city’s tree preservation ordinance.

Access
The plat and site plans for Windmill Ridge Townhomes was approved in 1986. Access to the townhomes was proposed to be – and continues to be – via a newly created private street. Per the Resolution No. 86-8218 approving Windmill Ridge, “the applicant was to provide appropriate easements for 11811 and 11901 [subject property] to allow access onto the private road and access easements be provided for the private road system to limit the number of curb cuts onto Minnetonka Boulevard.” (See pages A10–A16.)

In 2004, concurrent with review of the Big Willow Townhome project, several access opportunities were explored including access onto the private drive. At that time, the Windmill Ridge association expressed that they were not interested in allowing additional accesses onto their private street. As result, the developer of the Big Willow Townhomes project submitted plans illustrating that a temporary access drive would be constructed to serve the Big Willow Townhomes until the property at 11901 Minnetonka Boulevard were to develop. At the time of that development, the temporary access would be removed and a new permanent drive – to serve both the Big Willow Townhomes and townhomes on the 11901 property – would be constructed. This plan was found to be acceptable to both the city and Hennepin County and ultimately became the approved master development plan for the two adjacent sites. A Declaration of Covenants, Conditions, and Restrictions outlining the approved plan for development was recorded against all affected properties. Per the declaration, if the Paulson Property [the subject property] were to develop at any time in the future with a multi-family residential project, the CC Townhomes [now known as the Big Willow Townhomes] and the Paulson Property would be required to establish a shared, common access drive. At the time that the shared access is constructed, the existing drive previously used by the CC townhomes should be removed, and the owner of the Paulson property must grant an access easement. The declaration did establish some discretion for the city to approve alternative locations. (See pages A29–A37.)

After exploring several options, the developer has submitted the current plan. This plan is consistent with the previously approved master development plan and the recorded declaration.
As part of the review of the current project, staff researched the Windmill Ridge private drive. As part of the review, staff located two draft private access easements to allow the driveways serving 11811 and 11901 access onto the private drive. Staff believes that these drafts were attempts to satisfy the requirements of Resolution No. 86-8218. However, it appears neither of these drafts were ever recorded. (See pages A17–A18.)

A year after the Windmill Ridge development occurred, in 1987, a public easement document was recorded over the northerly 320 feet of the private drive. The easement document is for a public easement. However, the city attorney has advised the city cannot require that Windmill Ridge allow additional access onto their private drive even within the public easement because: (1) the public easement has not been previously “opened” for public travel; (2) the city is not interested in opening the easement for public travel; and (3) the city has not – nor is interested in – maintaining the easement. (See pages A19–A22.)

Recently, the Big Willow Townhome Association has submitted a letter indicating that they do not support the current plan to remove their existing drive in order to construct a new access. In their letter the association states that the preferred access location would be from the Windmill Ridge private drive. While staff would concur that this is the preferred access option, it is not a viable option unless the Windmill Ridge Homeowner’s Association were to agree to this access in writing. Consistent with their position in 2004, Windmill Ridge is not interested in allowing additional accesses onto their private drive.

**Stormwater**

Under city’s stormwater rule, stormwater management is required when a property is divided into three or more lots. The management mechanism must control for runoff rate, volume and quality.

**Utilities**

As currently proposed, the development would be served by a connection to the private water main under the Windmill Ridge private drive. Windmill Ridge has submitted a letter stating that they are not interested in allowing this connection. As such, staff has included a condition of approval requiring the development to connect into the watermain under Minnetonka Boulevard.

**Tree preservation**

The proposed development would remove 13 high priority trees for the construction of the permanent access drive, utilities,
townhomes, and associated grading. There are 22 high priority trees on the property.

Staff believes that by adjusting grading on the east and south sides of the property additional trees can be preserved. Staff anticipates that by doing so, an additional 4 high priority trees could be preserved. With the additional tree preservation the proposal would result in a 40-percent loss of the high priority trees. While this number is above the maximum removal allocation for traditional subdivisions, the tree removal would be in compliance with the tree removal standards for properties zoned PUD.

SBP Standards

By City Code §300.27 Subd.5, in evaluating a site and building plan, the planning commission and city council shall consider its compliance with certain standards. The proposed hotel and future day care site would meet these standards.

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

   Finding: The proposal has been reviewed by city planning, engineering, natural resources, public works, fire, and legal staff and found to be generally consistent with the city’s development guides.

2. Consistency with this ordinance;

   Finding: The proposal would be generally consistent with the zoning ordinance. The proposal also includes an amendment to the existing master development plan to reduce the number of townhome units from four to three.

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

   Finding: The proposal would require some grading. However, the level of grading and resulting tree impact would be anticipated with any development of the property and would be generally consistent with the previously approved master development plan. The proposal does include some grading onto adjacent properties. Included as a condition of approval, the applicant must obtain permission from these property owners.
owners and must submit maintenance agreements for proposed retaining walls.

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

**Finding:** The proposed site design is intuitive and is generally consistent with the approved master development plan. The proposal would result in appropriate location of buildings, parking areas, and open spaces.

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

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

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

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

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

**Finding.** The proposed site design is intuitive, with appropriate circulation patterns established for vehicular traffic. The proposal includes the removal of the existing drive onto Minnetonka Boulevard for Big Willow Townhomes and the construction of a new drive on the subject property. A new connection would provide access to the western property. This provides for appropriate internal circulation patterns for both properties.

6. Promotion of energy conservation through design, location, orientation and elevation of structures, the use and location of glass in structures and the use of landscape materials and site grading;
Finding: As new construction, the proposed townhomes would meet all current building code standards including those pertaining to energy conservation.

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

Finding: The proposed townhomes would be new construction and includes new landscaping and stormwater management practices.

Natural Resources

Best management practices must be followed during the course of site preparation and construction activities. This would include installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing. As a condition of approval the applicant must submit a construction management plan detailing these management practices.

Approving Body

The planning commission makes a recommendation to the city council, which has final authority to approve or deny the request.

Motion Options

The planning commission has four options:

1. Concur with staff recommendation. In this case a motion should be made recommending the city council adopt the ordinance and resolutions.

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

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

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

<table>
<thead>
<tr>
<th>Neighborhood Comments</th>
<th>The city sent notices to 34 area property owners and received two comments to date. (See pages A38–A43.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deadline for Decision</td>
<td>November 2, 2016</td>
</tr>
</tbody>
</table>
Location Map

Project: Eldorado Villas
Applicant: Gatehouse Properties Ltd
Address: 11901 Minnetonka Blvd
Project No. 16015.16a

City of Minnetonka

This map is for illustrative purposes only.
EXISTING CONDITIONS SURVEY OF:
11901 Minnetonka Blvd.
Minnetonka, MN

UNIT BUILDING
ROAD
PRIVATE

LIST OF EXISTING TREES ON SITE

Tree Species
1. Norway maple
2. Blue spruce
3. American elm
4. Green ash
5. Blue spruce
6. Honey locust
7. Eastern cottonwood
8. Silver maple

LEGAL DESCRIPTION:
The North 150.00 feet of the West 300.00 feet of the South Quarter of Section 14, Township 117, Range 22, Hennepin County, Minnesota, lying South of County Road No. S and lying North of the South 150 feet and restrictions of record, if any.

GATEHOUSE PROPERTIES, LTD
2249 Portico Green
Wayzata, MN 55391

This Group's Land Survey Division

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GENERAL UTILITY NOTES:

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INDEX OF CIVIL SITE DRAWINGS:

- Project Location Plan
- Final Ground Plan
- Storm Drainage Plan
- Sanitary and Water Utility Plan
- Resident Plan
- Traffic Control Plan
- Proposed Roadway Plan
- Elevation Profile Plan
- Topographical Map
- Drainage Plan
- Culvert Plan
- Storm Sewer Plan
- Storm Drain Plan
- Sanitary Sewer Plan
- Water Main Plan
- Cogeneration Plan
- Downtown Plan
- Residential Plan
- Test Factual and Paved Site Plan
- Details
RESOLUTION NO. 86 - 8218

RESOLUTION GRANTING FINAL APPROVAL OF PLAT NO. 1622A (86075.8), A REVISED PLAT OF WINDMILL RIDGE, LYING WITHIN SECTION 14, TOWNSHIP 117, RANGE 22 AND SUBMITTED BY HANS HAGEN HOMES

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

Section 1. Background.

1.01. Pursuant to the provisions of the applicable sections of Minnesota Statutes, the City of Minnetonka has adopted regulations for the platting and zoning of lands.

1.02. Plat No. 1622A (86075.8), revised WINDMILL RIDGE, has been presented to the City Council of the City of Minnetonka for approval and appears to conform to the comprehensive plans.

Section 2. Approval and Authorization.

2.01. Plat No. 1622A, WINDMILL RIDGE, be and hereby is approved, as stated in the final report prepared by the Engineering Department, dated October 20, 1986, subject to the following stipulations:

1. The preliminary plat be revised to assign an outlot status to the property to be dedicated to the City. This property is to be dedicated with no encumbrances or restrictions. The City may choose to use the property for open space, development or other public purposes including roadway.

2. Submission of Revised Landscape Plans to include the following:
   a. 13 additional deciduous trees of 2-1/2" minimum caliper.
   b. 19 additional coniferous trees in the 6'-10' height range.
   c. Species size schedule for plantings.
   d. All disturbed areas to be sodded and the required underground irrigation system indicated.
e. All trees to be preserved by explicitly marked for preservation with grading limits staked and inspected by staff prior to grading operations.

3. The applicant work with the Engineering Department in developing final drainage details which may involve parking lot catch basins. Also, storm sewer pipe connection across City property to the south and ponding area be located within an easement obtained from the City at the time of final plat approval.

4. Installation of erosion control methods during construction to be approved by the Engineering Department.

5. Project approval by the Minnehaha Creek Watershed District and the ponding area designed to watershed district standards including the following:
   a. The pond be sized to accommodate a one-year flood event.
   b. The pond be constructed to include a skimming device.
   c. The applicant be responsible for maintaining the pond on a regular basis.

6. The applicant provide appropriate easements for 11811 and 11901 Minnetonka Boulevard properties to access the private road and access easements be provided for the private road system.

7. The applicant submit a maintenance agreement for the private road including both snow removal and future repair.

8. The townhouses be constructed utilizing materials indicated on plans including paneled redwood garage doors.

9. The applicant work with the Director of Operations and Maintenance on utility connections to include the following:
   a. Posting of a bond to ensure against damages to public utility lines and construction activity be coordinated and supervised by the Director of Operations and Maintenance.
b. The looped watermain be valved as required.
c. All utilities will be a private system.
d. Each dwelling unit be equipped with 6” sanitary and 1” water service.

10. Submission of detailed exterior lighting and signage plans for staff review and approval.

11. The project comply with all requirements of the Uniform Building Code and the applicant work with the Fire Marshal in establishing appropriate emergency vehicle access.

12. The applicant receive a Hennepin County access permit and install a bypass lane on westbound Minnetonka Boulevard to Hennepin County specifications.

13. All driveway and parking areas be surrounded with concrete curb and gutter.

14. The Preliminary Plat be revised to delete 20’ storm sewer easements on private property and provide standard 7’ drainage and utility easements around the perimeter of the site.

15. The applicant work with staff in establishing grading limits at the southeast corner of the townhouses. Retaining wall to preserve mature trees may be required.

16. The applicant execute a revised and updated P.U.D. Agreement with the City.

Adopted by the City Council of the City of Minnetonka, Minnesota, on this 20th day of October, 1986.
ATTEST:

D. L. Eggenberger, City Clerk

Action on this resolution

Motion for adoption: Renneke
Seconded by: Gordon

Voted in favor of:
Bergstedt, Anderson, DeGhetto, Renneke, Gordon, Hanus, Donlin

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a certified copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on the 20th day of October, 1986.

D. L. Eggenberger, City Clerk
BE IT RESOLVED by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01. On October 20, 1986, the City Council adopted Resolution No. 86-8218, approving Plat No. 86075.8 for Hans Hagen Homes, Inc., known as Windmill Ridge.

1.02. That resolution contained a number of conditions for approval.

1.03. The surveyor for the plat has raised concerns about one of these conditions.

1.04. The City Council has determined that this condition may be modified.

Section 2. Approval and Authorization.

2.01. Resolution No. 86-8218 is hereby amended as follows:

a. Paragraph 2.01 (14) is amended to read as follows:

14. The preliminary plat be revised to delete 20-foot storm sewer easements on private property and provide standard 7 foot drainage and utility easements around the perimeter of the site, excepting therefrom the East 7 feet of Lot 24, Block 1, Windmill Ridge.

Adopted by the City Council of the City of Minnetonka, Minnesota, on this 16th day of December, 1986.

LARRY A. DONLIN, MAYOR
ATTEST:

D. L. Eggenberger, City Clerk

Action on this resolution

Motion for adoption:  Gordon
Seconded by:  Anderson
Voted in favor of:  Hanus, Bergstedt, Anderson, DeGhetto, Gordon, Donlin
Voted against:  
Abstained:  
Absent:  Ronneke
Resolution adopted.

I hereby certify that the foregoing is a certified copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on the 16th day of December, 1986.

D. L. Eggenberger, City Clerk
This Indenture, Made this 26th day of September, 1986, between Hans Hagen Homes, Inc., a corporation under the laws of the State of Minnesota, party of the first part, and

the public

of the County of Hennepin, and State of Minnesota

part Y of the second part,

Witnesseth, That the said party of the first part, in consideration of the sum of

One Dollar and other good and valuable consideration ($1.00) DOLLARS, to it in hand paid by the said party Y of the second part, the receipt whereof is hereby acknowledged, does hereby Grant, Bargain, Quitclaim, and Convey unto the said party Y of the second part,

heres and assigns, Forever, all the right, title or parcel of land lying and being in the County of Hennepin, and State of Minnesota, described as follows, to wit:

A nonexclusive easement for ingress and egress over and across that part of Lot 23, Block 1, Windmill Ridge, Hennepin County, Minnesota, lying northerly of the South 320 feet thereof.

To have and to hold the same, Together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said party Y of the second part,

hires and assigns, Forever.

In Testimony Whereof, the said first party has caused these presents to be executed in the corporate name by its Senior Vice President

Hans Hagen Homes, Inc.

By: ____________

Its Senior Vice President

11901 Minnetonka Blvd

A17

16015.16a

Eldorado Villas

11901 Minnetonka Blvd

16015.16a

easement document never recorded
This Indenture, Made this 24th day of September, 1986,

between Hans Hagen Homes, Inc.,

a corporation under the laws of the State of Minnesota, party of the first part, and
Grace E. Anthony and Shirley M. Anthony, husband and wife

of the County of Hennepin and State of Minnesota,

the lessee of the second part,

Witneseth, That the said party of the first part, in consideration of the sum of

THREE THOUSAND DOLLARS,这对于
received and paid by the said party of the second part, the receipt whereof is hereby acknowledged,

which is by Grant, Bargain, Quitclaim, and Convey unto the said party of the second part,

Leases and assigns, Forever, all the tract or parcel of land lying and being in the County of

Hennepin and State of Minnesota, described as follows, to-wit:

A nonexclusive easement for ingress and egress over and across that part of Lot 23, Block 1, Windmill Ridge, Hennepin County, Minnesota, lying northerly of the South 320 feet thereof.

To Have and to Hold the Same, Together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said party of the second part, his and assigns, Forever.

In Testimony Whereof, The said first party has hereunto

[Signature]

Eldorado Villas
11901 Minnetonka Blvd
16015.16a
Eldorado Villas
11901 Minnetonka Blvd
16015.16a

MAY 15 1987
CERTIFIED FILED ON
HENNEPIN COUNTY MINNESOTA
OFFICE OF THE REGISTRAR 33

699394
692288
7322
699394
FIRST SUPPLEMENTAL DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR WINDMILL RIDGE

This First Supplemental Declaration, dated this 4th
day of June, 1987, is made by HANS HAGEN HOMES, INC., a
Minnesota Corporation (hereinafter sometimes referred to as
"Declarant").

WHEREAS, Declarant made and executed a "Declaration
of Covenants, Conditions, Restrictions and Easements for
Windmill Ridge", which is dated March 11, 1987, and filed in
the office of the Registrar of Titles in and for Hennepin
County, Minnesota, on May 15, 1987, as Document No.
1840341, and is hereinafter referred to as the
"Declaration"; and

WHEREAS, Declarant is the owner of the following
described real estate as described in said Declaration and
which Declarant now desires to add an easement to the Property
described in said Declaration:

Lots 1 through 23, both inclusive, Block 1,
Windmill Ridge, Hennepin County, Minnesota; and

WHEREAS, neither the time limitation (5 years from
the date of recording of the Declaration) nor the limitation on
aggregate number of additional Living Units (18) set forth in
the Declaration have been exceeded by this First Supplemental Declaration.

NOW, THEREFORE, Declarant hereby declares that the following real property shall include a nonexclusive easement for ingress and egress over and across that part of Lot 23, Block 1, Windmill Ridge, Hennepin County, Minnesota, lying northerly of the South 320-feet thereof; to be conveyed to the public:

Lot 23, Block 1, Windmill Ridge

IN WITNESS WHEREOF, the above-named corporation has caused this First Supplemental Declaration to be executed the day and year first above written.

HANS HAGEN HOMES, INC.

BY: Marie Eagen

Its: PRESIDENT/TREASURER

STATE OF MINNESOTA )
COUNTY OF RAMSEY ) ss.

The foregoing instrument was acknowledge before me this 11th day of June, 1987, by Marie Eagen the Senior Vice President of Hans Hagen Homes, Inc., a Minnesota corporation, on behalf of the corporation.

Notary Public

THIS INSTRUMENT DRAFTED BY:

Hans Hagen Homes, Inc.
2353 N. Rice Street
St. Paul, MN 55113

LAURA J. RANUM
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires 4-24-92

Eldorado Villas
11901 Minnetonka Blvd
16015.16a
Big Willow Townhomes, formally known as Cross Country (CC) Townhomes
ORDINANCE NO. 2004-

AN ORDINANCE REZONING 11901 MINNETONKA BOULEVARD FROM R-1, DENSITY RESIDENTIAL TO PUD, PLANNED UNIT DEVELOPMENT, AND ADOPTING A MASTER DEVELOPMENT PLAN, WITH SIDE YARD SETBACK VARIANCES, FOR 11907 AND 11901 MINNETONKA BOULEVARD

THE CITY OF MINNETONKA ORDAINS:

Section 1.

1.01 The property at 11901 Minnetonka Boulevard is hereby rezoned from R-1, low density residential, to PUD, planned unit development. A master development plan is hereby approved for 11901 and 11907 Minnetonka Boulevard, with a side yard setback variances from 35 feet to 15 feet from the westerly and easterly property lines. Approval is based on the following findings:

1. The proposal would meet the required standards and ordinances for a site and building plan approval.

2. The proposal would meet the required standards for a variance because:

   a. There is a unique hardship to the property; and
   b. The variance would meet the intent of the ordinance

3. The rezoning would be consistent with the City's guide plan;

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

5. The rezoning would better reflect the development potential of both sites.

Approval is subject to the conditions of the site and building plan review and substantial conformance to the master plan, date-stamped February 4, 2004.
Section 2. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 3. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on __________, 2004.

Karen J. Anderson, Mayor

ATTEST:

Kathleen A. Magrew, City Clerk

ACTION ON THIS ORDINANCE:

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

Date of publication:
I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on __________, 2004.

Kathleen A. Magrew, City Clerk

Date:

G:\WORD\Ord\2003 Ordinances\03087rez.doc
Certificate of Title

Certificate Number: 759267

Transfer from: 599794

Originally registered November 15, 1946 Volume: 358, Certificate No: 110442, District Court No: 7756

State of Minnesota
County of Hennepin

s.s. Registration

This is to certify that
Vendella R Paulson, whose address is 11901 Minnetonka Boulevard, Minneapolis, Minnesota
is now the owner of an estate in fee simple

In the following described land situated in the County of Hennepin and State of Minnesota:
East 150 feet of the West 300 feet of that part of the Southwest Quarter of the Northeast Quarter of Section 14, Township 117, Range 22, West of the Fifth Principal Meridian, lying South of County Highway Number 5 and North of the South 190 feet thereof;

Subject to easement over the South 30 feet thereof for road purposes, as shown in deed Doc No. 316387;

Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes
chapter 508, namely:
1. Liens, claims, or rights arising under the laws or the Constitution of the United States, which the statutes of this state cannot require to appear of record;
2. Any real property tax or special assessment for which a sale of the land has not been had at the date of the certificate of title;
3. Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;
4. All rights in public highways upon the land;
5. Such right of appeal or right to appear and contest the application as is allowed by law;
6. The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;
7. Any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.

<table>
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<tr>
<th>Document Number</th>
<th>Document Type</th>
<th>Date of Filing Month Day, Year Time</th>
<th>Amount</th>
<th>Running in Favor Of</th>
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<tr>
<td>T1707462</td>
<td>Highway Plat</td>
<td>Mar 4, 1986 9:00 AM</td>
<td></td>
<td>County of Hennepin, Hennepin County State Aid Highway Number 5, Plats. 71. As directed by Resolution Doc. No. 979240.</td>
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| T3267373        | Mortgage            | Mar 27, 2000 10:00 AM               | $80,000.00   | City-County Federal Credit Union  
City of Brooklyn Center, State of Minnesota                                   |
| T3366801        | Satisfaction of Mortgage | Mar 9, 2001 10:00 AM            |              | Satisfies document no(s): 3267373.0                                              |
| T3974864        | Declaration         | Jun 11, 2004 9:00 AM               |              | Creating covenants, conditions and restrictions. (See Inst)                       |
| T5210279        | Affidavit of Attorney in Fact | Oct 28, 2014 10:00 AM |              | Shelly Paulson certifies that Power of Attorney document no(s) 5210278 is in full force and effect. |
| T5210280        | Transfer on Death Deed | Oct 28, 2014 10:00 AM           |              | Made by Vendella R Paulson, an unmarried person                                  |
In Witness Whereof, I have hereunto subscribed my name and affixed the seal of my office this 21st day of March, 1991.

R. Dan Carlson
Registrar of Titles,
In and for the County of Hennepin and State of Minnesota.
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION is made this 8th day of June, 2004 by Cross Country Design Build, LLC, a Minnesota limited liability company ("Cross Country") and Vendella R. Paulson, a single person ("Paulson").

WHEREAS, Cross Country is the owner in fee of the land located in Hennepin County, Minnesota, legally described as set forth on Exhibit A attached hereto and incorporated herein by reference ("Cross Country Property"); and

WHEREAS, Paulson is the fee owner of the land adjacent to the Cross Country Property immediately to the east, also in Hennepin County, Minnesota, legally described as set forth on Exhibit B attached hereto and incorporated by reference ("Paulson Property")

WHEREAS, Cross Country intends to develop the Cross Country Property by constructing thereon a four-unit townhome community ("CC Townhomes"); and

WHEREAS, it is foreseeable that the Paulson Property may, at some time in the future, be developed as a planned unit development (townhome community); and

WHEREAS, access to the Paulson Property is currently achieved via a private access roadway, and access to the Cross Country Property is currently achieved via Minnetonka Boulevard; and

WHEREAS, the City of Minnetonka ("City") is concerned that two separate access points to Minnetonka Boulevard by two adjacent townhome communities would pose an undue safety risk to traffic on Minnetonka Boulevard; and
WHEREAS, the City has, therefore, requested that Cross Country’s development of the Cross Country Property (including construction of the CC Townhomes) and any future development of the Paulson Property share a common access drive; and

WHEREAS, Cross Country and Paulson therefore intend to encumber the Cross Country Property and Paulson Property by creating certain covenants, conditions and restrictions on the Cross Country Property and Paulson Property, as hereinafter set forth.

NOW, THEREFORE, in the interest of complying with the desires of the City with respect to the proposed development of the Cross Country Property (including construction of the CC Townhomes) and any potential development of the Paulson Property, Cross Country and Paulson hereby declare that the Cross Country Property and the Paulson Property shall be occupied, held, sold and conveyed subject to and together with the covenants, conditions and restrictions hereinafter created, which covenants, conditions and restrictions shall run with the Cross Country Property and with the Paulson Property as appurtenant thereto, and shall be binding upon and inure to the benefit of all parties having any right, title or interest in the Cross Country Property and the Paulson Property, or any part thereof, their respective legal representatives, heirs, successors and assigns.

ARTICLE I

Definitions

1.1 Owner. One or more persons or entities holding a fee simple interest in any parcel of land subject to this Déclaration, or holding a vendee’s interest therein, shall be referred to herein as “Owner.”

ARTICLE II

Covenants

2.1 Grant and Location of Covenants. Cross Country and Paulson hereby create the covenants, conditions and restrictions on, over, under, above and across the Cross Country Property and on, over, under, above and across the Paulson Property in accordance with the terms and conditions set forth herein.
2.2 Creation of Common Access Drive. In the event the Paulson Property is developed at any time in the future with a multi-family residential development, including, but not limited to, a townhome community ("Paulson PUD"), whether by Paulson or a successor in interest to Paulson, then the CC Townhomes and the Paulson PUD shall be required to establish a shared, common access drive by which both the CC Townhomes and the Paulson PUD will gain access to Minnetonka Boulevard. The City shall determine, in its sole reasonable discretion, the location of such common access drive. Once such common access drive is constructed, the existing drive previously used by the CC Townhomes ("Existing Drive") shall be removed, and the owner of the Paulson Property must grant an access easement to the owners of the Cross Country Property.

2.3 Cost of Removing Existing Drive. All costs relative to the removal of the Existing Drive shall be borne by the homeowners association for the CC Townhomes.

2.4 Cost of Maintaining Common Access Drive. The costs related to the maintenance, repair and replacement of the common access drive used by the CC Townhomes and the Paulson PUD up to the point that the common access drive begins to serve only the CC Townhomes shall be borne equally by each respective development’s homeowners association. The maintenance, repair and replacement of the remainder of the common access drive (i.e., that portion of the common access drive that serves only the CC Townhomes) will be the sole responsibility of the CC Townhomes homeowner’s association. Said associations shall cooperate in providing such maintenance, repair and replacement of the jointly used portion of common access drive. In the event said associations cannot agree on the maintenance, repair and replacement of the jointly used portion of the common access drive, the matter shall be submitted to arbitration with the American Arbitration Association, with the decision of the arbitrator final and binding upon the associations, and the cost of the arbitration shared equally between the associations unless the arbitrator determines otherwise.

2.5 Non-Development of Paulson Property. If the Paulson Property is not developed for use as a multi-family residential development or similar use, then no common access drive need be constructed, and the existing drive for the Paulson Property may continue to be used by the Owner of the Paulson Property.
ARTICLE III

Miscellaneous

3.1 Amendment. This Declaration may not be changed or modified in any way except by an amendment hereto signed by the Owner of the Cross Country Property, the Owner of the Paulson Property, and the City, and the same duly recorded in the Office of the Registrar of Titles, Hennepin County, Minnesota.

3.2 Effect. The covenants, conditions and restrictions herein contained shall be binding upon the parties, their families, guests, business invitees, contractors, and others claiming through or under the parties; and shall be enforceable by injunctive relief as well as any other appropriate remedy. The covenants, conditions and restrictions shall run with the land and shall be binding on the parties hereto, their respective successors and assigns, and all subsequent owners of all or any part of the real property described herein and improvements, together with their respective grantees, successors, heirs, executors, administrators, devisees or assigns.

IN WITNESS WHEREOF, the parties hereto executed this Declaration as of the day and year first above written.

CROSS COUNTRY DESIGN BUILD, LLC

By:  
Dean Gannon

Its.  
Chief Manager

Vendella R. Paulson

STATE OF MINNESOTA  )
) ss:
COUNTY OF HENNEPIN  )

The foregoing instrument was acknowledged before me this 9th day of July, 2004, by Dean Gannon, the Chief Manager of Cross Country Design Build, LLC, a Minnesota limited liability company, on behalf of the limited liability company.

Notary Public

Joshua J. Kletschka
Notary Public-Minnesota
STATE OF

COUNTY OF

On the 8th day of June, 2004, before me appeared Vendella R. Paulson, a single person, to me personally known to be the person described in and who executed the same as her free act and deed.

JOSHUA J. KLETSCHEKA
Notary Public

Notary Public

THIS INSTRUMENT DRAFTED BY:
HELLMUTH & JOHNSON, PLLC (NTP)
10400 Viking Drive, Suite 500
Eden Prairie, MN 55344
Telephone: (952) 941-4005
Facsimile: (952) 941-2337

a\Cross Country Design Build\Mtka. Blvd. TH\Restrictive Covenants
EXHIBIT A

LEGAL DESCRIPTION OF
CROSS COUNTRY PROPERTY

The East 75 feet of the West 150 feet of that part of the Southwest Quarter of the Northeast Quarter of Section 14, Township 117, Range 22, Hennepin County, Minnesota, lying South of County Highway Number 5, and the North of South 190 feet thereof, Hennepin County, Minnesota.

AND

The West 75 feet of that part of the Southwest Quarter of the Northeast Quarter of Section 14, Township 117, Range 22, Hennepin County, Minnesota, lying South of County Highway Number 5 and North of the South 190 feet thereof, Hennepin County, Minnesota.

Torrens Certificate Number: 1009855
EXHIBIT B

LEGAL DESCRIPTION OF
PAULSON PROPERTY

The East 150 feet of the West 300 feet of that part of the Southwest Quarter of the Northeast Quarter of Section 14, Township 117, Range 22, West of the Fifth Principal Meridian, lying South of Highway Number 5 and North of the South 190 feet thereof, Hennepin County, Minnesota.

(Torrens property)
Neighborhood Comments
BIG WILLOW ASSOCIATION
Comments/Questions/Concerns regarding proposed Eldorado Villas
8-8-16

The Big Willow Association has the following questions, comments and concerns regarding the proposal for the development of Eldorado Villas at 11901 Minnetonka Blvd.

Big Willow Association has NOT agreed to any redesign of its current access to Minnetonka Blvd. or to alterations to any portion of its property or to sharing a common access drive with the proposed Eldorado Villas development.

Preferred option
In a meeting on 2/19/16 with Minnetonka City Planner Loren Gordon and Senior Planner Ashley Cauley at the Minnetonka City Hall, Loren told the members of our Association that Windmill Ridge Road is the preferred option for access to Minnetonka Blvd. for the Eldorado Villas development at 11901 Minnetonka Blvd.

However, Loren told us that it was a private road.

Designation of public portion of road
In a meeting on 3/10/16 with Loren, Ashley, and the developer, David Carlson of Gatehouse Properties, David presented a 1987 document discovered by city planning staff that designates a portion of Windmill Ridge Road as a public road.

Previously it was thought that the entire Windmill Ridge Road was a private road, but these documents state otherwise:

“Declarant hereby declares that the following real property shall include a nonexclusive easement for ingress and egress over and across that part of Lot 23, Block 1, Windmill Ridge, Hennepin County, Minnesota, lying northerly of the South 320 feet thereof, to be conveyed to the public: Lot 23, Block 1, Windmill Ridge.”

Since the city told us that their preferred option for access to Minnetonka Blvd. by Eldorado Villas is Windmill Ridge Road and since there is a portion of the road that is public, why isn’t it being used in the proposal?

Note: the developer does not show that portion of public road on his proposal. His drawings give the impression that the entire road is a private drive.

Cul-de-sac option
In the meeting on 3/10/16 Loren said that in today’s situation the public portion of the road would be a cul-de-sac so that snowplows could properly enter and exit. Why doesn’t the city put in a cul-de-sac at this location so that its snowplows can properly enter and exit the drive?

Right to use public road
While the Windmill Ridge Association may prefer that Eldorado Villas not use the road, it’s a public road and, as shown to us on 3/10/16, the intent of the easement
was to allow the Paulson property and the property on the east side of Windmill
Ridge Road, to access Minnetonka Blvd.

Proposed reconstruction of our retaining wall
The proposal includes a reconstruction of our existing retaining wall in the rear of
our property, making it a continuous retaining wall between the two properties. We
are very happy with the current design and would not agree to any reconstruction,
redesign or grading of any kind to the rear of our property. We do not want to blur
the property line and do not want the possibility of any additional water runoff onto
our property.

Proposed parking and loss of trees/foliage
The proposal to provide 4 parking spaces on our Big Willow property would remove
too many mature trees and other foliage that currently buffers the noise from
Minnetonka Blvd. and provide privacy for our homeowners. Removing any of these
trees/foliage would drastically change the views outside our front windows. These
trees/foliage are not listed for removal, but with the proposal for 4 parking spaces,
trees/foliage would be lost. At most, 2 spaces could be placed in the proposed area
without losing trees/foliage. This means we will lose at least 1 parking space in an
area that already has very limited parking.

Proposed widening of driveway
The proposal to widen the driveway from the Big Willow property to the Eldorado
Villas property from its current width to the width of 20 feet brings the driveway
too close (4-5 feet) to the largest and most significant pine tree on the Big Willow
property, tree #51. The proposal would already require the lower branches of the
tree to be removed. We feel that any excavating in this area will disturb the root
system and cause this cherished tree to be lost.

Removal of trees
We are not pleased with the proposal to remove trees 56, 57, 58 and 59 from our
property. Tree 55 is also very near these trees (2 feet away) and would almost
certainly be lost. Tree 58 is a large beautiful pine tree and should not be removed.

Sufficient space for large vehicle
The proposal does not provide for sufficient turn-around space on our property for
large vehicles (garbage truck, delivery trucks, snow plow truck, emergency vehicles,
etc.). When cars are parked in the proposed 4 parking spaces and in front of our
homes, these large trucks would not be able to turn around and would have to back
out of our property. This is especially dangerous since there are children living
within our association.
BIG WILLOW ASSOCIATION
Comments/Questions/Concerns regarding proposed Eldorado Villas
8–8–16

Waste containers
If our garbage truck can’t properly enter/exit our property, will we be required to
place our trash containers at the curb on Minnetonka Blvd.? This will be a great
distance from our homes. Where will all these containers be placed, particularly
when there is snow on the shoulder? Under the current garbage schedule, between
the two associations this could amount to 14 containers on the recycling day. This
would be an extremely dangerous situation on windy days if containers and garbage
blow onto Minnetonka Blvd. It’s also dangerous with all the bikers who use the
shoulder. Who can provide us a written guarantee, not just words, that the garbage
truck will be able to drive up to our homes for pickup in perpetuity?

Parking inconvenience and hazard to guests
Overflow guests currently park in the softball field parking lot to the west of our
property. The proposal would cause our guests to have to walk further along
Minnetonka Blvd. before reaching our driveway entrance. Since it is a busy road that
has no sidewalks, walking on the shoulder is dangerous, particularly during the
winter months when the shoulder is snow packed and icy. We do not want to
subject our guests to additional inconvenience and hazard.

Guarantees
Since there is a proposal for modifications of our property, what guarantees would
be in place for completion of these modifications in the unlikely event the developer
becomes insolvent or otherwise unable to complete the project? Will an escrow be
established as a safeguard?

Establishment of an association
We have seen no documentation regarding the development of the Eldorado Villas
homeowners association (HOA). Have documents been filed for an association? Will
there be an association or will there simply be three separate owners without a
formal association?

The Covenant clearly envisions that the development of the Paulson property will be
an association (cf. 2.4 references to “association”). If Eldorado Villas isn’t an
association, what recourse do we have if an owner refuses to pay their portion for
road maintenance? (There is an arbitration provision for “associations” but nothing
if there is no association but only individual homeowners.)

Lack of provisions in the Covenant
There are no provisions in the Covenant to decide:
- Who is responsible for contracting vendors for services to the common
driveway?
- Who will oversee that any work to the common driveway is executed in a
timely manner and completed satisfactorily?
- Where are bills to be sent?
BIG WILLOW ASSOCIATION
Comments/Questions/Concerns regarding proposed Eldorado Villas
8-8-16

- Who is responsible for collecting funds from the 2 associations (or the 4 separate parties—3 at Eldorado Villas and 1 at Big Willow) to pay bills?
- When is snow removed? How many inches of snow are required before it’s plowed? Who decides this? What happens if the parties don’t agree?
- Are we supposed to have joint meetings to discuss these matters? Who attends? Who chairs the meetings? When are meetings held? How are decisions made?

Final thoughts
While the developer may feel his plan is the be-all and end-all to developing the Paulson property, since many details were not outlined in the Covenant, the two associations could potentially be heading to arbitration often because of disagreements. This will result in additional expenses for the parties and create ill feelings between neighbors. We desire good relations with our neighbors, but executing the common access driveway, as proposed, has the potential to create bitterness between neighbors even before the owners of Eldorado Villas are moved in. Unfortunately, the developer (Mr. Carlson) will be long gone by the time any of these situations arise.

In creating the Big Willow Association, Common Interest Community (CIC) #1334, the developer of Big Willow agreed to whatever the city required so that he could build the association. In 2004 when the covenant was drafted, the developer intended to purchase the Paulson property and merge it with the Big Willow association within the 7-year term as outlined in the Big Willow Declaration (Article 20, Sections 1-4 and Exhibit C). Having a common drive under these conditions made sense; it would be one association. You will recall then that the housing bust occurred in 2008-09, the economy went into recession and there was little to no construction for several years. Thus the developer’s option to add units to the Big Willow Association expired.

The reality that we are faced with today is that in this proposal two separate associations are being forced to share a common drive. We are distressed because the proposed development by Mr. Carlson is significantly altering our property in a major way, which is affecting our lives, the esthetics of our property, and our ability to enjoy our homes in peace and tranquility.

We’ve had numerous conversations, emails and meetings with the developer, members of the Planning Commission, and our own association membership. All of our correspondences are documented in our 16-page chronology.

The Big Willow Association is not prepared to bare ANY costs associated with the development of Eldorado Villas.
BIG WILLOW ASSOCIATION
Comments/Questions/Concerns regarding proposed Eldorado Villas
8-8-16

Specific questions regarding the proposal design

How can we be expected to support this proposal and any modifications to our property when we haven't seen samples of the materials that will be used for the proposed landscaping (driveway, retaining walls, etc.) on our property?

What is the "rock construction entrance" on the proposed new entrance?

Is the county okay with moving a Minnetonka Blvd. access closer to Windmill Ridge Road?

Are there other options for the location of the mailboxes? The proposed option is much further from our homes.

What is the amendment to the master development plan as stated on the City of Minnetonka website regarding this proposal?

What is the exact area considered to be the common access for shared expense?

What is the timeline for construction and completion?

Will the redesign of our property require a new title, lot description or any other legal document related to our property description? If so, who will bare this cost?

Submitted by the members of the Big Willow Association:

- Nancy Kazalunas and Mildred Kazalunas
  Owners of Big Willow #11907

- Jose (Ze) Zonis and Gary Feldhege
  Owners of Big Willow #11909

- Lucy Perman
  Owner of Big Willow #11911

- Dean Gannon
  Owner of Big Willow #11913
Hi Ashley,

I wanted to follow up after our conversation today. Please include this e-mail in the packet for the planning commission.

As you know, I am the President of the Windmill Ridge Homeowners Association. We have received notice and information about Mr. Carlson's development plans for the development entitled the "Eldorado Villas." It appears that the plans submitted by the developer show a proposed encroachment on the private property of our HOA for landscaping and/or utilities.

I think it might be helpful to be clear about our position as this development moves forward.

On behalf of the Board and Officers of our HOA, I want to state that we will not permit or agree to any encroachment or other access by Eldorado Villas onto our property for any reason. This would include encroachment for landscaping, driveway, utilities, etc.

Please feel free to give me a call if you have any questions or comments.

Best regards,

Karmen Nelson (as President of Windmill Ridge Homeowners Association).
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Ordinance No. 2016-

An ordinance amending the existing master development plan pertaining to the property at 11901 Minnetonka Boulevard

The City Of Minnetonka Ordains:

Section 1.

1.01 This ordinance hereby amends the existing master development plan pertaining to the property at 11901 Minnetonka Boulevard.

1.02 The property is legally described as:

The East 150.00 feet of the West 300.00 feet of the Southwest Quarter of the Northeast Quarter of Section 14, Township 117, Range 22, Hennepin County, Minnesota, lying South of County Road No. 5 and lying North of the South 190 feet thereof.

1.03 The amendment generally approves construction of three townhomes on the site.

Section 2.

2.01 This ordinance is based on the following findings:

1. The proposal is consistent with the 2030 Comprehensive Guide Plan.

2. The amendment would not negatively impact the public health, safety, and welfare.

Section 3.

3.01 Approval is subject to the following conditions:
1. The site must be developed and maintained in substantial conformance with the following plans:
   - Eldorado Villas site plan, dated July 5, 2016
   - Eldorado Villas grading plan, dated July 5, 2016
   - Eldorado Villas sanitary and waer utility plan, dated July 5, 2016
   - Eldorado Villas storm sewer utility plan, dated July 5, 2016

   The above plans are hereby adopted as the master development plan for the 11901 Minnetonka Boulevard property.

2. Development must further comply with all conditions as outlined in City Council Resolution No. 2016-___, adopted by the Minnetonka City Council on September 12, 2016.

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

Section 5. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on September 12, 2016.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this Ordinance:

Date of introduction: August 8, 2016
Date of adoption:
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication:
I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on September 12, 2016.

__________________________
David E. Maeda, City Clerk
Resolution No. 2016-

Resolution approving final site and building plans for
11901 Minnetonka Boulevard

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

Section 1. Background.

1.01 Gatehouse Properties, Ltd. has requested site and building plan approval for development of the property at 11901 Minnetonka Boulevard. As proposed, the existing single-family home would be removed and a three-unit townhome would be constructed.

1.02 The property is legally described as follows:

The East 150.00 feet of the West 300.00 feet of the Southwest Quarter of the Northeast Quarter of Section 14, Township 117, Range 22, Hennepin County, Minnesota lying South of County Road No. 5 and lying North of the South 190 feet thereof,

Subject to easements and restrictions of record, if any.

1.03 On August 18, 2016, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the final site and final building plans.

Section 2. Standards Findings.

2.01 City Code §300.27, Subd. 5, outlines that the following must be considered in the evaluation of site and building plans:
1. Consistency with the elements and objectives of the city's development guides, including the comprehensive plan and water resources management plan;

2. Consistency with this ordinance;

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

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

5. Creation of a functional and harmonious design for structures and site features, with special attention to the following:
   a) An internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors and the general community;
   b) The amount and location of open space and landscaping;
   c) Materials, textures, colors and details of construction as an expression of the design concept and the compatibility of the same with the adjacent and neighboring structures and uses; and
   d) Vehicular and pedestrian circulation, including walkways, interior drives and parking in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking.

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

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

Section 3. Findings.

3.01 The city has considered the items outlined in City Code §300.27, Subd. 5 and finds the following:

1. The proposal has been reviewed by city planning, engineering, natural resources, public works, fire, and legal staff and found to be generally consistent with the city’s development guides.

2. The proposal would be generally consistent with the zoning ordinance. The proposal also includes an amendment to the existing master development plan to reduce the number of townhome units from four to three.

3. The proposal would require some grading. However, the grading and resulting tree impact would be anticipated with any development of the property and would be generally consistent with the previously approved master development plan. The proposal does include some grading onto adjacent properties. As a condition of this resolution, the applicant must obtain permission from these property owners for such work and must submit maintenance agreements for any retaining walls.

4. The proposed site design is intuitive and is generally consistent with the approved master development plan. The proposal would result in appropriate location of buildings, parking areas, and open spaces.

5. The proposed site design is intuitive, with appropriate circulation patterns established for vehicular traffic. The proposal includes the removal of the existing drive onto Minnetonka Boulevard for Big Willow Townhomes and the construction of a new drive on the subject property. This would provide for appropriate internal circulation patterns for both properties.

6. As new construction, the townhomes would meet all current building code standards including those pertaining to energy conservation.

7. The proposed townhomes would be new construction and would include new landscaping and stormwater management practices.
8. The proposal includes grading and a retaining wall on the Windmill Ridge. The impacts to the Big Willow Townhome property were vetted during the 2004 review of the master development plan.

Section 3. City Council Action.

3.01 The above-described site and building plans are hereby approved subject to the following conditions:

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:

   - Development site plan dated July 5, 2016
   - Grading plan dated July 5, 2016
   - Utility plans dated July 5, 2016
   - Erosion control plan dated July 5, 2016
   - Tree preservation plan dated July 5, 2016

2. A grading permit is required. Unless authorized by appropriate staff, no site work may begin until a complete grading permit application has been submitted, reviewed by staff, and approved.

   a) The following must be submitted for the grading permit to be considered complete.

      1) An electronic PDF copy of all required plans and specifications.

      2) Three full size sets of construction drawings and project specifications.

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

   a. Final grading plan must:

      1. Include the top and bottom elevations for the retaining walls.

      2. Adjust grading to reduce impact to the trees on the east and south sides of the property.
3. Adjust the grading limits on the north side of the proposed rain garden in order to protect the trees along Minnetonka Boulevard.

b. Final utility plan must:

1. Provide the elevations of upstream and downstream manholes.

2. Illustrate if an alternative water main alignment is appropriate to avoid the water main being located under a rain garden.

3. Include an isolation valve south of the 6x6 connection tee to limit the number of homes that may be out of service if a break occurs.

4. Illustrate or note removal of the existing sewer service back to the main and removal of the wye and sleeve.

c. Final stormwater plan and stormwater management plan must:

1. Eliminate the stormwater outlet. If the stormwater outlet cannot be eliminated, the developer must work with staff to adjust the location to minimize tree loss.

2. Provide stormwater management over the entire site’s impervious surface.

3. Comply with the city’s water quality criteria, which requires either on-site detention/retention of 2.5-inches during a storm event or MIDS/P8 modeling showing 60-percent TP removal and 90-percent TSS removal.

4. Meet the volume control requirements.
d. Final landscaping and tree mitigation plans must meet minimum landscaping and mitigation requirements as outlined in city code. However, at the sole discretion of natural resources staff, mitigation may be adjusted based on site conditions.

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

a. Stormwater maintenance agreements and easements over all stormwater facilities.

b. Easements and agreements allowing for connections to private water and sewer lines. The easement/agreement must state the maintenance responsibilities of each owner. If no agreement is reached, the developer must submit a revised utility plan illustrating alternative connections.

c. Agreement from adjacent property owners which allows grading and retaining walls onto respective properties. If an agreement is not reached, a revised grading plan which does not illustrate encroachments onto adjacent properties must be submitted.

d. An easement and maintenance agreement for the hydrant.

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

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

- A final as-built survey has been submitted;
• An electronic CAD file or certified as-built drawings for public infrastructure in microstation or DXF and PDF format have been submitted;

• Vegetated ground cover has been established; and

• Required landscaping or vegetation has survived one full growing season.

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

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

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

8) A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance.

9) All required administration and engineering fees.

b) Prior to issuance of the grading permit:

1) Obtain all necessary permits from the MPCA and MDH for the sanitary sewer extension permit and water main construction.

2) Confirm entrance grades and sight distances with Hennepin County. The existing grades exceed 15-percent.
3) Confirm with Hennepin County that the increase in impervious surface will not require additional improvements to avoid stormwater runoff onto the county roadway.

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

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

3. Prior to issuance of a building permit for construction of the townhomes:

a) Submit the following documents:

1) Proof of subdivision registration and transfer of NPDES permit.

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

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

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

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

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

c) Submit all required hook-up fees.

d) Enter into an agreement with the city. This agreement must note that the city is not liable for perceived nuisance issues related to lighting or noise, resulting from the location adjacent to a city park. This agreement will be drafted by the city attorney and filed with the property’s chain of title.

4. The existing driveway for Big Willow Townhomes must be removed within 30-days of construction of the new driveway or prior to issuance of a building permit for the townhome units, whichever comes first.

5. Retaining walls over four feet in height must be engineered by a licensed structural engineer and fall protection must be provided.

6. Any work within the county right-of-way requires an approved Hennepin County permit. This includes, but is not limited to, driveway and street access, drainage and utility construction, trail development, and landscaping.

7. The property owner must work with Hennepin County to restore the area of the vacated driveway.

8. All lots within the development must meet all minimum access requirements as outlined in Minnesota State Fire Code Section 503. These access requirements include road dimension, surface, and grade standards. If access requirements are not met, houses must be protected with a 13D automatic fire sprinkler system or an approved alternative system.

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

10. Provide an address sign near the Minnetonka Boulevard entrance indicating each address – or range of address – for the townhomes.
Address numbers must be at least 4-inches high and must contrast with their background.

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

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 12, 2016.

________________________
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 September 12, 2016.

________________________
David E. Maeda, City Clerk
Resolution No. 2016-

Resolution approving the preliminary plat and final plats of ELDORADO VILLAS at 11901 Minnetonka Boulevard

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

Section 1. Background.

1.01 Gatehouse Properties, Ltd. has requested preliminary and final plat approval for ELDORADO VILLAS, a three-unit townhome project. (Project 16015.16a.)

1.02 The property is located at 11901 Minnetonka Boulevard. It is legally described as follows:

The East 150.00 feet of the West 300.00 feet of the Southwest Quarter of the Northeast Quarter of Section 14, Township 117, Range 22, Hennepin County, Minnesota lying South of County Road No. 5 and lying North of the South 190 feet thereof,

Subject to easements and restrictions of record, if any.

1.03 On August 18, 2016, the planning commission held a hearing on the proposed plat. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council grant preliminary plat and final plat approval.

Section 2. General Standards.

2.01 City Code §400.030 outlines general design requirements for residential
subdivisions. These standards are incorporated by reference into this resolution.

Section 3. Findings.

3.01 The proposed preliminary plat meets the design requirements as outlined in City Code §400.030.


4.01 The above-described preliminary plat is hereby approved, subject to the following conditions:

1. Prior to release of the final plat for recording:
   a) Revise the following on the plat “City Council of St. Louis Park Minnetonka.”
   b) Provide the following documents for the city attorney’s review and approval. These documents must be prepared by an attorney knowledgeable in the area of real estate.

   1) Title evidence that is current within 30-days before release of the final plat.

   2) Documents establishing a homeowners’ association. The association must be responsible for maintaining any common areas, common drives, required drainage ponding and any other required drainage improvements approved by the city. Maintenance will include, but not be limited to, the periodic removal of sedimentation at the base of the pond and any adjacent drainage ditches, keeping a vegetative cover within the ditches and pond, and removing any blockage of the swale or culvert that may impede the drainage of the site, as approved with the building permits.

   3) Shared access agreements or easements for the Lots 1-6, Block 1 of BIG WILLOW TOWNHOMES and proposed Lots 1-3, Block 1, ELDORADO VILLAS. The agreements/easements must state the maintenance responsibilities of each owner.
2. This approval will be void if within one calendar year of this approval in: (1) the final plat is not recorded within the county; and (2) the city has not received and approved a written application for a time extension.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 12, 2016.

______________________________
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 September 12, 2016.

______________________________
David E. Maeda, City Clerk