Planning Commission Agenda

July 21, 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: July 7, 2016

5. Report from Staff

6. Report from Planning Commission Members

7. Public Hearings: Consent Agenda

   A. Variances to allow construction of a mudroom at 3130 Shores Boulevard.

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

      • Final Decision Subject to Appeal
      • Project Planner: Drew Ingvalson

   B. Variances to allow construction of an attached garage at 3218 Shores Boulevard.

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

      • Final Decision Subject to Appeal
      • Project Planner: Drew Ingvalson

   C. Conditional use permit for telecommunications facility at 12475 Marion Lane W

      Recommendation: Recommend the city council approve the request (4 votes)

      • Recommendation to City Council (Tentative Date: August 8, 2016)
      • Project Planner: Drew Ingvalson
8. Public Hearings: Non-Consent Agenda Items

A. Items concerning the construction of a new house at 2512 Bantas Point Road
   
   Recommendation: Recommend the city council approve the request (4 votes)
   
   • Recommendation to City Council (Tentative Date: August 8, 2016)
   • Project Planner: Ashley Cauley

B. Variances for a blade sign at 1700 Plymouth Road
   
   Recommendation: Adopt the resolution approving the variances (5 votes)
   
   • Final Decision Subject to Appeal
   • Project Planner: Susan Thomas

C. Conditional use permit, with parking variance, for Eden Prairie Islamic Community Center at 5620 Smetana Drive
   
   Recommendation: Recommend the city council approve the request (4 votes)
   
   • Recommendation to City Council (Tentative Date: August 8, 2016)
   • Project Planner: Ashley Cauley

D. Preliminary plat of HIGHVIEW PLACE, a nine-lot subdivision, generally located at the northwest corner of I494/State Highway 7 intersection
   
   Recommendation: Recommend the city council approve the request (4 votes)
   
   • Recommendation to City Council (Tentative Date: August 8, 2016)
   • Project Planner: Ashley Cauley

E. Side yard setback variance from 10 feet to 0.75 feet for installation of a solar array at 3528 Moorland Road
   
   Recommendation: Adopt the resolution denying the request (4 votes)
   
   • Final Decision Subject to Appeal
   • Project Planner: Susan Thomas
F. Preliminary and final plats, with lot area, buildable area, and lot width at setback variances at 16965 and 16957 Cottage Grove Avenue and unaddressed adjacent parcel

Recommendation: Recommend the city council adopt the resolution denying the plats. (4 votes)

- Recommendation to City Council (Tentative Date: August 8, 2016)
  Project Planner: Susan Thomas

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 August 4, 2016 Planning Commission meeting:

Project Description: The applicant is proposing to repurpose the existing building at 13008 Minnetonka Blvd. As currently proposed, the repurposed building would be occupied by a dine-in/take-out restaurant with a primarily pizza focus. The proposal requires: (1) conditional use permits, with variances; and (2) site and building plan review, with variances.
Project No.: 86008.16a                      Staff: Susan Thomas
Ward/Council Member: 2—Tony Wagner          Section: 15

Project Description: The applicant is proposing division of the existing property at 15014 Highwood Drive into three lots. The proposal requires: (1) preliminary plat, with lot width at setback variances.
Project No.: 05039.16a                      Staff: Ashley Cauley
Ward/Council Member: 3—Brad Wiersum          Section: 27

Project Description: The applicant is proposing to construct and operate a day care on the property at 6030 Clearwater Drive. The proposal requires: (1) a conditional use permit; and (2) site and building plan approval.
Project No.: 15033.16a                      Staff: Susan Thomas
Ward/Council Member: 1—Bob Ellingson          Section: 35

Project Description: The applicant is proposing to add an additional level to the existing home at combine 1813 Traymore Road.
Project No.: 16017.16a                      Staff: Drew Ingvalson
Ward/Council Member: 2—Tony Wagner          Section: 01

Project Description: The applicant is proposing to build a roof overlay over the existing home at 12926 Rutledge Circle.
Project No.: 16016.16a                      Staff: Drew Ingvalson
Ward/Council Member: 2—Tony Wagner          Section: 15

Project Description: The city is proposing an ordinance “opting-out” of recent legislation regarding temporary family health care units.
Staff: Susan Thomas
Project Description: The Metropolitan Council is proposing construction of the Southwest Light Rail Transit Line, a portion of which would be located within the city of Minnetonka. The proposed construction requires: (1) wetland rezoning to remove area from the wetland overlay district; (2) floodplain and wetland alteration permits; (3) floodplain and wetland setback variances; (4) wetland buffer variances; (5) a conditional use permit for trails within wetland and wetland buffer areas.

Staff: Susan Thomas
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 O’Connell, Powers, Calvert, Hanson, and Odland were present. Kirk and Knight were absent.

   Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Assistant City Planner Susan Thomas, and Senior Planner Ashley Cauley.

3. **Approval of Agenda**: The agenda was approved as submitted with a change memo dated July 7, 2016 which included additional comments.

4. **Approval of Minutes**: June 16, 2016

   *Calvert moved, second by Powers, to approve the June 16, 2016 meeting minutes as submitted.*

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

5. **Report from Staff**

   Gordon briefed the commission on land use applications considered by the city council at its meeting of June 27, 2016:

   - Adopted a resolution approving a conditional use permit for an accessory structure on Highland Road.
   - Adopted a resolution approving a final plat for Legacy Oaks.
   - Adopted a resolution approving a conditional use permit for an accessory apartment on Spring Lake Road.
   - Reviewed a concept plan for TCF Bank on Plymouth Road.

   The next planning commission meeting will be July 21, 2016.
There will be a joint meeting with the city of Hopkins July 26, 2016 at the Hopkins City Hall at 7 p.m. Zoning for the Shady Oak station will be discussed.

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

7. **Public Hearings: Consent Agenda**: None

8. **Public Hearings**

   A. **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.

   Powers noted that the area currently has parking and traffic issues. He asked if the application should be looked at separately or if the existing parking and traffic issues should be part of the consideration. Thomas answered both. The specific site and the surrounding area must be looked at comprehensively. Whether the proposal would be approved or not would not change the current parking issue.

   Acting Chair Odland asked how many parking stalls exist within a 5-minute walk. Thomas answered that a church is 800 feet away and its parking lot has 442 stalls.

   Ryan Burnet, applicant, stated that he and his business partner recognized the parking issue when they first visited the site. He is asking to put in a family restaurant. He currently owns and operates 8 restaurants. After the neighborhood meeting and the completion of the traffic study, he discussed obtaining over-flow parking agreements with surrounding property owners. He plans to have a deal in writing within the next 2 weeks to provide overflow parking. He dealt with a similar parking issue for a restaurant he operated with 11,000 square feet. Parking was secured 3 blocks away and the restaurant has been operating successfully for 3 years. The neighbors are its best customers. This will be a neighborhood restaurant for families. He wants to make sure this works for the neighborhood. It will provide an exciting redevelopment for the area.

   Powers asked what parking would be available during on-peak hours. Mr. Burnet said that the parking lot with over 400 stalls would accommodate peak-hour parking. The proposed restaurant’s peak hours would be after 5 p.m. which is later than the peak hours of the surrounding uses.
Calvert asked how patrons would know the location of off-site parking. Mr. Burnet said that information would be provided on the website and on site. The servers and manager would inform patrons who call. He would be open to posting a sign outside of the restaurant. The proposed restaurant would not be large enough to sustain valet parking. There would be low outdoor music, but it would not be loud and would be turned off after dinner.

In response to Acting Chair Odland’s question, Mr. Burnet stated that his restaurants have had no nuisance code violations.

Calvert was concerned that the restaurant would have a liquor license and its proximity to a Dairy Queen. Mr. Burnet stated that the liquor license would allow patrons to have a larger selection of alcohol. The restaurant would not be a bar. There would be no more than four bar seats. He is well versed on how to serve alcohol. Two of his other restaurants have more outdoor seating near residences.

In response to Powers’ question, Mr. Burnet stated that the patio would be fenced, but the parking lot would remain. There would be enough patio to walk around it. Patrons would have to enter the restaurant to be seated outdoors.

The public hearing was opened.

Dorothy Janssen, 12709 Burwell Drive, stated that:

- She is concerned with the traffic problems. Burwell Drive is narrow. If a vehicle is parked on the side, then a vehicle barely has room to pass it.
- The school is located close by. Parents drop off kids right after the turn to Burwell Drive. That lines up six to eight vehicles. The corner is sharp.
- She anticipates that the proposal would cause more traffic.

Stacey Avery, 12824 Burwell Drive, stated that:

- Her residence is located on a cul de sac behind the proposal.
- The area is residential. St. David’s School just closed access to its site from Burwell Drive.
- The street is 22-feet wide at its widest point. Most of it is 19-feet wide.
- Burwell Drive is part of Minnetonka’s park system. There are no sidewalks on Burwell Drive.
• Her main issue is parking on Burwell Drive.
• The entire width of a street could be used up by a vehicle parked more than 6 inches from a curb and a fire truck.
• It is not a good idea for drivers who have been drinking to drive down a narrow street.
• The traffic amount would be huge.
• Dairy Queen and People’s Organic already have parking deficits.
• The traffic study used the amount of internal seating only.
• She opposes the proposal until there is a new plan to accommodate all of the new parking safely.
• She requested the commission table action until a plan is prepared that would not include parking on Burwell Drive.

Glen Seutter, 12908 Minnetonka Boulevard, stated that:

• He can sympathize with the residents who live on Burwell Drive.
• Since the Bennis Feed and Fuel closed two weeks ago, his business has seen an increase in traffic of 25 percent. His concern is for his parking. Dairy Queen and People’s Organic patrons are using his spaces. Drivers will pick the closest parking space.
• There are vehicles parked on the boulevard all day long. There is one there now with a “for sale” sign. The signed 20-minute parking needs to be enforced.
• He has seen many close calls with vehicles.
• The construction down the road will also increase traffic.
• He did not see parking in the church lot as a reasonable fix. That is his concern. He cannot afford to lose business. He loved the idea of having a restaurant, but it has to be the right business to have the right amount of impact.

Tim Demars, 12925 Burwell Drive, stated that:

• He has had to replace six sprinkler heads from drivers parking on them.
• He opposed the site having 120 customers at one time and serving alcohol.
• He was concerned with patrons parking on his street and hearing the traffic and their conversations.
• The Dairy Queen closes at 9 p.m., so it is not much of an issue.
• People’s Organic serves beer and wine. He hears the bottles being poured into the dumpster each night.
• There would only be one handicap parking stall.
• Delivery trucks make noise early in the morning.
• The salt and oil from the commercial properties goes into Minnehaha Creek.
• He is concerned with the noise levels.
• The site is not viable for that much occupancy.
• People who smoke would be outside after 10:30 p.m. They tend to make a lot of noise.
• This use does not fit the neighborhood. Please take into consideration the concerns of long-term residents.

Peggy Klug, 12817 Burwell Drive, stated that:

• She agrees that parking is an issue.
• Her son has epilepsy. There have been situations where vehicles have been parked on both sides of the street and an emergency vehicle would not be able to get through. She has contacted St. David’s about this many times.
• She liked the idea of a pizzeria, but the problem needs to be solved in a different way. She requested “no parking” signs be installed and enforced on Burwell Drive. Once a patron would receive a ticket, then one would not park there again. She has asked many times for “no parking” signs at the corners and fireplace, but the city has not cooperated.

Beverly Baker, 12900 St. David’s Road, stated that:

• St. David’s Road is narrow. Her neighborhood has similar issues when the food shelf went in, but the issues were resolved.
• Drivers run the lights at Plymouth Road and Shady Oak Road on Minnetonka Boulevard. That is a concern.

Claudia Gundlach, 12901 Burwell Drive, stated that:

• The surrounding businesses already have variances that already infringe on the creek. She requested that the city not allow businesses to infringe on the creek.
• Glen’s has a holding pond that filters oil from traveling to the creek. The delicate eco-system needs to be considered.

Karen Schoenrock, 12852 Burwell Drive, stated that:
• Mr. Burnet said that there would be no outdoor music on the outdoor patio at the neighborhood meeting.
• He said that vehicles would enter on Bridge Street and exit on Minnetonka Boulevard. That has changed now.
• She wants to be able to trust that what was said is what would happen.
• In the winter, she has to drive on the curb to get around the corner.
• She continually sees people using the path to connect the trails.
• She was concerned with increased traffic and motorists drinking alcohol.

No additional testimony was submitted and the hearing was closed.

In response to Calvert’s question, Thomas explained that the 50’ setback is for the trash enclosure. She pointed out the additional setbacks. Calvert thought reducing the 200-foot setback on the north to 100 feet would be a huge difference.

Powers confirmed with Thomas that the parking requirements are based on interior seating. During summer months, the number of patrons does not usually increase, but where the patrons sit shifts to the outside rather than inside.

O’Connell asked if permit-parking only would be possible. Thomas explained that “no parking” signs may be installed if the city receives a petition and the city council approves the request. The residents must apply as a group for their street.

Wischnack explained that resident-only parking permits are possible. The businesses and residents have to be cooperative to navigate the area. It is a popular and convenient location which makes it a challenge.

Powers asked if a vegetation buffer would be required. Thomas agreed that there is a buffer when the leaves are on. Replacing deciduous trees with evergreens could be considered, but that would require the removal of existing deciduous trees.

Calvert asked staff to provide parking solutions within a block of the site. Thomas explained that Mr. Burnet would work out a private parking agreement with a surrounding property owner. Thomas noted that St. David’s school, the city lot, the church, and park and ride facility are in the area. There are crosswalks at each intersection. Wischnack added that the city lot is full on a regular basis.
People’s Organic uses it for their employee parking. Gordon noted that SRF did a great job in the traffic study providing real implementation strategies.

Calvert asked if signs could be posted listing the location of overflow parking. Thomas answered affirmatively.

Acting Chair Odland noted that the city issues “no parking” signs for one side of a street for special occasions.

Thomas recommended that residents call 911 immediately to report an unsafe situation.

Acting Chair Odland reviewed concerns expressed by residents. Gordon noted that snow could be removed from the site. He was not aware of a current problem. Wischnack added that the proposed site’s property continues to the creek. Residents can contact city hall to have a potential snow removal violation investigated.

Thomas and Wischnack provided the noise ordinance regulations and noted that garbage haulers are allowed to function at 6 a.m. in the city. A condition of approval of a liquor license could require the bottles be dumped during a designated time frame.

Thomas clarified that this variance request is independent of existing ones in the area and that the noise ordinance prohibits the sound of music from extending outside of a property line.

Thomas stated that staff will notify the police of the vehicle with the “for sale” sign being parked in the 20-minute parking spot for an extended stay on Minnetonka Boulevard.

Acting Chair Odland suggested SRF compare the current situation with one similar to it to gain ideas on how to deal with the issues.

In response to Acting Chair Odland’s questions, Mr. Burnet stated that he was fine with not having music outside. He misspoke earlier. He is having discussions with neighboring properties to reach a deal for overflow parking. He would consider valet parking during heavy time periods. He did not expect the passionate response. There would be no delivery. A pizza could be ordered in advance and delivered to the vehicle to make it happen quickly.
Clark Gassen, Mr. Burnet's business partner, explained that he owns his own snow removal company. At a certain inch level, the snow would be moved off site. He has never had a snow violation.

Hanson was o.k. with the proposal if it is the right operator. The proposal is consistent with the city’s long-term plan. The site is zoned for a commercial use. The management team would do a good job enforcing the noise requirements and responsibly serving the patrons. A firm parking plan would be needed before moving forward. He assumed that Burwell Drive would become a “no parking” street.

Powers thought that the proposal is the seed of a good idea. He admires the developer and restaurant operator for their courage, but the plan is the wrong size and does not have enough detail. He did not think there would be a lot of the owner overseeing the site. The neighbors are correct that there would be pressure on the police for enforcement and on neighboring businesses. Most of the people he talked to like the idea of a restaurant at that location. The neighbors’ concerns are real. The restaurant may create a smell. He hoped to see progress.

Calvert concurred with Powers. She applauded the applicant’s desire to keep the original building. She understood the need to keep the building occupied to create vitality without burdening neighbors. It seems too big for the space. She liked the idea of the patio and preserving the building. She is aware of the narrowness of Burwell Drive. The issues are solvable, but the issues of noise, parking, light, environmental, and traffic need to be addressed.

O’Connell would be in favor of tabling the request to allow time for an off-street parking agreement to be reached. He asked the residents of Burwell Drive to request “no parking” signs be installed on the street. He suggested valet parking be offered during peak operating hours with a street-side curb cut for the valet.

Acting Chair Odland applauded a restaurant owner for looking at the site and utilizing the existing building. The Birch Island restaurant is on a tiny island and has no parking, but the owners have been a great partner in that area so she has no doubt that there is a solution to make this a viable property. The use would be an excellent fit. She would like to see it evolve into something. Tabling would be the best thing to do right now.

Powers thought that the footprint would be too large for the site.

Calvert agreed with tabling and that the proposal is the seed of something good.
O'Connell moved, second by Powers, to recommend that the city council table items on the following to allow staff more time to research solutions to issues related to noise, parking, light, protecting the environment, and traffic:

1. A resolution approving a conditional use permit for a restaurant and outdoor eating area, with variances, at 13008 Minnetonka Boulevard (see pages A35-A40).
2. A resolution approving final site and building plans, with variances, for site and building changes at 13008 Minnetonka Boulevard (see pages A41-A49).

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

9. Other Business

A. Concept plan review for The Enclave at Regal Oak, 3639 Shady Oak Road.

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

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.

Roger Anderson, applicant, thanked staff and commissioners for their input and feedback on the proposal. He has enjoyed working with staff and thinks it will be great going forward. He is the developer and civil engineer on the project. He stated that:

- The plat makes sense to him. It has a nice flow. The drainage and utilities layout nicely.
- Jo Colleran did a good job of delineating the old-growth woods. A survey was done. There is a conservation easement on the north side of the property. He entered into discussions with the neighbor to join the conservation easement. A stormwater pond may be added.
- He wants to include a rain garden on each lot to treat and minimize stormwater impact.

Mike Haley stated that he is working with Mr. Anderson on the home designs. He stated that:
• The concept is simple. He wants to build 5 homes that are geared to empty nesters. He provided an illustration of a model with one level and 1,500 square feet on the main floor.
• The average homeowner is 65 years of age in Minnetonka. Most want to downsize, but stay in the community. The houses would be priced in the $600,000, but are considered affordable new construction in Minnetonka.
• Three of the 5 houses would have geothermal systems including the model.
• The houses would not be mcmansions. Three of the 5 would have master bedrooms on the main floor.
• The build out would be finished in 12 to 15 months since it is a high-demand product. It is scheduled to begin construction this fall.
• There would be a simple homeowner’s association to take care of the grass and snow.
• The houses would be built custom to each homeowner’s choice.

O’Connell thinks the concept is great and that it would work. He noted that there are similar developments being done. Mr. Haley emphasized that the location is what makes the proposed homes in great demand. Mr. Anderson said that the homes would be one-floor living with basements, so there would be rooms when the kids and grandchildren visit. There would be high-end finishes.

Acting Chair Odland asked how many bedrooms would be on the first floor. Mr. Haley said the houses would have a great-room concept where the kitchen, dining, and great room flow together. There would be two full baths on the main floor and a large walk-in closet. Sod and large trees would be planted and sprinklers would be installed immediately. A big impact can be made with landscaping on a small lot.

Calvert asked where the rain gardens would be located in relation to the gully. Mr. Anderson pointed out the area for a pond and the rain gardens. It would look like a rock garden area. The roof gutters would direct the runoff to the rain garden. Each house would take care of its own runoff. It would work well. This is the first year in 40 years where house sizes became smaller instead of bigger.

Calvert asked how much parking would be available. Mr. Anderson explained that Regal Oak would meet city street requirements and be 24-feet wide. Each of the houses would have a 2-vehicle garage. There would be room for 2 more vehicles in the driveway. That is generally enough parking.
Calvert asked if the entire area would be graded flat. Mr. Anderson said that it would not be flat. Colleran identified the significant trees and they are marked on the survey. It turned out that the majority of significant trees are in the conservation easement. He would attempt to save the few in other areas, but many of them would be removed and replaced by other trees.

Powers liked the product and presentation.

Calvert asked why all of the houses would not have geothermal systems. Mr. Haley stated due to the cost. It would be included in the model and the buyer would be encouraged to include one, but it would be the homebuyer’s option. Mr. Haley stated that a back-up system would still have to be included. The increase in cost is $25,000. The loop system virtually lasts forever.

The audience was invited to provide input.

Ron Hanson, 12215 Mari Lane, stated that the area is wooded and the oak trees are large.

Cheryl Smith, 3624 Arbor Lane, stated that:

- She was concerned that the houses in the examples are larger than 15,000 square feet.
- She was concerned with tree mitigation. She loves the wildlife. The proposal would change it.
- The lots would be smaller and density increased compared to what is on the street now.

Hyde Thompson, 3616 Arbor Lane, requested that street lighting point downward. He liked the idea of the rain gardens and healing the gully.

Calvin Lee, 3636 Regal Oak, stated that:

- His view is currently of trees. He met with Mr. Haley and thinks that things seem copasetic. He wants to make sure that the trees and landscaping prevent a stark change.
- He was concerned with the safety of his kids riding bikes on the street during construction, where the construction vehicles would park, and the noise created by construction workers during the 12 to 18 months.
- There are two rental houses on the court.
• It would be nice if the houses would stay in tune with the existing houses. The proposed houses look too modern for the neighborhood.

• He and his wife have not decided if they like the project yet or not. He asked if there would be another step where the public would comment.

• He asked if all of the houses would be one story.

Annette Lee, 3636 Regal Oak, stated that:

• Parking for construction vehicles could be located where the existing home is on Shady Oak Road.

• She is concerned with the damage to her property during the construction.

• Her driveway is already used as a u-turn.

• She is concerned too many houses are being added to the area.

Vanessa Green, 3632 Arbor Lane, stated that:

• She is completely opposed to the proposal. This would destroy the large lot sizes and mature trees. This would be completely out of character with the neighborhood.

• The forest would be leveled. There are nesting hawks, owls, and woodpeckers. She is appalled.

• The density makes her uncomfortable.

O’Connell stated that this type of project has been reviewed by the commission before and they have been found generally favorable with some design tuques approved by staff along the way. He did not see this project to be any different.

Powers appreciates the neighbors’ input. He had a similar situation happen in his neighborhood. He agreed that issues can be worked out over time. Seniors in Minnetonka are looking to stay in the area in smaller houses. Small lots are a preferred reality going forward.

Calvert asked if approval of the proposal would set a precedent. Thomas explained the difference between legal and fairness precedents. Applications must be considered individually. After the concept plan review, the applicant may submit an application with plans that would be reviewed by the planning commission and city council with a public hearing being held at the planning commission. The planning commission would provide a recommendation to the city council.
Hanson agreed with O’Connell that the commission has seen this type of project a lot. He will support the proposal once slight changes have been made. The existing road makes the proposal less forced. He liked the inclusion of the conservation easement. Four lots might be more comfortable for the neighborhood. The conservation easement does provide a long-term benefit for the house on Regal Oak. The proposal would preserve the neighborhood character. Trees would be preserved and some would be replaced. There would be nice landscaping and quality construction. He could not see denying this proposal when compared to others that have been approved.

Acting Chair Odland would be curious how four lots would fit.

Calvert applauded the developer for protecting the environment. There are advantages to the geothermal. She encouraged planting large trees to decrease the visual impact and impact to wildlife. Dead trees do provide habitat. She would like natural resources staff to address the steep gully, runoff, and wildlife. The city does not have adequate housing stock in this type of housing.

B. Concept plan for a 75-unit apartment building at 2828 and 2800 Jordan Avenue.

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

Cauley 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.

John Ferrier of CSM Corporation, applicant, stated that:

- He appreciated the planning commission reviewing the concept plan.
- He agreed that a traffic study is warranted. His company owns additional properties in the area. He wants to make sure the amount of traffic would be appropriate.
- Staff found a previous plan not viable due to a steep slope on the site. The multi-family housing market is on fire right now. The building would be located in an appropriate area to deal with the topography.
- There is a berm on the west side. That is not a naturally occurring slope. It was created when an adjacent site was graded. He explained the grading of the site. There would be tuck-under
parking utilizing the topography. The slope preservation ordinance criteria would be followed.

- A lot of the trees are not quality. As many of the trees as possible would be preserved.
- His company has enjoyed 97 percent occupancy rates over the past 10 years. There is a need in this area.
- The exterior would have a modern feel with a flat roof to reduce the height of the building. Stone and metal would be used.
- He was excited to hear the commissioners’ comments.
- The clientele are interested in studio apartments.
- A goal is to incorporate shared amenities with the building to the west. A playground would be great.
- He was open to using the roof of the building as an amenity.
- This type of product typically houses people 30 to 35 years of age.
- The site would remain pretty wooded which is a feeling common in Minnetonka.
- There would be approximately 60 feet between the proposed apartment building and the one to the west.
- Two layers of underground parking would not be possible due to the level of the water table, amount of grading, and cost.
- Creating something to work well with the rest of the buildings for a long time is a priority.
- A studio apartment would be approximately 600 square feet.

Calvert noted that the architecture of the proposed building is different than the surrounding buildings. She was not sure how she felt about an urban feel. She understood the appeal for a young demographic. It would change the feel of the area. She looked forward to hearing from the natural resources staff. She was concerned for the oak trees. Mr. Ferrier was open to suggestions on the aesthetics of the building. It is a conceptual plan. This product has been successful in other suburban markets.

Calvert stated that a gabled roof would look extremely tall without removing a story. Mr. Ferrier said that could be considered.

Hanson asked if the number of parking stalls could be reduced to save green space. Cauley said staff could evaluate the proposed building’s amount of parking comprehensively with surrounding available parking lots. Mr. Ferrier would be very open to reducing the amount of parking. The amount was reduced slightly from the city’s ordinance requirement after speaking with city staff a year ago.
Rachel Peterson, property manager at Minnetonka Hills, stated that there is always ample outdoor parking space. There may be a waiting list for the underground heated parking.

Mr. Ferrier stated that the applicant will look for the most efficient way to utilize the slope to provide parking.

10. **Adjournment**

    *Calvert moved, second by Powers, to adjourn the meeting at 10:30 p.m.  
     Motion carried unanimously.*

By:  

    ____________________________  
    Lois T. Mason  
    Planning Secretary
Minnetonka Planning Commission Meeting
July 21, 2016
Agenda Item 7

Public Hearing: Consent Agenda
Variances to allow construction of a mudroom at 3130 Shores Boulevard

Adopt the resolution approving the request

16011.16a

3130 Shores Boulevard

Donna G. Ruekert (property owner)

The applicant, Donna Ruekert, is proposing to construct a 5-foot by 11-foot mudroom addition on the side of her home. The proposed mudroom would encroach into the required side yard and aggregate side yard setbacks. (See narrative, plans, and documents on pages A1-A10.)

Proposal requirements:

• Variance: Principal structure encroaching into the required side yard and aggregate side yard setbacks.

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Existing</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North setback (side yard)</td>
<td>10 ft.</td>
<td>12 ft.</td>
<td>6.5 ft.*</td>
</tr>
<tr>
<td>Aggregate Side Yard</td>
<td>30 ft.</td>
<td>24 ft.</td>
<td>18.5 ft.*</td>
</tr>
</tbody>
</table>

* requires setback variance

The planning commission action will be final action subject to the right of appeal. (City Code §300.07.4)

Staff finds that the applicant’s proposal is reasonable:

1. Reasonableness of Request:

The request for a mudroom addition is reasonable and would enhance the existing structure. The proposed addition would cover and enclose an existing concrete landing outside the entrance of the home. (See A6-A7). The proposed mudroom would extend beyond the existing
concrete landing, but would not encroach closer to the side (northern) property line than the existing landing.

2. Neighborhood Character

The area has a long history of variances and non-conformities due to the early platting of the land (1916). The city has approved 10 variance requests and 3 expansion permit requests on Shores Boulevard alone. (See page A9). Based on aerial images and review of the area, it appears that 17 structures on Shores Boulevard encroach into the required 10-foot side yard and/or the 30-foot aggregate side yard setback. (See A10). If this variance request is approved, the proposed project would not alter the essential character of the neighborhood.

3. Circumstance Unique to the Property:

The subject lot is narrow (48 feet in width) and currently non-conforming with R-1 lot width requirements (80 feet required at right-of-way and 110 feet required at setback). The unique shape of the lot creates a practical difficulty when attempting to configure a home that meets the property owner’s reasonable objectives.

Staff Recommendation

Adopt the resolution on pages A11–A14. This resolution approves a side yard setback and aggregate side yard setback variance for a mudroom.

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

<table>
<thead>
<tr>
<th>Project No.</th>
<th>16011.16a</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property</td>
<td>3130 Shores Boulevard</td>
</tr>
<tr>
<td>Applicant</td>
<td>Donna G. Ruekert</td>
</tr>
<tr>
<td><strong>Surrounding Land Uses</strong></td>
<td>All properties to the north, east, west and south are zoned R-1. The properties to the north, east and south are all guided for low density residential, and improved with single family homes. The property to the west is owned by the City of Minnetonka and is guided for parks.</td>
</tr>
<tr>
<td>Planning</td>
<td>Guide Plan designation: low density residential</td>
</tr>
<tr>
<td></td>
<td>Zoning: R-1</td>
</tr>
<tr>
<td>Site Features</td>
<td>The subject property was platted in its current configuration in 1916. It is 8,981 square feet in size. The property is improved with a 1,056 square foot, one-story home with an attached garage. The home was originally constructed in 1988, it has 12-foot side yard setbacks on the north and south and an aggregate side yard setback of 24 feet (See survey on page A2.)</td>
</tr>
<tr>
<td>Small lot</td>
<td>By City Code §300.10 Subd. 7, properties that are defined as qualifying small lots are allowed lesser setbacks from property lines than “typical” properties. To be defined as a small lot, a property must be less than 15,000 square feet; have been a lot of record prior to February 12, 1966; and must be located in an area in which the average size of residential lots is less than 15,000 square feet. Despite the property’s “smaller” lot size, it does not qualify as a small lot. The property is less than 15,000 square foot lot size and was platted prior to February 12, 1966, but the average lot size of the surrounding neighborhood is approximately 16,800 square feet, exceeding the minimum for the small lot designation.</td>
</tr>
<tr>
<td>McMansion Policy</td>
<td>The McMansion Policy is a tool the city can utilize to ensure new homes or additions requiring variances are consistent with the character of the existing homes within the neighborhood. By policy, the floor area ratio (FAR) of the subject property cannot be greater than the largest FAR of properties within 1,000 feet on the same street, and a distance of 400 feet from the subject property.</td>
</tr>
</tbody>
</table>
The subject property currently has the largest FAR of properties within 400 feet (0.23). However, the mudroom addition would not increase the property’s FAR beyond its current amount, thus complying with the McMansion Policy. (See page A8.)

**Variance Standard**

A variance may be granted from the requirements of the zoning ordinance when: (1) it is in harmony with the general purposes and intent of the ordinance; (2) it is consistent with the comprehensive plan; and (3) when an applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties mean that the applicant proposes to use a property in a reasonable manner not permitted by the ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and, the variance if granted, would not alter the essential character of the locality. (City Code §300.07)

**Natural Resources**

Best management practices must be followed during the course of site preparation and construction activities. This would include installation and maintenance erosion control fencing.

**Pyramid of Discretion**

**Motion Options**

The planning commission has three options:

1. Concur with staff’s recommendation. In this case a motion should be made approving the variance.

2. Disagree with staff’s recommendation. In this case a motion should be made denying the variance. This motion must include a statement as to why the variance is denied.
3. Table the request. In this case a motion should be made to table the item. The motion should be made 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 35 area property owners and has received no comments.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deadline for Decision</td>
<td>July 21, 2016</td>
</tr>
</tbody>
</table>
Location Map

Project: Donna Ruekert
Address: 3130 Shores Blvd
Project No. 16011.16a

This map is for illustrative purposes only.
Proposed Addition

Lot Survey by

TOP OF FLOOR

95.2

Garage Floor

945.7

Lower Most Floor

952.2

No determination has been made as to depth of Sanitary Sewer

Lot 1, Block 12, "Thorpe Bros. Groveland Shores", Hennepin County, Minnesota

The surveyors and/or their agents are not parties to any suit or controversy provided by

We herewith certify that this is a true and correct representation of a survey of the

boundaries of the above described tract and the location of all buildings and re-
dedevelopment units, if any, thereon or said tract.

Surveyed by: 

A2

Donna Ruekert
3130 Shores Blvd
#16011.16a
## Variance and Expansion Permit Requests on Shores Blvd.

<table>
<thead>
<tr>
<th>Year</th>
<th>Property</th>
<th>Request</th>
<th>Type of Request</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>1973</td>
<td>3209 Shores Blvd.</td>
<td>10-foot setback for a home</td>
<td>Variance</td>
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</tr>
<tr>
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<td>3315 Shores Blvd.</td>
<td>10-foot side yard setback</td>
<td>Variance</td>
<td>Approved</td>
</tr>
<tr>
<td>1977</td>
<td>3146 Shores Blvd.</td>
<td>12-foot side yard setback for a home</td>
<td>Variance</td>
<td>Approved</td>
</tr>
<tr>
<td>1978</td>
<td>3113 Shores Blvd.</td>
<td>7-foot side yard setback variance to rebuild a garage after a fire</td>
<td>Variance</td>
<td>Approved</td>
</tr>
<tr>
<td>1978</td>
<td>3224 Shores Blvd.</td>
<td>0-foot side yard setback variance for a garage with carport</td>
<td>Variance</td>
<td>Approved</td>
</tr>
<tr>
<td>1986</td>
<td>3223 Shores Blvd.</td>
<td>1-foot side yard setback variance for a detached garage</td>
<td>Variance</td>
<td>Approved</td>
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<td>1988</td>
<td>3223 Shores Blvd.</td>
<td>5-foot side yard setback variance for a detached garage</td>
<td>Variance</td>
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<td>Variance</td>
<td>Denied</td>
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<td>2002</td>
<td>3129 Shores Blvd.</td>
<td>27-foot aggregate side yard to build a garage</td>
<td>Variance</td>
<td>Approved</td>
</tr>
<tr>
<td>2005</td>
<td>3133 Shores Blvd.</td>
<td>2-foot side yard setback for a detached garage</td>
<td>Variance</td>
<td>Approved</td>
</tr>
<tr>
<td>2010</td>
<td>3323 Shores Blvd.</td>
<td>To construct a dormer addition to add a bedroom (setback unknown)</td>
<td>Expansion Permit</td>
<td>Approved</td>
</tr>
<tr>
<td>2014</td>
<td>3229 Shores Blvd.</td>
<td>5-foot side yard and 28-foot aggregate side yard setbacks to construct an addition to add storage and living space</td>
<td>Expansion Permit</td>
<td>Approved</td>
</tr>
<tr>
<td>2015</td>
<td>3146 Shores Blvd.</td>
<td>22-foot aggregate side yard setback to construct a house addition</td>
<td>Expansion Permit</td>
<td>Approved</td>
</tr>
</tbody>
</table>

8 garages/ 5 homes or additions/ 1 unknown  
11 Variances/3 Expansion Permits  
14 Total Requests  
13 Approved/1 Denied
Side Yard Setback Variances, Expansion Permits, and Non-Conformities on Shores Blvd

Donna Ruekert
3130 Shores Blvd
#16011.16a
Planning Commission Resolution No. 2016-

Resolution approving side yard setback and an aggregate side yard setback variances for a mudroom addition at 3130 Shores Boulevard

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

Section 1. Background.

1.01 Donna Ruekert, property owner, has requested side yard setback and an aggregate side yard setback variances for a mudroom addition at 3130 Shores Boulevard (Project #16011.16a).

1.02 The property is located at 3130 Shores Boulevard. It is legally described as:
Lot 3, Block 13, Thorpe Bros. Groveland Shores, Hennepin County, Minnesota.

1.03 City Code §300.10 Subd. 5(c) requires a minimum sum of side yard setbacks of at least 30 feet, with a minimum setback of 10 feet.

1.04 The applicant is proposing an aggregate side yard setback of 18.5 feet and a side yard setback of 6.5 feet for the mudroom addition.

1.05 Minnesota Statute §462.357 Subd. 6, and City Code §300.07 authorizes the Planning Commission to grant variances.

Section 2. Standards.

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

Section 3. Findings.

3.01 The requested variances would meet the variance standard are outlined in City Code §300.07 Subd. 1.

1. INTENT OF THE ORDINANCE: The proposal is in harmony with the general purposes and intent of the zoning ordinance. The intent of the side yard setback requirement is to provide for consistent building lines within a neighborhood and to provide for adequate separation between homes. The proposed addition would be consistent generally with setbacks of other existing homes within the neighborhood.

2. CONSISTENT WITH COMPREHENSIVE PLAN. The proposed variance is consistent with the comprehensive plan. The guiding principles in the comprehensive guide plan provide for maintaining, preserving and enhancing existing single-family neighborhoods. The requested variance would preserve the residential character of the neighborhood and would provide investment into a property to enhance its use.

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

a) REASONABLENESS AND CHARACTER OF THE LOCALITY: The requested setback variances are reasonable and would not negatively impact the character of the surrounding neighborhood. The addition would:

1) Enhance the functionality of the existing home;

2) Maintain the existing setback of the concrete landing outside of the entrance to the home;

3) Be generally consistent with the setbacks of other existing homes within the neighborhood. Several properties do not meet the current side yard and aggregate side yard setback requirements.

b) UNIQUE CIRCUMSTANCE: The subject lot is narrow and currently non-conforming with R-1 lot width requirements.
There is only an 18-foot wide buildable area on the lot when the aggregate side yard setback rules are applied. The unique shape of the lot creates a practical difficulty for the property owner when attempting to meet their reasonable objectives.

Section 4. Planning Commission Action.

4.01 The planning commission approves the above-described variance based on the findings outlined in section 3 of this resolution. 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, excepted as modified by the conditions below:
   • Site Plan date stamped June 3, 2016.
   • Plans and elevations submitted with application and date stamped June 3, 2016.

2. Prior to issuance of a building permit:
   a) A copy of this resolution must be recorded with Hennepin County.
   b) The applicant must provide a registered land survey that includes the proposed addition.
   c) The applicant must install erosion control fencing as required by staff for inspection and approval. These items must be maintained throughout the course of construction.

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

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on July 21, 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 July 21, 2016.

______________________________
Kathy Leervig, Deputy City Clerk
Brief Description: Variances to allow construction of an attached garage at 3218 Shores Boulevard

Recommendation: Adopt the resolution approving the request

Project No.: 16014.16a

Property: 3218 Shores Boulevard

Applicant: Devon and JoAnne Eklund (property owners)

Proposal: The applicants, Devon and JoAnne Eklund, are proposing to construct an attached garage and living space addition on the side of their home. The proposed attached garage would encroach into the required side yard setback. (See narrative and plans on pages A1-A15.)

Proposal requirements:

This proposal requires:

- Variance: Principal structure encroaching into the required side yard setback.

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Existing</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>South setback (side yard)</td>
<td>10 ft.</td>
<td>31.5</td>
<td>4.25 ft.*</td>
</tr>
</tbody>
</table>

* requires setback variance

Approving Body

The planning commission action will be final action subject to the right of appeal. (City Code §300.07.4)

Staff Analysis: Staff finds that the applicant’s proposal is reasonable:

1. Reasonableness:

   The existing property does not have an attached garage. The residents are currently using a detached garage that is less than two feet from the south (side) property line. (See pages A3-A5). The request for an attached garage is reasonable, would enhance the existing structure, and would be an improvement from the current detached
garage. The proposed addition would also be set back further from the side property line than the existing detached garage. (See page A6).

2. Neighborhood Character:

The area has a long history of variances and non-conformities due to the early platting of the land (1916). The city has approved 10 variance requests and 3 expansion permit requests on Shores Boulevard due to the unique shape of the lots within the area. (See page A14). Based on aerial images and review of the area, it appears that 17 structures on Shores Boulevard encroach into the required 10-foot side yard and/or the required 30-foot aggregate side yard setback. (See page A15). If the applicants’ variance request is approved, the proposed project would not alter the essential character of the neighborhood.

3. Circumstance Unique to the Property:

The absence of an attached garage, current non-conformity of the detached garage, lot shape, and lot size are unique characteristics of the property.

The subject home was originally constructed in 1940 without an attached garage. Currently, the residents of the property use a detached garage on the lot to store their vehicles. The detached garage encroaches within 2 feet of the side (southern) property line. The existing home is centered on the lot maintaining a conforming front (36 feet) and side (north - 29 feet) setbacks.

The subject lot was platted in 1916. The lot is approximately 15,500 square feet in area, which is 6,500 square feet smaller than what is required for lots within the R-1 district. Also, the subject lot is only 100 feet in width. Current R-1 district standards require properties to have at least 110 feet in width at the front yard setback line.

Staff Recommendation

Adopt the resolution on pages A17-A20. This resolution approves a side yard setback variance for an attached garage at 3218 Shores Boulevard.

Originator: Drew Ingvalson, Planner
Meeting of July 21, 2016
Subject: Variance, 3130 Shores Boulevard

Through: Loren Gordon, AICP, City Planner
## Supporting Information

<table>
<thead>
<tr>
<th><strong>Project No.</strong></th>
<th>16014.16a</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Property</strong></td>
<td>3218 Shores Boulevard</td>
</tr>
<tr>
<td><strong>Applicant</strong></td>
<td>Devon and JoAnne Eklund</td>
</tr>
<tr>
<td><strong>Surrounding Land Uses</strong></td>
<td>All properties to the north, east, west and south are zoned R-1. The properties to the north, east and south are all guided for low density residential, and improved with single family homes. The property to the west is owned by the City of Minnetonka and is guided for parks.</td>
</tr>
</tbody>
</table>
| **Planning**    | Guide Plan designation: low density residential  
Zoning: R-1 |
| **Small lot**   | By City Code §300.10 Subd. 7, properties that are defined as qualifying small lots are allowed lesser setbacks from property lines than “typical” properties. To be defined as a small lot, a property must be less than 15,000 square feet; have been a lot of record prior to February 12, 1966; and must be located in an area in which the average size of residential lots is less than 15,000 square feet.  
Despite the property’s “smaller” lot size, it does not qualify as a small lot. The property was platted prior to February 12, 1966, but the property exceeds the 15,000 square foot lot size and the average lot size of lots the surrounding neighborhood is approximately 16,700 square feet, exceeding the minimum for the small lot designation. |
| **Site Features** | The subject property was platted in its current configuration in 1916; it is 15,538 square feet in size. The property is improved with a 1,288 square foot, two-story building that was originally constructed in 1940. The existing building meets all setback requirements. However, there is a 612 square foot, non-conforming, detached garage that is setback 1.7 feet from the side yard property line and approximately 9 feet from the rear property line. (See existing survey on page A3-A5). |
| **McMansion Policy** | The McMansion Policy is a tool the city can utilize to ensure new homes or additions requiring variances are consistent with the character of the existing homes within the neighborhood. By policy, the floor area ratio (FAR) of the subject property cannot be greater than the largest FAR of properties within 1,000 feet on |
the same street, and a distance of 400 feet from the subject property.

As proposed, the property would comply with the McMansion Policy. Currently, the property’s FAR is 0.09. The proposed garage and addition would increase the FAR to 0.18, still significantly below the largest FAR within 400 feet which is 0.23. (See page A13).

### Variance Standard

A variance may be granted from the requirements of the zoning ordinance when: (1) it is in harmony with the general purposes and intent of the ordinance; (2) it is consistent with the comprehensive plan; and (3) when an applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties mean that the applicant proposes to use a property in a reasonable manner not permitted by the ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and, the variance if granted, would not alter the essential character of the locality. (City Code §300.07)

### Natural Resources

There are several large sugar maple trees located on the subject lot. The applicants are proposing to remove a 13-inch and a 17-inch maple tree, which would need to be removed with any addition south of the subject home. The applicants are planning to preserve a 9-inch maple tree just north of the driveway. Additionally, the applicants are hoping to preserve a 26-inch maple tree in the rear yard; however, this tree is damaged and may not survive long term due to natural causes or the proposed construction. (See pages A3 and A5-A7).

### Pyramid of Discretion

![Pyramid of Discretion Diagram]

This proposal
### Natural Resources
Best management practices must be followed during the course of site preparation and construction activities. This would include installation and maintenance erosion control fencing.

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

1. Concur with staff’s recommendation. In this case a motion should be made approving the variance.

2. Disagree with staff’s recommendation. In this case a motion should be made denying the variance. This motion must include a statement as to why the request is denied.

3. Table the request. In this case a motion should be made to table the item. The motion should be made 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 34 area property owners and has received no comments.

### Deadline for Decision
July 21, 2016
Location Map

Project: Devon & JoAnne Eklund
Address: 3218 Shores Blvd
Project No. 16014.16a

This map is for illustrative purposes only.
All plans, designs, plans and specifications are the property of The Landschute Group, Inc. This copyrighted plan is an instrument of service to be used only by Landschute to construct the project for its client. Any other use is unauthorized and strictly prohibited without Landschute’s express written permission and subject to copyright protection under Section 102 of the Copyright Act, 17 U.S.C., as amended (December 2, 1990) known as the Architectural Works Copyright Protection Act and other Federal Statutes, in addition to the arrangement of space and details of the design. Under such protection, unauthorized use of these plans, or works resulting from these plans, can result in the termination and loss of such protection as well as fines up to $500.00 per offense.
### Variance and Expansion Permit Requests on Shores Blvd.

<table>
<thead>
<tr>
<th>Year</th>
<th>Property</th>
<th>Request</th>
<th>Type of Request</th>
<th>Result</th>
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<td>3224 Shores Blvd.</td>
<td>0-foot side yard setback variance for a garage with carport</td>
<td>Variance</td>
<td>Approved</td>
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<td>1986</td>
<td>3223 Shores Blvd.</td>
<td>1-foot side yard setback variance for a detached garage</td>
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<td>Approved</td>
</tr>
<tr>
<td>1988</td>
<td>3223 Shores Blvd.</td>
<td>5-foot side yard setback variance for a detached garage</td>
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<td>Approved</td>
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<td>5-foot side yard setback variance for a garage</td>
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<td>2001</td>
<td>3225 Shores Blvd.</td>
<td>7-foot side yard setback variance to build a garage</td>
<td>Variance</td>
<td>Denied</td>
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<td>3129 Shores Blvd.</td>
<td>27-foot aggregate side yard to build a garage</td>
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<td>2014</td>
<td>3229 Shores Blvd.</td>
<td>5-foot side yard and 28-foot aggregate side yard setbacks to construct an addition to add storage and living space</td>
<td>Expansion Permit</td>
<td>Approved</td>
</tr>
<tr>
<td>2015</td>
<td>3146 Shores Blvd.</td>
<td>22-foot aggregate side yard setback to construct a house addition</td>
<td>Expansion Permit</td>
<td>Approved</td>
</tr>
</tbody>
</table>

8 garages/ 5 homes or additions/ 1 unknown

11 Variances/3 Expansion Permits

14 Total Requests
13 Approved/1 Denied
Side Yard Setback Variances, Expansion Permits, and Non-Conformities on Shores Blvd.
Devon Eklund

Describe why the proposed use is reasonable:

My wife and I are in our late 50’s
Attached garage: Safety (not having to walk to and from the detached garage will be much safer for us, in addition to the snow and ice in the winter.
Neighbor to the south supports the fact of a better view without the current garage.
The proposed garage will be farther away from the south property line.
We will be saving 3 trees.
The proposed garage allows us to keep the current driveway as it is.
If approved, we will remove the existing garage.

Describe: circumstances unique to the property, why the need for the variance was not caused by the property owner and why the need is not solely based on economic considerations:

We have a preexisting garage that is currently 1’10” from property line with an asphalt driveway connecting it to the street
We have adult trees along side of the current driveway
When the existing garage was built it meet the setback requirements at that time.
We have a very large asphalt parking area that we will no longer have to maintain.

Describe why the variance would not alter the essential character of the neighborhood:

Our neighborhood was formed back in the early 1900’s. Thorp Brothers. It was carved out of a piece of land and the size of lots varied from vary small to putting two lots together. The neighborhood consisted of vary small lots with little distance between property line to large lots with large amount of setbacks. We believe that moving the garage up and attaching it to the house won’t change the look of our house from the street. We are moving the garage forward so we can safely get to our cars. Our current garage stands at 1’10” from the property line. Our proposed garage would be 4’3” from the property line.
Planning Commission Resolution No. 2016-
Resolution approving a side yard setback variance for an attached garage at 3218 Shores Boulevard

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

Section 1. Background.

1.01 Devon and JoAnne Eklund, property owners, have requested a side yard setback variance for an attached garage addition. (Project #16014.16a).

1.02 The property is located at 3218 Shores Boulevard. It is legally described as:

Lots 8 and 9, Block 13, Thorpe Bros. Groveland Shores, Hennepin County, Minnesota.

1.03 City Code §300.10 Subd. 5(c) requires a minimum side yard setback of 10 feet.

1.04 The applicants are proposing a side yard setback of 4.25 feet for the attached garage addition.

1.05 Minnesota Statute §462.357 Subd. 6, and City Code §300.07 authorizes the Planning Commission to grant variances.

Section 2. Standards.

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

3.01 The proposal would meet the variance standard as outlined in City Code §300.07 Subd. 1:

1. INTENT OF THE ORDINANCE. The proposal is in harmony with the general purposes and intent of the zoning ordinance. The intent of the side yard setback requirement is to provide for consistent building lines within a neighborhood and to provide for adequate separation between homes. Several homes on the subject street do not meet the required side yard setback requirements due to being constructed prior to the city ordinance or granted a variance by the city. The proposed addition would be generally consistent with setbacks of the other existing homes within the neighborhood.

2. CONSISTENT WITH COMPREHENSIVE PLAN. The proposed variance is consistent with the comprehensive plan. The guiding principles in the comprehensive guide plan provide for maintaining, preserving and enhancing existing single-family neighborhoods. The requested variance would preserve the residential character of the neighborhood and would provide investment into a property to enhance its use.

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

a) REASONABLENESS AND CHARACTER OF THE LOCALITY: The proposed setback variance is reasonable and would not negatively impact the character of the surrounding neighborhood. The addition would:

1) Enhance the use of the existing home;

2) Be a smaller non-conformity than the existing detached garage; and

3) Be generally consistent with the setbacks of other existing homes within the neighborhood. Several properties do not meet the current side yard setback
requirements, have similar setbacks, and have been granted variances for side yard setbacks.

b) UNIQUE CIRCUMSTANCE: The absence of an attached garage, current non-conformity of the detached garage, lot shape, and lot size are unique characteristics of the property.

1) The subject home was originally constructed in 1940 without an attached garage. Currently, the residents of the property use a detached garage to store their vehicles.

2) The detached garage encroaches within 2 feet of the side (southern) property line.

3) The lot is approximately 15,500 square feet in area, which is 6,500 square feet smaller than what is required for lots within the R-1 district.

4) The subject lot is only 100 feet in width. Current R-1 district standards require properties to have at least 110 feet in width at the front yard setback line.

Section 4. Planning Commission Action.

4.01 The planning commission approves the above-described variance based on the findings outlined in section 3 of this resolution. 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 June 20, 2016.
   - Plans and elevations submitted with application and date stamped July 20, 2016.

2. Prior to issuance of a building permit:
   a) A copy of this resolution must be recorded with Hennepin County.
   b) The applicant must provide a registered land survey showing the location of the addition.
c) The applicant must install erosion control fencing as required by staff for inspection and approval. These items must be maintained throughout the course of construction.

3. The existing detached garage must be demolished prior to the final building inspection of the addition.

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

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on July 21, 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 July 21, 2016.

____________________________
Kathy Leervig, Deputy City Clerk
### Brief Description
Conditional use permit for telecommunications facilities at 12475 Marion Lane West

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

### Project No.
16008.16a

### Property
12475 Marion Lane West (JKT Properties II LLC)

### Applicant
US Internet

### Proposal
US Internet has recently received cable television franchise rights to serve residents within the City of Minneapolis. US Internet requires three (3) satellite dish antennas to receive cable television data from cable provider satellites and is now requesting a conditional use permit for construction and operation of these dishes. (See pages A1-A12).

### Ordinance
The intent of the Telecommunications Ordinance is to accommodate the growth of wireless communication systems within the city, while protecting the public against any adverse impacts on public welfare or on the city's resources. The city's current ordinance favors the location of antennas on existing support structures – such as existing towers, water towers, and high density and non-residential buildings – over new free-standing stand-alone towers. However, the city ordinance recognizes that environmental and locational challenges can prevent the placement of antennas on such existing structures. As such, the ordinance establishes additional standards for free-standing structures to minimize their visual impact on the community. By ordinance, all free-standing towers require a conditional use permit regardless of the underlying zoning.

### Proposed Dishes
The proposed satellite dishes would be located on the south side of the existing building at 12475 Marion Lane West. Each dish would be attached to a mast that would, in turn, be anchored to a concrete base and attached to the existing building for stability. The total height of the dishes and mast would be approximately 26 feet. Given this, the dishes would be located above 12 feet above the existing 14-foot tall building. (See page A6). Each dish
would be roughly 12 feet in diameter. The proposed dishes would be immobile and all cabling would be routed into the existing building on the site.

**Alternative Locations**

The applicant considered and reviewed three alternative locations for the proposed dishes.

First, the applicant considered locating the dishes on top of the existing building. Upon review, the applicant found that the existing roof structure could not support the weight of the proposed dishes.

Second, the applicant considered locating the dishes at grade in a parking lot across the street from the subject site that is owned by US Internet (1100 City View Drive). This location was not further considered by the applicant because it would be very difficult to mitigate visual impacts and there were safety and security concerns regarding the location.

Third, the applicant considered locating the dishes at grade on the south side of the subject property. This location would require the removal of 3-4 trees on an adjacent property (Erik’s Bikes and Boards) to access an acceptable signal. The removal of these trees would create additional visual impacts. This location would also reduce space on the property, would create a safety hazard for vehicles in the lot, and would create security concerns for the applicant.

**Staff Analysis**

Staff finds the applicant’s proposal is reasonable:

1. The proposed telecommunication dishes would meet the general and specific conditional use permit standards for telecommunication facilities. Those standards are included in the “Supporting Information” section of this report.

2. The telecommunication ordinance specifically allows for 75-foot telecommunication towers and antennas. The applicant is proposing a 26-foot tall telecommunication masts with dishes. (See page A6).

3. The proposed dishes would be located in a well buffered location. (See pages A9-A11). The subject building, existing buildings, vegetation, and changes in elevation would assist in blocking the view of the structure from the public right-of-way and adjacent buildings. Staff finds that
the proposed structure will have minimal visual impacts on the surrounding area.

Staff Recommendation

Recommend that the city council adopt the resolution on pages A13-A22. This resolution approves a conditional use permit for 26-foot tall telecommunications facilities on the property at 12475 Marion Road West.

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

| **Surrounding** |  
|-----------------|-----------------
| Northerly:      | JKT Properties LLC (parking lot) and The Cliffs LTD Partnership (The Cliffs apartments); both zoned PID |

| **Land Uses** |  
|-----------------|-----------------
| Easterly:       | JKT Properties (US Internet and other tenants); zoned PID |
| Southerly:      | LNR Properties (Fireside Hearth and Home); zoned PID |
| Westerly:       | LNR Properties (Erik’s Bikes and Boards); zoned PID |

| **Planning** |  
|-----------------|-----------------
| Guide Plan designation: | High Density Residential |
| Zoning: | Planned I-394 District (PID) |

| **Federal Law** |  
|-----------------|-----------------
| Under federal law, communities may not: (1) discriminate between telecommunications providers; (2) ban the construction, modification, or placement of facilities in a particular area; or (3) regulate the placement, construction, or modification of facilities based on the environmental effects of radio frequency emissions. |

| **Administrative Review** |  
|-----------------|-----------------
| By ordinance, telecommunication facilities can be reviewed and approved administratively when the facility would be located on: (1) a high-voltage transmission tower; or (2) on an antenna support structure for which a CUP has already been approved. In addition, the ordinance allows administrative review and approval of a one-time 15-foot extension of an existing facility. |

| **CUP Standards General** |  
|-----------------|-----------------
| The proposed telecommunications facilities would meet the general conditional use permit standards as outlined in City Code §300.34 Subd.5: |

1. **Vertical projection.** Antennas mounted on an antenna support structure must not extend more than 15 feet above the height of the structure to which they are attached. Wall or facade-mounted antennas may not extend above the cornice line and must be constructed of a material or color that matches the exterior of the building. 

| **Finding:** | This condition is not applicable to the current proposal. This condition applies to antennas mounted onto an |
existing antenna support structure on atop a building. Nevertheless, the dish structures would extend 12 feet above the existing building.

2. **Horizontal projection.** Antennas must not project out from the side of the antenna support structure or tower, unless it is physically impossible to locate the antennas within the structure or tower, in which case they must not project out by more than three feet by more than three feet.

   **Finding:** This condition applies to antennas mounted on a support structure, such as a building or monopole, and is not applicable to the current proposal.

3. **Setbacks.** A tower adjacent to an R-1, R-2, or R-3 zoning district must meet the building setback that is established for the district where it is to be located, but only from the residential zone. This setback is not required for a tower in a right-of-way. The city may waive this setback requirement if necessary to implement stealth design techniques or if the residentially zoned property is public or institutional property. An accessory equipment cabinet that is greater than 120 square feet in size must be at least ten feet from all property lines.

   **Finding:** The proposed telecommunication tower would be located on a Planned I-394 District zoned property surrounded by similarly zoned properties.

4. **Height.** The height of an antenna and tower must be the minimum necessary to meet the applicant’s coverage and capacity needs, as verified by an electrical engineer or other appropriate professional. The city council may waive this requirement if additional height is appropriate for co-location opportunities.

   **Finding:** The proposed project was reviewed by OWL Engineering – the city’s telecommunication’s consultant. The proposed 26-foot height of the telecommunication structures is reasonable.

5. **Exterior surfaces.** Towers and antennas must be painted a non-contrasting color consistent with the surrounding area such as: blue, gray, brown, or silver, or have a galvanized finish to reduce visual impact. Metal towers must be constructed of, or treated with, corrosion-resistant material.
Finding: A condition of approval is included requiring that the applicant submit color options for review and approval of city staff.

6. Ground-mounted equipment. Ground-mounted accessory equipment or buildings must be architecturally designed to blend in with the surrounding environment, including the principal structure, or must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood. No more than one accessory building is permitted for each tower. Additional space needed for the co-location of antennas must be added to an existing accessory building in a manner to make it appear as one building. Design of the building or equipment cabinet, screening and landscaping are subject to a site plan review under section 300.27 of this code.

Finding: The applicant is not proposing ground-mounted accessory equipment or buildings. All support equipment would be located within the existing building.

7. Construction. Telecommunications facilities must be in compliance with all building and electrical code requirements. A tower must be designed and certified by an engineer to be structurally sound and in conformance with the building code. Structural design, mounting and installation of the telecommunications facilities must be in compliance with the manufacturer’s specifications.

Finding: The applicant is required to obtain all applicable building and electrical permits prior to the installation of the masts and dishes. Compliance with building and electrical code requirements would be verified through the permit review process.

8. Co-location opportunity. If a new tower over 60 feet in height is to be constructed:

a) The tower must be designed to accommodate both the applicant’s antennas and antennas for at least one additional comparable user;

b) the tower must be designed to accept antennas mounted at additional heights;
c) the applicant, the tower owner, the landowner, and their
successors must allow the shared use of the tower if an
additional user agrees in writing to meet reasonable terms
and conditions for shared use, must submit a dispute over
the potential terms and conditions to binding arbitration,
and must sign the conditional use permit agreeing to these
requirements. The city council may waive these co-
location requirements if necessary to implement stealth
design.

**Finding:** This condition is not applicable. The proposed masts
and dish height is 26 feet.

9. **Exterior Message.** No advertising message or identification
sign larger than two square feet may be affixed to the
telecommunications facilities.

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

10. **Lighting.** Telecommunications facilities may not be artificially
illuminated unless required by law or by a governmental
agency to protect the public’s health and safety or unless
necessary to facilitate service to ground-mounted equipment.

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

11. **Rights-of-way.** All telecommunication facilities in a public
right-of-way must comply with the following:

a) Telecommunications facilities located within a right-of-way
must not negatively impact the public health, safety and
welfare, interfere with the safety and convenience of
ordinary travel over the right-of-way, or otherwise
negatively impact the right-of-way or its users. In
determining compliance with this standard, the city may
consider one or more of the following factors:

1) the extent to which right-of-way space where the permit
is sought is available, including the placement of the
ground equipment;
2) the potential demands for the particular space in the
right-of-way;
3) the availability of other locations in a right-of-way that
would have less public impact;
4) the extent to which the placement of the telecommunications facilities minimizes impacts on adjacent property; and
5) the applicability of ordinances or other regulations of the right-of-way that affect location of equipment in the right-of-way;

b) The facility, including attachments other than lighting rods, may not exceed 60 feet in height measured from grade in residential and commercial zones, or 75 feet in industrial zones. The city council may waive this height standard for a facility used wholly or partially for essential public services, such as public safety;

c) The support structure for the antennas cannot exceed the diameter of the closest public utility pole by more than 50 percent, but in no event may exceed 18 inches in diameter;

d) Antennas and other components must not project out from the side of the support structure by more than two feet in residential and commercial districts or three feet in industrial districts;

e) The support structure for the antennas must match the materials and color of the closest public utility structures in the right-of-way, if required by the city planner;

f) Ground mounted equipment will be allowed only if:
1) the equipment will not disrupt traffic or pedestrian circulation;
2) the equipment will not create a safety hazard;
3) the location of the equipment minimizes impacts on adjacent property; and
4) the equipment will not adversely impact the health, safety, or welfare of the community;

g) Ground mounted equipment must be:
1) set back a minimum of 10 feet from the existing or planned edge of the pavement;
2) separated from a sidewalk or trail by a minimum of 3 feet;
3) set back a minimum of 50 feet from the nearest intersection right-of-way line;
4) set back a minimum of 50 feet from the nearest principal residential structure;
5) separated from the nearest ground mounted telecommunication facilities in a right-of-way by at least 330 feet;
6) no larger than 3 feet in height above grade and 27 cubic feet in size in residential districts;
7) no larger than 5 feet in height above grade and 81 cubic feet in size in non-residential districts; and
8) screened by vegetative or other screening compatible with the surrounding area if deemed necessary by the city planner;

h) The antennas cannot interfere with public safety communications;

i) The telecommunication facility must be removed and relocated when the road authority requires the removal and relocation of public utility structures; and

j) Telecommunications facilities within a right-of-way must receive a right-of-way permit from the appropriate road authority

Finding: The proposed facilities would not be located in/on right of-way.

12. On-site employees: There must be no employees on the site on a permanent basis. Occasional or temporary repair and service activities are allowed.

Finding: No permanent employees are proposed. However, this has been included as a condition of approval.

13. Landowner authorization. When applicable, the applicant must provide written authorization from the property owner. The property owner must sign the conditional use permit agreeing to the permit conditions, agreeing to remove the telecommunication facilities when they are unused, obsolete, or become hazardous, and agreeing to the city’s right to assess removal costs under paragraph (n) below.

Finding: This has been included as a condition of approval.

14. Removal. Obsolete telecommunications facilities must be removed within 90 days after cessation of their use at the site,
unless an exemption is granted by the city council. Unused telecommunications facilities and all related equipment must be removed within one year after cessation of operation at the site, unless an exemption is granted by the city council. Telecommunications facilities and related equipment that have become hazardous must be removed or made not hazardous within 30 days after written notice to the current owner and to any separate landowner, unless an exemption is granted by the city council. Notice may be made to the address listed in the application, unless another one has subsequently been provided, and to the taxpayer of the property listed in the Hennepin county tax records. Telecommunications facilities and all related equipment that are not removed within this time limit are declared to be public nuisances and may be removed by the city. The city may assess its costs of removal against the property.

Finding: This has been included as a condition of approval.

15. Historic Places. No telecommunication tower may be located with 400 feet of the boundary of any property that contains a facility or structure listed on the national register of historic places. Antennas may be located in this restricted area only if they are hidden from public view.

Finding: Staff is unaware of any facility or structure within 400 feet of the proposed antennas that is listed on the national register of historic places.

CUP Standards Specific

The proposal would meet the specific conditional use permit standards as outlined in City Code §300.34 Subd.4(b)(1):

1. Telecommunication facilities may be located only on public or institutional property: in R-1 and R-2 residential districts and on property guided for low-density residential in the Planned I-394 District subject the standards listed in subparagraphs b through e which follow.

Finding: The proposed facilities would be located on Planned I-394 District.

2. An applicant must provide an analysis prepared by a radio or electrical engineer demonstrating that the proposed location of the antennas is necessary to meet the coverage and capacity needs of its system and that there is no existing antenna support structure that could adequately serve the
area if antennas were placed on it. The applicant must also pay the reasonable expenses of a radio or electrical engineer retained by the city, at its option, to review this analysis;

**Finding:** The information supplied by the applicant was reviewed by the city’s telecommunications consultant. Since the project does not include any transmitting frequencies there is no potential for the system to cause any interference to any city or public safety systems. The proposed dishes are required for receiving cable television data from satellites.

3. A telecommunications facility must use as many stealth design techniques as reasonably possible. Economic considerations alone are not justification for failing to provide stealth design techniques. The city council may require that a different location be used if it would result in less public visibility, is available, and would meet the applicant’s reasonable capacity and coverage needs; and

**Finding:** This standard pertains primarily to monopole structures. From staff’s perspective, the applicant is proposing stealth design dish structures and masts. The dishes do not contain any unnecessary or non-symmetric protrusions or extensions.

4. A telecommunications tower and antennas, including attachments other than lighting rods, must not exceed 75 feet in height, measured from grade. The city council may increase this height to 90 feet if the increase in height would not have a significant impact on surrounding properties because of proximity, topography or screening by trees or buildings or would accommodate two or more users. The city council may waive this height standard for a tower used wholly or partially for essential public services, such as public safety.

**Finding:** The proposed masts and dishes would be a total of 26 feet in height.

**Approving Body**

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

The planning commission has three options:

1. Concur with staff’s recommendation. In this case, a motion should be made recommending the city council approve 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 the city council deny the proposal. The motion should include findings for denial.

3. Table the request. In this case a 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 253 area property owners and received one comment from a representative from 12300 Marion Lane, The Cliffs Apartments (see page A23).

Deadline for Decision

July 21, 2016
Location Map

US Internet Corp
Address: 12475 Marion Lane W
Project No. 16008.16a
PARCEL ID: 0211722230029
OWNER NAME: Wagener Properties Llc
PARCEL ADDRESS: 12475 Marion La W, Minnetonka MN 55305
PROPERTY TYPE: Commercial-Preferred
HOMESTEAD: Non-Homestead
PARCEL AREA: 0.41 acres, 17,793 sq ft
A-T-B: Torrens
MARKET VALUE: $450,000
TAX TOTAL: $15,685.48
SALE PRICE: $512,500
SALE DATA: 06/2010
SALE CODE:

Comments:

This data (i) is furnished 'AS IS' with no representation as to completeness or accuracy; (ii) is furnished with no warranty of any kind; and (iii) is not suitable for legal, engineering, or surveying purposes. Hennepin County shall not be liable for any damage, injury or loss resulting from this data.

COPYRIGHT © HENNEPIN COUNTY 2016
US Internet (USI) has retained WJE to analyze and design the support structure for three satellite dishes which will be added to their property as a part of a larger project to distribute television over broadband. The purpose of this memorandum is to convey the simulated views of the three satellite dishes.

The three satellite dishes will be installed on the south side of a utility building owned by US Internet and be supported using posts which have independent foundations but use the existing building for stability. The existing utility building is constructed with exterior CMU walls and is 13 feet tall. The satellite dishes are 3.7 meters in diameter and will be supported at most 20 feet above the surrounding grade.

The following renderings were created using a schematic, to-scale model created in Sketchup and subsequently imported into Google Earth using the terrain setting to approximate the size and shape of obstructions such as trees, buildings, and signs which exist proximate to the site.
1.) Please explain more about your proposed project/ the communication process. Explain where the signal is coming from, where it is going, etc.
   USI will be building an Earth Base Station for receiving the satellite signals of TV programming from the major network content providers. This will allow USI to act as a cable TV provider. USI is receiving standard CATV signals from the C Band frequency range, as all CATV providers (Comcast, Mediacom...) around the country are required to receive the signals from the programmers (HBO, Turner Networks, ESPN, etc.), as this is the primary method of transport. The satellite signal is received by the dishes and is then transported over standard coaxial cable to the USI datacenter where it is decrypted and unscrambled. Once that process is complete the individual channels are transmitted via our fiber optic network to our customer’s homes in much the same way current cable providers deliver the signal over their coaxial cable network.

2.) Explain why large dishes are required for your project. Why can you not use smaller receivers?
   For C band frequency range, the 3.7m antennas are required for the frequency range, and to help protect the signals from weather related issues. This is a different frequency range than DBS (DirecTV or Dish), and is standard at any CATV Headend throughout the USA. Because the signal USI is receiving is the parent signal for all 600+ channels, any degradation in the signal quality will effect all the subscribers of our TV service. The larger dishes and specific frequency allow for a much higher quality of signal. This allows us to mitigate weather issues and provide a true 4K Ultra High Definition signal to the end users.

3.) The city will also need a $6,000 escrow which will be used for an interference study (this must be submitted prior to the planning commission meeting).
   Understood. However, the proposed dishes are receive only, and do not transmit any data. The location will be registered with the FCC as a TVRO (Television Receive Only site).

4.) Please send an additional rendering of the proposed dishes that is closer to the building and shows how far the structure exceeds the height of the building.
   Please see attachments. The proposed dishes will extend 5 feet above the building structure. This puts them at or slightly below the roof line of the adjacent building to the East.

Please let me know if you require any additional info.

Jason
US Internet
Rooftop 3.7M Satellite Antenna Layout
A6

US Internet Corp.
12475 Marion Lane West
#16008.16a
Simulated view from the roof of Ridgedale Mall looking north.

Simulated view from the top floor of The Ridge apartments looking east.
Simulated view from the top floor of the Cliffs of Minnetonka apartments looking south.

Simulated view looking west. The satellite antennas are approximately the height of the adjacent office building.
View from Wayzata Boulevard outside Eric’s Bike Shop looking north. Existing trees provide cover from view from Wayzata Boulevard.

View from Wayzata Boulevard outside Eric’s Bike Shop looking north.
July 3, 2016

City of Minnetonka
Ms. Susan M. Thomas, Principal Planner
14600 Minnetonka Blvd.
Minnetonka, MN 55435

Dear Ms. Thomas:

We have completed a preliminary review for the US Internet request for satellite antennas. The proposed location is 12474 Marion Lane W and will include satellite receiving antennas. Since the project does not include any transmitting frequencies there is no potential for the system to cause any interference to any City or Public safety systems.

However, there should be a condition on the permit/authorization to advise the city if any transmitting systems are planned to be installed in the future an interference study can be performed, if required.

If you have any questions in this matter please contact me.

Sincerely,

Garrett G. Lysiak, P.E.
Resolution No. 2016-
Resolution approving a conditional use permit for telecommunications facilities at 12475 Marion Lane West

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

Section 1. Background.

1.01 US Internet, has requested a conditional use permit for 26-foot tall telecommunications facilities to be located at 12475 Marion Lane West.

1.02 The property is located at 12475 Marion Lane West. It is legally described as:

That part of lot 9 lying North of the South 190 feet thereof except road, Sunset Hill, Hennepin County, Minnesota.

1.03 On July 21, 2016, the planning commission held a hearing on the request. The applicant was provided the opportunity to present information to the planning commission. The planning commission considered all of the comments received, the staff report, and the telecommunications consultant report, all of which are incorporated by reference into this resolution. The commission recommended that the city council approve the conditional use permit.

Section 2. General Standards.

2.01 By 47 US Code §332(c)7, local governments have authority over the placement, construction, and modification of personal wireless service facilities, except local government may not:

1. Unreasonably discriminate among providers of functionally equivalent services;

2. Prohibit or have the effect of prohibiting the provision of personal
wireless services; and

3. Regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions.

2.02 City Code §300.34 Subd.5 lists the following general standards that must be met for granting a conditional use permit:

1. **Vertical projection.** Antennas mounted on an antenna support structure must not extend more than 15 feet above the height of the structure to which they are attached. Wall or facade-mounted antennas may not extend above the cornice line and must be constructed of a material or color that matches the exterior of the building.

2. **Horizontal projection.** Antennas must not project out from the side of the antenna support structure or tower, unless it is physically impossible to locate the antennas within the structure or tower, in which case they must not project out by more than three feet.

3. **Setbacks.** A tower adjacent to an R-1, R-2, or R-3 zoning district must meet the building setback that is established for the district where it is to be located, but only from the residential zone. This setback is not required for a tower in a right-of-way. The city may waive this setback requirement if necessary to implement stealth design techniques or if the residentially zoned property is public or institutional property. An accessory equipment cabinet that is greater than 120 square feet in size must be at least ten feet from all property lines.

4. **Height.** The height of an antenna and tower must be the minimum necessary to meet the applicant’s coverage and capacity needs, as verified by an electrical engineer or other appropriate professional. The city council may waive this requirement if additional height is appropriate for co-location opportunities.

5. **Exterior surfaces.** Towers and antennas must be painted a non-contrasting color consistent with the surrounding area such as: blue, gray, brown, or silver, or have a galvanized finish to reduce visual impact. Metal towers must be constructed of, or treated with, corrosion-resistant material.
6. **Ground-mounted equipment.** Ground-mounted accessory equipment or buildings must be architecturally designed to blend in with the surrounding environment, including the principal structure, or must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood. No more than one accessory building is permitted for each tower. Additional space needed for the co-location of antennas must be added to an existing accessory building in a manner to make it appear as one building. Design of the building or equipment cabinet, screening and landscaping are subject to a site plan review under section 300.27 of this code.

7. **Construction.** Telecommunications facilities must be in compliance with all building and electrical code requirements. A tower must be designed and certified by an engineer to be structurally sound and in conformance with the building code. Structural design, mounting and installation of the telecommunications facilities must be in compliance with the manufacturer’s specifications.

8. **Co-location opportunity.** If a new tower over 60 feet in height is to be constructed:

   a) The tower must be designed to accommodate both the applicant’s antennas and antennas for at least one additional comparable user;

   b) the tower must be designed to accept antennas mounted at additional heights;

   c) the applicant, the tower owner, the landowner, and their successors must allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use, must submit a dispute over the potential terms and conditions to binding arbitration, and must sign the conditional use permit agreeing to these requirements. The city council may waive these co-location requirements if necessary to implement stealth design.

9. **Exterior Message.** No advertising message or identification sign larger than two square feet may be affixed to the telecommunications facilities.
10. **Lighting.** Telecommunications facilities may not be artificially illuminated unless required by law or by a governmental agency to protect the public’s health and safety or unless necessary to facilitate service to ground-mounted equipment.

11. **Rights-of-way.** All telecommunication facilities in a public right-of-way must comply with the following:

   a) Telecommunications facilities located within a right-of-way must not negatively impact the public health, safety and welfare, interfere with the safety and convenience of ordinary travel over the right-of-way, or otherwise negatively impact the right-of-way or its users. In determining compliance with this standard, the city may consider one or more of the following factors:

      1) the extent to which right-of-way space where the permit is sought is available, including the placement of the ground equipment;
      2) the potential demands for the particular space in the right-of-way;
      3) the availability of other locations in a right-of-way that would have less public impact;
      4) the extent to which the placement of the telecommunications facilities minimizes impacts on adjacent property; and
      5) the applicability of ordinances or other regulations of the right-of-way that affect location of equipment in the right-of-way;

   b) The facility, including attachments other than lighting rods, may not exceed 60 feet in height measured from grade in residential and commercial zones, or 75 feet in industrial zones. The city council may waive this height standard for a facility used wholly or partially for essential public services, such as public safety;

   c) The support structure for the antennas cannot exceed the diameter of the closest public utility pole by more than 50 percent, but in no event may exceed 18 inches in diameter;

   d) Antennas and other components must not project out from the side of the support structure by more than two feet in
residential and commercial districts or three feet in industrial districts;

e) The support structure for the antennas must match the materials and color of the closest public utility structures in the right-of-way, if required by the city planner;

f) Ground mounted equipment will be allowed only if:

1) the equipment will not disrupt traffic or pedestrian circulation;
2) the equipment will not create a safety hazard;
3) the location of the equipment minimizes impacts on adjacent property; and
4) The equipment will not adversely impact the health, safety, or welfare of the community;

g) Ground mounted equipment must be:

1) set back a minimum of 10 feet from the existing or planned edge of the pavement;
2) separated from a sidewalk or trail by a minimum of 3 feet;
3) set back a minimum of 50 feet from the nearest intersection right-of-way line;
4) set back a minimum of 50 feet from the nearest principal residential structure;
5) separated from the nearest ground mounted telecommunication facilities in a right-of-way by at least 330 feet;
6) no larger than 3 feet in height above grade and 27 cubic feet in size in residential districts;
7) no larger than 5 feet in height above grade and 81 cubic feet in size in non-residential districts; and
8) screened by vegetative or other screening compatible with the surrounding area if deemed necessary by the city planner;

h) The antennas cannot interfere with public safety communications;

i) The telecommunication facility must be removed and relocated when the road authority requires the removal and relocation of public utility structures; and
j) Telecommunications facilities within a right-of-way must receive a right-of-way permit from the appropriate road authority.

12. On-site employees. There must be no employees on the site on a permanent basis. Occasional or temporary repair and service activities are allowed.

13. Landowner authorization. When applicable, the applicant must provide written authorization from the property owner. The property owner must sign the conditional use permit agreeing to the permit conditions, agreeing to remove the telecommunication facilities when they are unused, obsolete, or become hazardous, and agreeing to the city’s right to assess removal costs under this ordinance.

14. Removal. Obsolete telecommunications facilities must be removed within 90 days after cessation of their use at the site, unless an exemption is granted by the city council. Unused telecommunications facilities and all related equipment must be removed within one year after cessation of operation at the site, unless an exemption is granted by the city council. Telecommunications facilities and related equipment that have become hazardous must be removed or made not hazardous within 30 days after written notice to the current owner and to any separate landowner, unless an exemption is granted by the city council. Notice may be made to the address listed in the application, unless another one has subsequently been provided, and to the taxpayer of the property listed in the Hennepin county tax records. Telecommunications facilities and all related equipment that are not removed within this time limit are declared to be public nuisances and may be removed by the city. The city may assess its costs of removal against the property.

15. Historic Places. No telecommunication tower may be located within 400 feet of the boundary of any property that contains a facility or structure listed on the national register of historic places. Antennas may be located in this restricted area only if they are hidden from public view.

Section 3. Specific Standards

3.01 City Code 300.34 Subd.4(b)(1) outlines the following conditional use permit
standards for telecommunications facilities within residential and commercial zoning districts:

1. Telecommunication facilities may be located only on public or institutional property: in R-1 and R-2 residential districts and on property guided for low-density residential in the Planned I-394 District subject to the standards listed in subparagraphs which follow.

2. An applicant must provide an analysis prepared by a radio or electrical engineer demonstrating that the proposed location of the antennas is necessary to meet the coverage and capacity needs of its system and that there is no existing antenna support structure that could adequately serve the area if antennas were placed on it. The applicant must also pay the reasonable expenses of a radio or electrical engineer retained by the city, at its option, to review this analysis;

3. A telecommunications facility must use as many stealth design techniques as reasonably possible. Economic considerations alone are not justification for failing to provide stealth design techniques. The city council may require that a different location be used if it would result in less public visibility, is available, and would meet the applicant's reasonable capacity and coverage needs; and

4. A telecommunications tower and antennas, including attachments other than lighting rods, must not exceed 75 feet in height, measured from grade. The city council may increase this height to 90 feet if the increase in height would not have a significant impact on surrounding properties because of proximity, topography or screening by trees or buildings or would accommodate two or more users. The city council may waive this height standard for a tower used wholly or partially for essential public services, such as public safety.

5. Telecommunications facilities may be located in public right-of-way of a major collector or arterial roadway as defined in the comprehensive plan, if they meet all of the following requirements:

   a) The facility is not located within a special area designated subdivision 7;

   b) The facility is not located adjacent to residentially zoned property unless the applicant demonstrates by providing a study prepared by a radio or electrical engineer demonstrating that the proposed location of the antennas
is necessary to meet the coverage and capacity needs of its system and no other location is feasible in a non-residential zone;

c) The facility must use as many stealth design techniques as reasonably possible. In particular, the antennas must be designed to minimize their size and appearance. Economic considerations alone are not justification for failing to provide stealth design techniques; and

d) The facility must also comply with the requirements in subdivision 6(k).

Section 4. Findings.

4.01 The proposal meets the general standards as outlined in City Code §300.34 Subd.5.

4.02 The proposal meets the specific standards as outlined in City Code 300.34 Subd.4(b)(1).

1. The proposed telecommunications facilities would be located on Planned I-394 District, as allowed by City Code.

2. There is no potential for the system to cause any interference to with city or public safety systems since the project does not include any transmitting frequencies. The proposed dishes are required for receiving cable television data from satellites.

3. The proposed telecommunication facilities would be buffered by the existing building, surrounding buildings, existing vegetation, and elevation changes. Also, a condition of this resolution requires the color of the masts and dishes must be reviewed and approved by staff.

4. The proposed masts and dishes would be a total of 26 feet in height.

5. The telecommunications facilities will not be located in public right-of-way of a major collector or arterial roadway.

Section 5 Council Action.

5.01 The above-described conditional use permit is approved, subject to the following conditions:
1. Subject to staff approval, the property must be developed and maintained in substantial conformance with the following plans: Construction plans dated May 17, 2016.

2. Prior to issuance of any required electrical or building permits:
   a) This resolution must be recorded with Hennepin County.
   b) The applicant must submit color templates for the masts and dishes to be reviewed and approved by City Staff.
   c) The applicant must submit individual written statements from the property owner and applicant, or their authorized representatives, agreeing to the conditional use permit conditions, agreeing to remove the telecommunication facilities when they are unused, obsolete, or become hazardous, and agreeing to the city’s right to assess the removal costs under City Code Section 300.34.5(n).
   d) The applicant must agree to the above conditions in writing.

3. The fence enclosure surrounding the telecommunication facilities must be kept in good repair.

4. No advertising message or identification sign larger than two square feet may be affixed to the telecommunications facilities.

5. The telecommunications facilities cannot be artificially illuminated.

6. No employees specifically assigned to work on the satellite are allowed on the site on a permanent basis. Occasional or temporary repair and service activities are allowed.

7. The applicant must obtain appropriate electrical and building permits prior to the installation of the dishes.

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

9. Approval of the telecommunications facilities is for receive dishes only. A new conditional use permit is required if any transmitting systems are to be installed in the future.
Adopted by the City Council of the City of Minnetonka, Minnesota, on August 8, 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 August 8, 2016.

David E. Maeda, City Clerk
Drew Ingvalson

From: Beverly Boland [REDACTED]
Sent: Thursday, July 14, 2016 4:58 PM
To: Drew Ingvalson
Cc: Cliffs Manager
Subject: RE: Public Hearing Notice - US Internet Corp Satellite Dishes

Drew,
Thank you for sending the information and link this morning regarding US Internets Hearing. As noted on the notice card, comments should be submitted by today. After review of the photos and information, we are concerned about the placement of the satellite dishes as they are visible from and hinder the views from for our residents on the second and third floor of the 12300 Marion Lane bldg at The Cliffs of Minnetonka.

Beverly Boland
Belgarde Property Services, Inc.
7841 Wayzata Blvd, Suite 111
Minneapolis, MN 55426
952-546-2000 phone
952-545-6626 fax
www.belgarde.com

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Minnetonka Planning Commission Meeting
July 21, 2016

Agenda Item 8

Public Hearing: Non-Consent Agenda
MINNETONKA PLANNING COMMISSION
July 21, 2016

**Brief Description**

Items concerning the construction of a new house at 2512 Bantas Point Road:

1) Variances and expansion permits; and

2) Floodplain alteration permit.

**Recommendation**

Recommend the council adopt the resolution approving the request

**Background**

The subject property is 8,100 square feet in size. The existing one-story, 1,700 square foot house was constructed in 1924. As a result, the home has a number of non-conforming setbacks. Much like a majority of the Bantas Point Lane neighborhood, the subject property and existing home are entirely located at – or below – the 100-year floodplain. Other site improvements include: (1) decks on the northeast corner and on the rear of the home; and (2) small sheds on the north and east side of the home.

In September 1993, the city approved a lot combination and re-division for the subject property and the property to the north at 2515 Bantas Point Lane. At the time, three lots existed. Two of the lots were improved with single family homes and the center lot was vacant. The proposal divided the center lot for combination with the two adjoining properties.

In addition to the lot division and combination, the planning commission approved a series of variances to allow the construction of an attached garage on the subject property. The approval included “variances from the floodplain regulations pertaining to setback and minimum basement elevations.” However, the approval does not specify an approved floodplain setback or minimum low floor elevation. Staff assumes, based on the existing conditions, that the floodplain setback variance was from 20 feet to 0 feet. Additionally, staff assumes that the approved minimum low floor elevation was 930.9 feet, as this was the elevation included in the hold harmless agreement filed with the county at that time. (See pages A21-A34.)

**Proposal**

The applicant, on behalf of the property owners, is proposing to tear down the existing home in order to construct a new home. The new two-story home and attached two-car attached garage would have a footprint of 2,100 square feet. To ensure that the proposed home would not extend further into the shoreland setback than the existing home, the
The proposed home would be shifted north on the property. Additional site improvements include an unenclosed porch and a deck off the rear of the home. (See pages A1-A16.) By ordinance, homes and attached garages must be located two feet above the 100-year elevation. The applicant is proposing a maximum of 2,000 cubic feet of floodplain alteration to elevate the home above the floodplain. A portion of this floodplain fill would provide access from Bantas Point Lane, which is constructed below floodplain, to the proposed garage which will be above floodplain. Consistent with many of the homes which have been rebuilt in the Bantas Point neighborhood, floodplain storage is provided via void “crawl space” under the proposed home. This crawl space would be engineered to be open and have the ability to flood. City staff has reviewed the conceptual plans and is comfortable with this method.

The following chart outlines the existing, previously approved and proposed setbacks:

<table>
<thead>
<tr>
<th></th>
<th>Required by ordinance</th>
<th>Existing</th>
<th>Approved in 1993</th>
<th>Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shoreland setback</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>house (east)</td>
<td>50 ft</td>
<td>-</td>
<td>20 ft</td>
<td>20 ft **</td>
</tr>
<tr>
<td>house (south)</td>
<td>50 ft</td>
<td>26.7 ft</td>
<td>-</td>
<td>26.7 ft **</td>
</tr>
<tr>
<td>deck</td>
<td>35 ft</td>
<td>7.5 ft</td>
<td>-</td>
<td>7.5 *</td>
</tr>
<tr>
<td>walkway</td>
<td>50 ft</td>
<td>18 ft</td>
<td>-</td>
<td>25 ft *</td>
</tr>
<tr>
<td>decorative stone wall</td>
<td>50 ft</td>
<td>-</td>
<td>-</td>
<td>14.5 ft *</td>
</tr>
<tr>
<td>Floodplain setback</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>house</td>
<td>20 ft</td>
<td>-</td>
<td>0 ft</td>
<td>0 ft **</td>
</tr>
<tr>
<td>garage</td>
<td>20 ft</td>
<td>-</td>
<td>0 ft</td>
<td>0 ft **</td>
</tr>
<tr>
<td>deck</td>
<td>10 ft</td>
<td>0 ft</td>
<td>-</td>
<td>0 ft *</td>
</tr>
<tr>
<td>Low floor elevation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>house</td>
<td>933.5 ft</td>
<td>930 ft</td>
<td>-</td>
<td>933.5 ft</td>
</tr>
<tr>
<td>garage</td>
<td>933.5 ft</td>
<td>-</td>
<td>930.9 ft</td>
<td>933.0 ft *</td>
</tr>
<tr>
<td>deck</td>
<td>933 ft</td>
<td>~ 930 ft</td>
<td>-</td>
<td>932.9 ft ***</td>
</tr>
<tr>
<td>driveway</td>
<td>932.5 ft</td>
<td>930 ft</td>
<td>-</td>
<td>930 ft **</td>
</tr>
<tr>
<td>Front yard setback</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>house (north)</td>
<td>20 ft</td>
<td>5 ft</td>
<td>-</td>
<td>n/a</td>
</tr>
<tr>
<td>house (east)</td>
<td>20 ft</td>
<td>3.3 ft</td>
<td>-</td>
<td>1 ft *</td>
</tr>
<tr>
<td>portico (east)</td>
<td>20 ft</td>
<td>-</td>
<td>-</td>
<td>18 ft *</td>
</tr>
<tr>
<td>garage (east)</td>
<td>25 ft</td>
<td>35 ft</td>
<td>-</td>
<td>31 ft *</td>
</tr>
<tr>
<td>Side yard setback</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>north</td>
<td>7 ft</td>
<td>-</td>
<td>6.5 ft</td>
<td>3.5 ft *</td>
</tr>
<tr>
<td>west</td>
<td>7 ft</td>
<td>7.2 ft</td>
<td>-</td>
<td>12 ft</td>
</tr>
<tr>
<td>Impervious surface</td>
<td>max. 30 %</td>
<td>51.15%</td>
<td>-</td>
<td>30%</td>
</tr>
</tbody>
</table>

* Variance required
** Expansion permit required
*** Required to meet ordinance by conditions of approval
Primary Issues

- **Is the proposal reasonable?**

  The subject property has very little – if any – buildable area at present. Under current standards, the property is substandard and would be considered unbuildable. However, the property is currently improved with an existing single family home. As such, the property is entitled to continued reasonable – and developed – use of the property.

- **Are the proposed setback variances and expansion permits reasonable?**

  Yes, despite the proposal requiring a number of variances and expansion permits. For purposes of this report, staff has consolidated the variances and expansion permit findings. Staff finds the proposed variances and expansion permit reasonable as:

  **PURPOSE AND INTENT OF THE ZONING ORDINANCE:** The proposal, and resulting variance and expansion permit requests, would be in keeping with the city’s zoning ordinance. The intent of setback requirements is to ensure that neighborhoods retain residential characteristics while protecting environmental and hydrologic functions of the city’s natural features. Staff finds that while a number of variances and expansion permits are required, the proposed home would maintain but would not encroach further into the required shoreland setback. Further, the home would maintain setbacks similar to those within the Bantas Point neighborhood.

  **CONSISTENT WITH THE COMPREHENSIVE PLAN:** The proposal would be consistent with the city’s comprehensive plan. The intent of the city’s comprehensive plan is to maintain, preserve, and support the character of existing neighborhoods. If approved, the setbacks would be similar to those of the existing home and of homes within the Bantas Point Lane neighborhood, which has had a long history of approved setback variances.

  **REASONABLENESS:** Despite the number of approvals required, staff finds that the applicant is proposing a reasonable use of the property.

  1. While the proposed home would expand vertically and horizontally within the existing setback, the proposed home would not encroach further into the required shoreland setback.

  2. The proposed front and side yard setback variances are similar to those within the existing neighborhood.

  3. The proposal would result in improved floodplain conditions. The existing home and garage are constructed at – and below – the 100-year floodplain elevation. In 1993, the city approved “variances to floodplain regulations” to allow the
construction of the attached garage. As currently proposed, the home would be 2-feet above and the garage would be 1.5 feet above the 100-year floodplain. Staff recognizes that the garage would not meet the city’s minimum 2-foot requirement. However, staff finds that the proposal would still result in a significant improvement over existing conditions.

4. The existing deck does not meet floodplain or shoreland setbacks but was constructed after the adoption of the city’s ordinances. Staff finds that the proposed deck would result in an improvement over existing conditions. While the proposed deck would maintain the existing deck’s setback, it would be smaller in size.

5. The proposal would decrease the amount of impervious surface on the property from 51 percent to 30 percent. This would bring the property into compliance with the city’s ordinance.

NEIGHBORHOOD CHARACTER: The proposal would not negatively impact the character of the surrounding neighborhood. The proposed setbacks would be similar to, or greater than, many of the existing setbacks within the Bantas Point neighborhood. This is recognized by the city’s long history of variance and expansion permit approvals within the neighborhood. In fact, the city has approved setback and floodplain variances on eight of the 11 properties.

CIRCUMSTANCE UNIQUE TO THE PROPERTY: The requested variances and expansion permit are a result of the property’s lot configuration and smaller lot size. A platted right-of-way extension was created by the BANTAS POINT subdivision, in 1914, to provide access to a former lot. Despite the former lot’s combination with another to create the subject property, the right-of-way extension is still used to provide access to the property. By ordinance, front yard setbacks are measured from the structure to the platted right-of-way. As such, the front yard setback variance for the proposed house are the direct result of this right-of-way extension. If the extension did not exist, the proposed home would meet the required setback.

Further, the lot is only 8,100 square feet in size. This is significantly less than the city’s minimum lot size. The property’s unique lot configuration, lot size, and existing floodplain conditions are not common to similarly zoned properties.

- Is the proposed floodplain alteration request reasonable?

Yes. Staff finds the proposed floodplain alteration reasonable as:

1. The proposed alteration would meet the general and specific standards for floodplain alteration as outlined in City Code §300.24, Subd 9.

2. The proposed alteration would not negatively impact adjacent properties or the hydrology of the floodplain.
3. The proposal would not result in a net fill of the floodplain.

4. The proposal would result in an increase of flood storage capacity on the property.

**Staff Recommendation**

Staff recommends the city council:

1) Adopt the resolution on pages A38–A46 which approves an expansion permit and variances for the construction of a new house at 2512 Bantas Point Lane.

2) Adopt the resolution on pages A47-A50 which approves a floodplain alteration permit for a new house at 2512 Bantas Point Lane.

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

**Project No.** 93026.16a

**Property** 2512 Bantas Point Lane

**Applicant** JAL Architects, represented by Jean Andre LaTondresse

**Surrounding Properties to the north and west are properties zoned R-1 and are improved with single family residential homes. Lake Minnetonka borders the property to the south and east.**

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

**Small Lot** By City Code §300.10, Subd. 7, properties that are defined as qualifying small lots are allowed lesser setbacks from property lines than “typical” properties. To be defined as a small lot, a property must be less than 15,000 square feet; have been a lot of record prior to February 12, 1966; and must be located in an area where the average lot size of residential lots is less than 15,000 square feet. The property is considered a small lot.

**Bantas Point Neighborhood** The Bantas Point neighborhood has had a long history of approved variances. While the city attorney has advised that this does not necessarily set precedent for future approvals, it does indicate that the city has acknowledged the unique circumstances and neighborhood character of the neighborhood since the late 1970s. The table below is intended to summarize the variances granted amongst the eleven properties that make up the Bantas Point neighborhood.

<table>
<thead>
<tr>
<th>Address</th>
<th>Side-yard setback</th>
<th>Front yard setback</th>
<th>Shoreland setback</th>
<th>Floodplain setback</th>
<th>Impervious surface</th>
</tr>
</thead>
<tbody>
<tr>
<td>2502</td>
<td>-</td>
<td>9 ft</td>
<td>10 ft</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2503</td>
<td>3.37 ft</td>
<td>4 ft</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2504</td>
<td>-</td>
<td>7 ft</td>
<td>22 ft</td>
<td>0 ft</td>
<td>34%</td>
</tr>
<tr>
<td>2508</td>
<td>3 ft</td>
<td>5 ft</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2511</td>
<td>3.9 ft</td>
<td>-</td>
<td>23 ft</td>
<td>1 ft</td>
<td>-</td>
</tr>
<tr>
<td>2515</td>
<td>4 ft</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2513</td>
<td>0 &amp; 6 ft*</td>
<td>16 ft</td>
<td>0 ft</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2513</td>
<td>3 &amp; 3 ft**</td>
<td>-</td>
<td>15 ft</td>
<td>0 ft</td>
<td>47%</td>
</tr>
<tr>
<td>2510</td>
<td>5 ft</td>
<td>15 ft</td>
<td>16 ft</td>
<td>0 ft</td>
<td>45%</td>
</tr>
</tbody>
</table>

* approved in 2005
** approved in 2006
Subject: 2512 Bantas Point Lane

Wetland

In 1993, the city approved wetland setback variances for the attached garage. At that time, the city applied the wetland ordinance to the properties which were adjacent to “finger” of Lake Minnetonka. The city no longer views this area as a wetland but as a DNR shoreland property.

McMansion Policy

The McMansion Policy is a tool the city can utilize to ensure new homes requiring a variance are consistent with the character of the existing homes within the neighborhood. By policy, the floor area ratio (FAR) of the subject property cannot be greater than the largest FAR of the properties along 1,000 feet of the same street, and a distance of 400 feet from the subject property. By ordinance, floor area includes the sum of the fully exposed horizontal area of a building, as measured from exterior walls and including attached garage space and enclosed porch areas, and one-half of the horizontal area of any partially exposed level such as a walkout or lookout level.

As a result of the unenclosed porch, the property complies with the city’s McMansion Policy. The largest FAR in the neighborhood is 0.52. The subject property has a FAR of 0.45. Included is a condition of approval that restricts the enclosing of the covered porch. If the porch was enclosed the property would no longer comply with the policy. (See page A17.)

Right of way

A portion of the city’s right-of-way (ROW) extends into the property. The extension was platted as part of the BANTAS POINT plat, in 1914, to provide access to what was, prior to 1993, the southerly lot of the subdivision. In 1993, this lot was combined with a portion of another to form the subject property. Despite the combination, the ROW extension has continued to serve as a gravel connection between the paved roadway of Bantas Point Lane and the subject property’s driveway. To date, the city has not opened the ROW extension for public access. (See page A20.)

The proposal includes the improvement of the right-of-way extension with pervious pavers. Staff has informed the applicant that additional work would be required prior to approval of the ROW improvement. Staff presented the following options:

1. The applicant could request a vacation of the undeveloped right-of-way. At this time, staff is unsure who is considered the underlying property owner. A vacation would “force” the county to determine ownership. Based on other similar
situations, staff anticipates that ownership would be shared by the two adjoining property owners at 2510 and 2512 Bantas Point Lane. Prior to improvement, staff would accept an authorization by both property owners.

2. Reconfigure access out of the extension via the north side of the property.

3. Improve the half, which is assumed to be owned by the subject property owners.

4. Leave as-is. The extension would remain gravel.

**Expansion permit**

By ordinance, staff could administratively approve a permit to build a new house within the same footprint and with the same mass and size as the existing house. Under the current proposal the applicant is proposing to remove the existing house in order to construct a new home. While a large portion of the home would be constructed within the existing home’s footprint, there are portions that: (1) fall outside of the footprint but maintain a similar setback; (2) encroach further into a required setback than the existing home; and (3) a second story that occupies space within the existing footprint that was not previously occupied.

Expansion permits are applied to the portions of the proposed home that either vertically or horizontally expand within an established non-conforming setback. Typically, approved variances become the “conforming” setbacks for the property. In an effort to “clean up” the previous approvals, staff is recommending expansion permits for the minimum low floor elevation of the garage and floodplain setbacks.

A variance is required for the portion of the proposed home that fall outside of the existing home’s footprint and as a result encroach further into a required setback.

**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 things such as:

   - Functional and aesthetic justifications for the expansions;
   - Adequacy of off-street parking for the expansion;
• Absence of adverse off-street 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, and 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.

Variance Standard
A variance may be granted from the requirements of the zoning ordinance when: (1) it is in harmony with the general purposes and intent of the ordinance; (2) it is consistent with the comprehensive plan; and (3) when an applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties mean that the applicant proposes to use a property in a reasonable manner not permitted by the ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and, the variance if granted, would not alter the essential character of the locality. (City Code §300.07)

Floodplain alteration Standards
General Standards
In reviewing floodplain alteration, the city will consider whether the following general standards are met:

1) The magnitude of the alteration is appropriate relative to the size of the floodplain district;

2) The amount of increase in the buildable area before floodplain;

3) The alteration will not negatively impact the hydrology of the floodplain;

4) Floodplain mitigation area will not negatively impact adjacent properties;

5) The alteration will meet the intent of the city’s water resources management plan and subdivision and zoning ordinances;
6) The alteration will not adversely impact governmental facilities, utilities, services or existing or proposed public improvements; and

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

**Specific standards**

Notwithstanding the general standards, no alteration permit will be granted unless the following specific standards are met:

1) Water storage must be maintained and provided in an amount at least equal to that filled unless acceptable hydrologic engineering data has been presented and approved by the city engineer including conditions that have changed such that the floodplain characteristics will be maintained even with the proposed floodplain fill;

2) Floodplain fill area must be located no more than 20 feet from any existing or proposed structure, except where required by the city engineer to achieve a required evacuation route;

3) Where floodplain alteration is required for construction of a driveway, a driveway must be no wider than 12 feet and must be located to minimize impact to the floodplain;

4) Floodplain alteration, including the creation of compensatory water storage, must not result in removal of regulated trees, adversely impact wetlands or existing wetland buffers, or be located within public easements. The city council may waive this condition if the proposed alteration would improve existing site conditions.

**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 city council has the following motion options:

1. Concur with staff’s recommendations. In this case, a motion should be made recommending the city council approve the proposal based on the findings based on the staff-drafted resolutions.
2. Disagree with staff’s recommendations. In this case, a motion should be made recommending the city council deny 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.

Pyramid of Discretion

The city sent notices to 32 area property owners and received one comment. See page A36.

Deadline for Decision

September 17, 2016
Project: Jeannie Buckner
Applicant: JAL Architects LLC
Address: 2512 Bantas Point La
Project No. 93026.16a

Location Map

This map is for illustrative purposes only.
Expansion Permit Discussion  
2512 Bantas Point Lane  
May 20, 2016

The proposed expansion is clearly a reasonable use of the property. The existing house was originally built in 1924 and has had a number of piecemeal additions. All of this limits its functionality. The house negatively impacts the overall character of the neighborhood, as it is substandard in relationship to other homes in the neighborhood that have been improved over the past 10 years.

The proposed improvements will not significantly affect parking. Two garage spaces will be provided as well as 4-5 surface spaces in the pervious paver driveway. The owner anticipates no increase in traffic, noise, dust, odors or parking, as the home will be transitioned from a vacation property to a primary residence.

These improvements are justified since the current condition of the property results from historical circumstances that far precede the current owner. While the proposed improvements will certainly make the property more serviceable and enjoyable for the owner, these improvements will also benefit neighborhood as a whole as they will increase the impression of value of the overall neighborhood. Substandard properties are a blot on any neighborhood they are found in.

A significant benefit to both the community and the entire watershed will be the storm water management features incorporated in the project. Currently all rain falling on impervious surfaces like the house slabs, and parking areas must be managed by surface runoff and absorption of surrounding soft surfaces. Existing extensive gravel parking surfaces will be replaced by more limited and defined previous paver drives. Impervious hardcover is reduced by nearly 30%. The house is designed to conduct water from gutters and downspouts into a gravel-filled storage cavity located under the house.

In order to respect the scale of the neighborhood, the home has been designed as a one and a half-story home with gables and dormers to keep the primary eave lines around the main floor level.

The proposed improvements will bring this property up to the standard of the other newly improved homes in the neighborhood and be yet another enhancement to the overall character of the neighborhood.
Variance Permit Discussion
2512 Bantas Point Lane
May 20, 2016

The proposed improvements are clearly a reasonable use of the property. The existing house was originally built in 1924 and has had a number of piecemeal additions.

The Property is located on Bantas Point. Properties on this street meet the Qualifying Small Lots provisions of the R-1 Zone with an average lot size of around 5000 s.f. The surface of the lot lies a half-a-foot to a foot and a half below flood elevation 931.5.

Current hardcover exceeds 50% of lot area. Existing pavements, accessory structures, and gravel drive and parking areas will be removed. New hard surfaces will be removed and a more limited pervious paver driveway and apron system will be installed in its place. This will reduce the hardcover to 36.4%, a nearly 30% improvement.

The Flood Plane ordinance requires the lowest floor of the principle structure to be a minimum of 24” above flood plane with the ability to flood below. The house is designed to meet this requirement with the exception that the garage floor be lowered 6 inches. This is necessary to keep the driveway from being too steep. Improvements will be designed to maintain or improve the current flood water storage capacity of the lot.

The proposed house is 4187 s.f. on two floors (2108 + 2079) which includes the attached garage. The house is well within height requirements and is designed with a one and one-half story style top blend with the mix of one and full two story homes in the neighborhood. The Floor Area Ratio is .52, which complies with ordinance.

Due to the small lot size it is not practicable to place even a small house on the property without setback variances. The front-yard setback and the side-yard setback to the northwest are compliant. The side yard setback to the northeast is 3.5 feet; over half of existing properties on Bantas Point currently have 3 foot side-yard setbacks. The house has been positioned to be the same as the existing house at both shoreline setbacks. The shoreline setback to the main lake is 26.7 feet; adjacent properties on this lakeshore have setbacks ranging from 15 foot to 22 feet. The setback to the channel shoreline is 21.7 feet; the adjacent property on the channel is set back 20 feet. The proposed deck stays behind a line connecting the current deck and the deck on the immediately adjacent property.

<table>
<thead>
<tr>
<th>ordinance</th>
<th>requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shoreline setback</td>
<td>35 ft</td>
</tr>
<tr>
<td></td>
<td>26.7 &amp; 21.7 ft.</td>
</tr>
<tr>
<td>Side-yard setback</td>
<td>7 ft</td>
</tr>
<tr>
<td></td>
<td>3.5 ft</td>
</tr>
</tbody>
</table>

The proposed improvements will bring this property up to the standard of the other newly improved homes in the neighborhood and be yet another enhancement to the overall character of the neighborhood.
Floodplain Alteration Discussion  
2512 Bantas Point Lane  
June 27, 2016

The Property is located on Bantas Point. Properties on this street meet the Qualifying Small Lots provisions of the R-1 Zone with an average lot size of around 5000 s.f. The surface of the lot lies a half-a-foot to a foot and a half below flood elevation 931.5.

The current house on the property was built in 1924 and has had a number of piecemeal additions. Both Expansion and Variance Applications have been filed for removal of the existing home and construction of a new home.

The Flood Plane ordinance requires the lowest floor of the principle structure to be a minimum of 24" above flood plane with the ability to flood the space below by means of flood vents. Improvements will be designed to maintain or improve the current flood water storage capacity of the lot.

The proposed house is 4187 s.f. on two floors which includes the attached garage. The house is designed to provide flood water storage capacity below both the house and garage. The driveway drive way design incorporates pervious pavers providing additional storage.

Proposed fill is for the purpose of raising an existing lawn area that collects water and to provide minimal slope away from new foundation. Also included is fill alongside the new driveway, garage, and apron area. See discussion of restorations of these areas below.

Site Elevation Data

<table>
<thead>
<tr>
<th>Description</th>
<th>Elevation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lake Minnetonka floodplain elevation</td>
<td>931.5 feet</td>
</tr>
<tr>
<td>Garage floor elevation</td>
<td>931.3 feet</td>
</tr>
<tr>
<td>Typical grade at house</td>
<td>930.5 feet</td>
</tr>
</tbody>
</table>

Site Flood Water Capacity Increase Due to Project*

Estimated under-house and pervious paver storage capacity: 1950 – 2100 cu. ft.

Site Flood Water Capacity Decrease Due to Project

Proposed fill (Estim. ave. 6" depth): 2000 s.f. Flood water capacity: 1000 cu. ft.

Net Increase in Flood Water Capacity: 950 – 1100 cu. ft.

* This does not include floodwater displacement of existing house and garage which will be removed and which are estimated to displace between 600 cu. ft. & 1800 cu. ft. depending whether flooding of the existing crawl space is assumed.

Additional information on following page.
<table>
<thead>
<tr>
<th>Application Fee</th>
<th>Check for $800.00 included with this submittal.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Description</td>
<td>On survey, included with this submittal.</td>
</tr>
<tr>
<td>Survey</td>
<td>Included with this submittal.</td>
</tr>
<tr>
<td>Tree Plan</td>
<td>On Existing and Resulting Conditions Plans included with this submittal.</td>
</tr>
<tr>
<td>Grading &amp; Drainage Plan</td>
<td>On Survey and Existing and Resulting Conditions Plans included with this submittal.</td>
</tr>
<tr>
<td>Erosion Control Plan</td>
<td>On Survey included with this submittal.</td>
</tr>
<tr>
<td>Revegetation Plan</td>
<td>Proposed fill areas are lawn areas with perennial plantings at various foundation and drive locations. These would be restored to a similar condition with sod and/or seeding of lawn areas and with plantings.</td>
</tr>
</tbody>
</table>
CERTIFICATE OF SURVEY FOR
JEANNE BUCKNER
OF LOTS 7 & 8, BANTAS POINT
HENNEPIN COUNTY, MINNESOTA

LAKE MINNETONKA
GRAYS BAY

LEGAL DESCRIPTION OF PREMISES:

Par 1: Tract B, Registered Land Survey No. 474,
Par 2: Lot 8, Banta's Point

Par 3: Lot 7, except that part thereof which lies Northerly of the following described line:
Comencing at the most Northerly corner of said Lot 7; thence Southerly along the West line
of said Lot 7 a distance of 20 feet to the point of beginning of the line being described; thence
Southeasterly deflecting left 54 degrees 16 minutes to the Southerly line of the Northerly 27.00
feet of said Lot 7; thence Easterly along said Southerly line to the shore line of Lake
Minnetonka, and said line there ending Banta's Point.

- denotes Iron marker found
(908:3) denotes existing spot elevation, mean sea level datum
---917--- denotes existing contour line, mean sea level datum

Bearings shown are based upon an assumed datum.

This survey intends to show the boundaries of the above described property, the location of an
existing house, two sheds, topography, spot elevations, and the location of all visible "hardcover"
thereon. It does not purport to show any other improvements or encroachments.
CERTIFICATE OF SURVEY FOR
JEANNIE BUCKNER
OF LOTS 7 & 8, BANTAS POINT
HENNEPIN COUNTY, MINNESOTA

PROPOSED ELEVATIONS: (per architect, verify)
1) Garage = 033.0
2) Main floor = 033.5

LEGAL DESCRIPTION OF PREMISES:
Par 1: Tract B, Registered Land Survey No. 474.
Par 2: Lot B, Banta's Point
Par 3: Lot 7, except that part thereof which lies Northerly of the following described line: Commencing at the most Northerly corner of said Lot 7; thence Southerly along the West line of said Lot 7 a distance of 20 feet to the point of beginning of the line being described; thence Southeasterly deflecting left 54 degrees 16 minutes to the Southerly line of the Northerly 27.00 feet of said Lot 7; thence Easterly along said Southerly line to the shore line of Lake Minnetonka, and said line there ending Banta's Point.

PROPOSED HARDCOVER CALCULATIONS:
Lot area = 8056 sf
House = 2068 sf
Pervious paver driveway = 744 sf = 0 sf
Pervious paver walk = 84 sf = 0 sf
Portico = 22 sf
Covered porch = 247 sf
Deck = 576 sf
Total hardcover = 2933 sf

2933 / 8056 x 100 = 36.41%

PROPOSED HOUSE

EXISTING HOUSE

PROPOSED HOUSE

PROPOSED DECK

COVERED PORCH

LOT LINES AS SHOWN ON RECORD PLAT

NOTE: A PROCEEDINGS SUBSEQUENT MAY BE NEEDED TO ADD ACCRETIONS TO TITLE.

GROBBERG AND ASSOCIATES, INC.
CONSULTING ENGINEERS, LAND SURVEYORS & SITE PLANNERS
845 NORTH WILLOW DRIVE
LEON LAKE, MN 55330
651-472-4141

Mark S. Gronberg  Minnesota License Number 12755

GROBBERG AND ASSOCIATES, INC.
CONSULTING ENGINEERS, LAND SURVEYORS & SITE PLANNERS
845 NORTH WILLOW DRIVE
LEON LAKE, MN 55330
651-472-4141

Mark S. Gronberg  Minnesota License Number 12755

Date: 5-19-16
Job No.: 16-215

Jeannie Buckner
2512 Bantas Point Lane
93928.15a
CERTIFICATE OF SURVEY FOR
JEANNIE BUCKNER
OF LOTS 7 & 8, BANTAS POINT
HENNEPIN COUNTY, MINNESOTA

EXISTING HOUSE

PROPOSED HOUSE

EXISTING SHORELAND SETBACK

REQUIRED SHORELAND SETBACK

PROPOSED HARDCOVER CALCULATIONS:

Lot area = 8056 sf
House = 2088 sf
Pervious paver driveway = 744 sf = 0 sf
Pervious paver walk = 84 sf = 0 sf
Portico = 22 sf
Covered porch = 247 sf
Deck = 576 sf
Total hardcover = 2933 sf
2933 / 8056 x 100 = 36.41%

LEGAL DESCRIPTION OF PREMISES:

Par 1: Tract B, Registered Land Survey No. 474,
Par 2: Lot 8, Banta's Point
Par 3: Lot 7, except that part thereof which lies Northerly of the following described line: Commencing at the north Northerly corner of said Lot 7; thence Southwesterly along the West line of said Lot 7 a distance of 20 feet to the point of beginning of the line being described; thence Southeasterly deflecting left 54 degrees 16 minutes to the Southerly line of the Northerly 27.00 feet of said Lot 7; thence Easterly along said Southerly line to the shore line of Lake Minnetonka, and said line there ending Banta's Point.

PROPOSED ELEVATIONS: (per architect, verify)

1) Garage = 033.0
2) Main floor = 033.5

PROPOSED HARDCOVER:

908.3: denotes existing spot elevation, mean sea level datum
917.1: denotes proposed spot elevation, mean sea level datum
955: denotes proposed contour line, mean sea level datum

Bearings shown are based upon an assumed datum.

This survey intends to show the boundaries of the above described property, the location of three existing buildings, to be removed, topography, spot elevations, and the proposed location of a proposed house, driveway and grades thereon. It does not purport to show any other improvements or encroachments.

GRONBERG AND ASSOCIATES, INC.
CONSULTING ENGINEERS, LAND SURVEYORS, SITE PLANNERS
140 NORTH WILLOW DRIVE
HERON LAKE, MN 55366
651-473-4141

16-215

Jeannie Buckner
2512 Bantas Point Lane
93026.16a
EXPANSION AND VARIANCE APPLICATION
FOR
JEANNIE BUCKNER
2512 BANTAS POINT LN.
MINNETONKA, MN 55391

FLOOR/LOT AREA SUMMARY

UPPER LEVEL
FLOOR AREA: 2108 S.F.

MAIN LEVEL
FLOOR AREA: 2079 S.F.

COMBINED
FLOOR AREA: 4187 S.F.

LOT AREA: 8056 S.F.

FLOOR AREA RATIO: .52

DECK AREA: 450 S.F.

UNDER-HOME AREA: 2096 S.F.

PERVIOUS PAVER AREA: 1110 S.F.

STORMWATER MANAGEMENT
LOT AREA: 8056 S.F.
REQUIRED STORAGE CAPACITY FOR 1" RAINFALL: 671.0 CU. FT.
CAPACITY PROVIDED BELOW HOUSE & PERVIOUS PAVER AREAS
(15" GRAVEL - .24 TO .28 POROSITY):
2096 + 1110 S.F. x 1.25' x .24 TO .28
= 961 TO 1122 CU. FT.
EXPANSION AND VARIANCE APPLICATION FOR
JEANNIE BUCKNER
2512 BANTAS POINT LN.
MINNETONKA, MN 55391

MAIN LEVEL PLAN - SCALE: 1/8" = 1'-0"

FLOOR AREA: 2078.8 S.F.
EXPANSION AND VARIANCE APPLICATION FOR
JEANNIE BUCKNER
2512 BANTAS POINT LN.
MINNETONKA, MN 55391

MAY 20, 2016

APPROACH VIEW FROM NORTHWEST

LAKE VIEW FROM SOUTHWEST

MATERIALS
STONE VENEER
BOARD ON BOARD SIDING AT LOWER LEVEL
CEDAR SHAKES IN GABLES & DORMERS
WOOD /ENGINEERED WOOD TRIM
ALUMINUM CLAD WINDOWS
EXPANSION AND VARIANCE APPLICATION FOR
JEANNIE BUCKNER
2512 BANTAS POINT LN.
MINNETONKA, MN 55391

LAKE VIEW FROM SOUTHEAST

CHANNEL VIEW FROM NORTHEAST
Largest FAR

Subject Property
Approved side yard setback variance to 3 or less feet.

Existing side yard setback variance of 3 or less feet.

Property with approved setback variances
Previous Approvals
TO

Ann Perry, Director of Planning
Carolyn Braun, Project Planner

FROM

SUBJECT

Planning Commission and Members of the City Council

Jeannie Buckner
2512 Bantas Point Lane
93026.16a

September 23, 1993

Items pertaining to Stephen Wachs for the properties located at 2512, 2514, and 2515 Bantas Point Lane in Section 8.

A. Variances to construct an attached garage include the following:

- side yard setback variance from 7' to 6';
- shoreland setback variance from 50' to 28';
- wetlands setback variance from 35' to 28';
- variance from the floodplain regulations pertaining to setback and minimum basement elevation.

B. 93026.8 Lot Combination/Redivision.

Stephen Wachs

2512, 2514, 2515 Bantas Point Lane, generally located south of McGinty Road West on the northern edge of Gray's Bay in the NE 1/4 of Section 8.

On September 2, 1993, the Planning Commission continued the lot combination/redivision portion of this request due to the uncertainty about the location of the 931' floodplain elevation. At this time, the the applicant is requesting a lot combination/redivision and variances to facilitate garage construction.

Currently, three lots exist with two containing existing houses and a center lot which is vacant. The applicant owns Lots 7 and 8 and is proposing to divide Lot 7 (center lot) and combine the "halves" with the respective adjoining properties. This action will ameliorate a current condition of very small lot sizes providing for larger lots for both parcels containing homes. Previously, a cottage existed on the center parcel. The applicant demolished the cottage to facilitate the lot combination/redivision and to allow for the placement of a garage on the newly created Parcel B.

Eight variances are required for approval of the lot combination/redivision. Staff is recommending approval of these variances due to the small lot size and the fact that this action will improve upon an existing condition.

The second request is for variances to construct a 24' x 26' attached garage onto the existing house on Parcel B. The rear wall of the proposed garage will be aligned with the eastern-most wall of the existing home. The northwesterly corner of the garage will be at the 930.9' elevation and will lie within the floodplain. Construction of an attached garage will minimally decrease the amount of water storage in the area. Approval of this request will require a variance from the floodplain regulations pertaining to setbacks and minimum basement elevations. An alternative placement of a detached two-car garage exists on the northwestern edge of Parcel B but would result in greater water storage loss in addition to variances. Due to the minimal storage loss from construction of the proposed attached garage, staff supports the variance from the floodplain ordinance requirements. However, since the applicant is constructing a garage within the floodplain, staff is recommending that the applicant file a waiver of all claims against the City.
In addition to the variance from the floodplain regulations, construction of the garage requires three setback variances. Staff supports the variances based on City policy that considers a two-car garage on single family residential property to be a reasonable use of that property. Further, construction of an attached garage is consistent with neighborhood characteristics.

Staff supports both requests and recommends approval with the variances and stipulations as noted.

**BACKGROUND**

On June 26, 1986, the Board of Zoning Adjustment granted variances to reduce floodplain setback from 35' to 5', front yard setback from 35' to 22' to enclose a patio; and reduce floodplain setback from 35' to 9' and increase hard surface coverage within 150' of floodplain from 15% to 30% to allow a 12' x 20' attached garage at 2502 Bantas Point Lane.

On June 22, 1989, the Board of Zoning Adjustment approved a request for a north side yard setback variance from 7' to 4' to replace a single story portion of the house with a two-story addition at 2515 Bantas Point Lane (Parcel A of the subject property).

On September 3, 1992, the Planning Commission granted variances to reduce west side yard setback from 7' to 3', reduce front yard setback from 20' to 5', and variance to increase hard surface coverage from 30% to 34% to construct a two car garage and house addition at 2508 Bantas Point Lane.

On March 4, 1993, the Planning Commission granted variances for a westerly side yard setback from 7' to 3' 9", shoreland setback from 50' to 23', floodplain setback from 35' to 8' for a principal structure, and reduce floodplain setback from 25' to 1' for a patio at 2511 Bantas Point Lane.

**SITE CHARACTERISTICS:**

The .38 acre lot (16,600 square feet) is located on the end of Bantas Point on Gray’s Bay. The subject properties are bounded by the Gray’s Bay shoreline to the south and east, and single family homes to the north and west.

The subject property is essentially flat, with elevations ranging from 929.4’ on the shoreline to 931.2’ on the west property line near Bantas Point Lane. The elevations of a portion of the lot which is to be divided (Lot 7) fall below the City designated floodplain elevation of 931.0’.

**ACCESS**

Access for both properties is from Bantas Point Lane and will not change due to the lot combination/redvision.

**GRADING/DRAINAGE**

Minor grading is expected to occur for garage construction on Parcel B.

**UTILITIES**

Utilities are provided from Bantas Point Lane.

**EASEMENTS**

No easements are required for this request.

**CURRENT ZONING**

R-1, Low Density Residential

**GUIDE PLAN**

Low Density Residential

2
**Variance and 9302636 Lot Combination/Radivision**  
**Steven Wachs**  
**September 23, 1993**

**COMPLIANCE WITH THE ORDINANCE: R-1**

**LOT COMBINATION/RDIVISION PROPOSED BY THE APPLICANT**

<table>
<thead>
<tr>
<th>Lot Area (Sq. Ft.)</th>
<th>Lot Width at Right-of-way</th>
<th>Lot Width at Setback</th>
<th>Lot Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ordinance:</td>
<td>22,000</td>
<td>80'</td>
<td>110'</td>
</tr>
<tr>
<td>Parcel A</td>
<td>8,000 V 1</td>
<td>79' V 3</td>
<td>84' V 5</td>
</tr>
<tr>
<td>Parcel B</td>
<td>8,500 V 2</td>
<td>42.5' V 4</td>
<td>88' V 6</td>
</tr>
</tbody>
</table>

**Variances:**

1. V 1 8100 square feet of lot area when 22,000 square feet is required for Parcel A.
2. V 2 8500 square feet of lot area when 22,000 square feet is required for Parcel B.
3. V 3 79' lot width at right of way when 80' is required for Parcel A.
4. V 4 42.5' lot width at right of way when 80' is required for Parcel B.
5. V 5 84' lot width at setback when 110' is required for Parcel A.
6. V 6 88' lot width at setback when 110' is required for Parcel B.
7. V 7 95' lot depth when 125' is required for Parcel A.
8. V 8 95' lot depth when 125' is required for Parcel B.

**STAFF COMMENT/FINDINGS:** Although the lot combination/radivision requires a number of variances, this request improves the current status of both Parcels A and B and will increase the amount of open space in the surrounding area. Additionally, construction of an attached garage minimizes intrusion into the floodplain. Staff recommends approval of the garage variances based on the following findings:

1. Lot size is small.
2. Garage construction is reasonable use of the property.
3. The proposed structure is consistent with neighborhood characteristics.

**STAFF RECOMMENDATION:** A. Staff recommends approval of the following variances to construct an attached garage:

1. Variance to reduce side yard setback from 7' to 6';
2. Variance to reduce shoreland setback from 50' to 28';
3. Variance to reduce wetlands setback from 35' to 28';
4. Variance from the floodplain regulations pertaining to setback and minimum basement elevation.

subject to the following stipulations:
Variance and 93026.8 Lot Combination/Redivision
Steven Wachs
September 23, 1993

1. The applicant shall file in the chain of title for the property, a waiver of all claims against the City in a form acceptable to the City Attorney.

2. The applicant obtain Minnehaha Creek Watershed District approval prior to the issuance of a building permit.

B. Staff recommends approval of 93026.8 Lot Combination/Redivision without stipulations and with the following variances:

1. 8100 square feet of lot area when 22,000 square feet is required for Parcel A.

2. 8500 square feet of lot area when 22,000 square feet is required for Parcel B.

3. 79' lot width at right of way when 80' is required for Parcel A.

4. 42.5' lot width at right of way when 80' is required for Parcel B.

5. 84' lot width at setback when 110' is required for Parcel A.

6. 88' lot width at setback when 110' is required for Parcel B.

7. 95' lot depth when 125' is required for Parcel A.

8. 95' lot depth when 125' is required for Parcel B.

/kk
CURRENT ZONING: R-1, Low Density Residential
GUIDE PLAN: Low Density Residential

COMPLIANCE WITH THE ORDINANCE: R-1

PROPOSED BY THE APPLICANT

<table>
<thead>
<tr>
<th>Lot Area (Sq. Ft.)</th>
<th>Lot Width at Right-of-way</th>
<th>Lot Width at Setback</th>
<th>Lot Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ordinance: 22,000</td>
<td>80'</td>
<td>110'</td>
<td>125'</td>
</tr>
<tr>
<td>Parcel A 8,000 V 1</td>
<td>79' V 3</td>
<td>84' V 5</td>
<td>95' V 7</td>
</tr>
<tr>
<td>Parcel B 8,500 V 2</td>
<td>42.5' V 4</td>
<td>88' V 6</td>
<td>95' V 8</td>
</tr>
</tbody>
</table>

Variances:

V 1 8100 square feet of lot area when 22,000 square feet is required for Parcel A.
V 2 8760 square feet of lot area when 22,000 square feet is required for Parcel B.
V 3 79' lot width at right of way when 80' is required for Parcel A.
V 4 42.5' lot width at right of way when 80' is required for Parcel B.
V 5 84' lot width at setback when 110' is required for Parcel A.
V 6 88' lot width at setback when 110' is required for Parcel B.
V 7 95' lot depth when 125' is required for Parcel A.
V 8 95' lot depth when 125' is required for Parcel B.

RECOMMENDED BY STAFF

<table>
<thead>
<tr>
<th>Lot Area (Sq. Ft.)</th>
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<td>Ordinance: 22,000</td>
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<td>125'</td>
</tr>
<tr>
<td>Parcel A 7,860 V 1</td>
<td>79' V 3</td>
<td>81' V 5</td>
<td>95' V 7</td>
</tr>
<tr>
<td>Parcel B 8,740 V 2</td>
<td>42.5' V 4</td>
<td>91' V 6</td>
<td>95' V 8</td>
</tr>
</tbody>
</table>

Variances:

V 1 7860 square feet of lot area when 22,000 square feet is required for Parcel A.
V 2 8740 square feet of lot area when 22,000 square feet is required for Parcel B.
V 3 79' lot width at right of way when 80' is required for Parcel A.
V 4 42.5' lot width at right of way when 80' is required for Parcel B.
V 5 81' lot width at setback when 110' is required for Parcel A.
V 6 91' lot width at setback when 110' is required for Parcel B.
V 7 95' lot depth when 125' is required for Parcel A.
V 8 95' lot depth when 125' is required for Parcel B.
12. ITEMS REQUIRING 5 VOTES:

   B. RESOLUTION GRANTING PRELIMINARY AND FINAL APPROVAL OF 93026.8 LOT COMBINATION/REDIVISION WITH VARIANCES FOR STEPHEN WACHS FOR THE PROPERTIES LOCATED AT 2512, 2514, AND 2515 BANTA'S POINT LANE.

Hanus moved, Hise seconded a motion that the Resolution No. 93-9610 granting preliminary and final approval of 93026.8 Lot Combination/Redivision with variances for Stephen Wachs for the properties located at 2512, 2514, and 2515 Banta's Point Lane is hereby adopted with the following variances:

1. 7860 square feet of lot area when 22,000 square feet is required for Parcel A.
2. 8740 square feet of lot area when 22,000 square feet is required for Parcel B.
3. 79' lot width at right of way when 80' is required for Parcel A.
4. 42.5' lot width at right of way when 80' is required for Parcel B.
5. 81' lot width at setback when 110' is required for Parcel A.
6. 91' lot width at setback when 110' is required for Parcel B.
7. 95' lot depth when 125' is required for Parcel A.
8. 95' lot depth when 125' is required for Parcel B.

Hanus, Burke, Allendorf, Anderson, Schneider, Hise, and Bergstedt voted "aye". Motion carried.

13. PUBLIC HEARING TO CONSIDER THE APPROVAL OF A MINNESOTA CURRENCY EXCHANGE LICENSE FOR ACTION CHECK CASHING, 11503 EXCELSIOR BOULEVARD.

Mayor Bergstedt opened the public hearing. No one spoke in favor or in opposition. Mayor Bergstedt closed the public hearing. Allendorf moved, Burke seconded a motion that the City Council hereby approves the issuance of a renewed
WAIVER, RELEASE AND INDEMNIFICATION

This agreement is entered into this 2nd day of November, 1993, by and between STEPHEN H. WACHS, single, of Hennepin County, State of Minnesota, Fee Owner (hereinafter referred to as "Wachs"), with the attached written consent of Heigle Mortgage and Financial Corporation, Edina, MN., Mortgagee (hereinafter referred to as "Heigle"), for the benefit of THE CITY OF MINNETONKA, a Minnesota municipal entity (hereinafter referred to as "Minnetonka").

WHEREAS, Wachs is the owner of that certain property located in Hennepin County, Minnesota, and legally described on Exhibit "A" attached hereto (hereinafter referred to as the "Subject Property"); subject to the Mortgage in favor of Heigle; and

WHEREAS, on October 11, 1993, the City Council of the City of Minnetonka approved Application No. 93026.8, a Lot Combination/Redivision with variances for subdivision of the Subject Property.

WHEREAS, this approval was subject to certain stipulations and restrictions.

WHEREAS, Wachs is proposing to construct a 24' x 26' attached garage onto the existing house on the Subject Property, as shown on Exhibit "B", attached hereto and made a part hereof, the northwesterly corner of the garage will be at the 930.9' elevation and will lie within the floodplain. Construction of an attached garage will minimally decrease the amount of water storage in the area.

WHEREAS, Minnetonka has agreed to allow a portion of the proposed garage to be located within the floodplain as proposed by Wachs providing that Wachs files a waiver of all claims against the City in the chain of title for the Subject Property.

WHEREAS, Wachs seeks now to acknowledge acceptance of those stipulations and restrictions.

NOW THEREFORE, in consideration of Minnetonka's agreement to allow a portion of the proposed garage to be located within the floodplain on the Subject Property, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, Wachs agrees as follows:

1. Wachs hereby waives any and all claims he may have against the City of Minnetonka, its officials, employees and agents (the "Released Parties"), and indemnify and hold harmless the Released Parties from damage, injury or loss.
which he may sustain, resulting from flooding that occurs due to a portion of
the garage being located in the floodplain.

2. NOTICE IS HEREBY GIVEN that the City is not responsible for any damage
to the garage or home that results from flooding due to the location of a
portion of the garage in the floodplain.

3. This agreement shall be deemed a covenant running with the Subject Property
described on Exhibit "A" and shall be binding upon the heirs, successors and
assigns of said properties during the period of time any heirs, successors or
assigns shall own any of said properties.

4. This agreement and all questions arising thereunder shall be governed by the
laws of the State of Minnesota.

IN WITNESS WHEREOF, the undersigned parties have executed this agreement the
date first above written.

Stephen H. Wachs

CITY OF MINNETONKA
By: Timothy M. Bergstedt

Its: Mayor

By: David M. Childs

Its: City Manager
STATE OF MINNESOTA  

COUNTY OF HENNEPIN  

Acknowledged before me this 14th day of November, 1993 by Stephen H. Wachs, single, as his free act and deed.

KATHRYNE A. KINNANE  
NOTARY PUBLIC-MINNESOTA  
HENNEPIN COUNTY  
My Commission Expires June 10, 1999  

Notary Public

STATE OF MINNESOTA  

COUNTY OF HENNEPIN  

Acknowledged before me this 9th day of November, 1993 by Timothy M. Bergstedt, the Mayor, and David M. Childs, the City Manager of the City of Minnetonka, on behalf of the City of Minnetonka.

Michael L. Johnson  
NOTARY PUBLIC-MINNESOTA  
HENNEPIN COUNTY  
My Commission Expires May 23, 1997  

Notary Public

This instrument was drafted by:

CITY OF MINNETONKA  
14600 Minnetonka Boulevard  
Minnetonka, MN  55345-1597
CONSENT OF MORTGAGE

CONSENT TO WAIVER, RELEASE AND INDEMNIFICATION AGREEMENT

THIS CONSENT is made by Heigle Mortgage and Financial Corporation, Edina, MN., a Minnesota corporation (hereinafter referred to as "Mortgagee"),

WITNESSETH:

That Mortgagee is now the holder and owner of a mortgage lien dated February 22, 1993, filed March 5, 1993 as Document No. 2351730 to secure $94,775.00.

That Mortgagee hereby joins in and consents to all of the terms, provisions, covenants, conditions and restrictions contained in the within Waiver, Release and Indemnification Agreement between Stephen H. Wachs, single, and the City of Minnetonka, and agrees that its interest in the property covered by and pursuant to said mortgage is subject to said Waiver, Release and Indemnification Agreement and to all of the terms, provisions, covenants and restrictions therein contained.

IN TESTIMONY WHEREOF, the undersigned has caused this instrument to be executed and delivered this 2nd day of November, 1993.

Heigle Mortgage and Financial Corporation, Edina, MN.

By: ____________________________

Its: Assistant Vice President

CORPORATE SEAL

NO SEAL

By: ____________________________

Its: ____________________________
STATE OF MINNESOTA

COUNTY OF HENNEPIN

The foregoing instrument was acknowledged before me this ___2nd_____ day of November, 1993 by Marcia Johnson, the Assistant Vice President and the _____ xxxxxxxxxxxxxxxxxxxxxxxx of Heigle Mortgage and Financial Corporation, Edina, MN., a _____ Minnesota corporation, on behalf of said corporation.

[Signature]
Notary Public

This instrument was drafted by:

CITY OF MINNETONKA
14600 Minnetonka Boulevard
Minnetonka, MN  55345-1597

P.P. 93025.8 Lot Combination/Redivision
Torrens Title No. 794515  Govt. Center as to PID No. 08-117-22-13-0008
Torrens Title No. ___________ Govt. Center as to PID No. 08-117-22-13-0053
(742935 OWNER as of 4-20-93)  Current to 8-13-93

C.C. 10-11-93
Exhibit "A"

"Subject Property"

Kanepin County, Minnesota

Tract B, Registered Land Survey No. 474; Lot 8, BANTA'S POINT and accretions thereto, and that part of Lot 7, BANTA'S POINT, and accretions thereto which lies southerly of the following described line:

Commencing at the most Northerly corner of said Lot 7; thence southerly along the west line of said Lot 7 a distance of 20 feet to the point of beginning of the line being described; thence southeasterly deflecting left 54 degrees 16 minutes to the southerly line of the northerly 27.00 feet of said Lot 7; thence easterly along said southerly line to the shoreline of Lake Minnetonka, and said line there ending.
CERTIFICATE OF SURVEY FOR

STEPHEN WACHS

OF LOTS 6, 7, & 8, BANTAS POINT

HENNEPIN COUNTY, MINNESOTA

Existing Legal Descriptions

Lot 5 BANTA'S POINT
Lot 6 BANTA'S POINT
Lot 7 BANTA'S POINT and Tract B, Registered Land Survey
no. 474

Proposed Legal Descriptions

A. Lot 5, BANTA'S POINT and accretions thereto, and that part of Lot 7, BANTA'S POINT, and accretions thereto, which lies north of the following described line: Commencing at the most northerly corner of said Lot 7; thence southeasterly along the west line of said Lot 7 a distance of 20 feet to the point of beginning of the line being described; thence southeasterly deflection left 54 degrees 16 minutes to the southerly line of the northerly 27.00 feet of said Lot 7; thence easterly along said southerly line to the shore line of Lake Minnetonka, and said line there ending.

B. Tract B, Registered Land Survey No. 474; Lot 8, BANTA'S POINT and accretions thereto, and that part of Lot 7, BANTA'S POINT, and accretions thereto which lies southerly of the following described line:

Commencing at the most northerly corner of said Lot 7; thence southeasterly along the west line of said Lot 7 a distance of 20 feet to the point of beginning of the line being described; thence southeasterly deflection left 54 degrees 16 minutes to the southerly line of the northerly 27.00 feet of said Lot 7; thence easterly along said southerly line to the shoreline of Lake Minnetonka, and said line there ending.

This survey intends to show the location of all existing buildings in relation to the boundaries of the above described property. It does not purport to show any other improvements or encroachments.

I hereby certify that this survey was prepared by me or under my direct supervision, and that I am a duly registered Civil Engineer and Land Surveyor under the laws of the State of Minnesota.

Mark D. Gronberg, Minnesota License Number 12735

EXHIBIT "B"

Jeannie Buckner
2512 Bantas Point Lane
93026.16a
Neighborhood feedback
Hi Ashley:

My wife Eileen and I live at 2492 Bantas Point Rd, directly across the canal from the Buckner property at the above address. We have reviewed the proposal on-line, and I am responding on behalf of both of us.

When we evaluated the proposal, the items that were top of mind for us were: 1) does the project represent an aesthetic improvement over what exists today on that property; 2) how does the proposed plan fit within the existing neighborhood, and 3) will the project result in additional traffic or other disturbances.

In summary, we think that the proposed plan is beautiful and we enthusiastically support the project.

Regarding #1 above, there is an existing structure on the property and the new plan represents a major improvement. We appreciate that the design was done with an eye to minimize the footprint and height of the home. The design really looks beautiful. Regarding #2 above, the project will clearly be an upgrade to the neighborhood. And finally regarding #3 above we see no additional traffic resulting from this as the home is already occupied. Further, Jeannie and family have been good and friendly neighbors and we expect the project will be completed in a way that is respectful to all surrounding neighbors.

Two thumbs up from us. Thanks for the opportunity to comment.

Tim & Eileen Baker
2492 Bantas Point Road
Wayzata, MN 55391
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Resolution No. 2016-

Resolution approving an expansion permit and variances for the construction of a new home at 2512 Bantas Point Lane

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

Section 1. Background.

1.01 JAL Architects, on behalf of the property owners, are proposing to tear down the existing, one-story home in order to construct a new, two-story home. (Project No. 93026.16a).

1.02 The property is located at 2512 Bantas Point Lane. It is legally described as:

Parcel 1: Tract B, Registered Land Survey No. 474

Parcel 2: Lot 8, Banta’s Point

Parcel 3: Lot 7, except that part thereof which lies Northerly of the following described line: Commencing at the most Northerly corner of said Lot 7: thence Southerly along the West line of said Lot 7 a distance of 20 feet to the point of beginning of the line being described; thence Southeasterly deflecting left 54 degrees 16 minutes to the Southerly line of the Northerly 27.00 feet of said Lot 7: thence Easterly along said Southerly line to the shore line of Lake Minnetonka, and said line there ending Banta’s Point.

1.03 In 1993, the city approved a lot division, lot combination and several setback and floodplain variances to allow the construction of an attached garage on the property.

1.04 The existing house was constructed in 1924, prior to the adoption of the city’s first zoning ordinance. As such, the house has non-conforming setbacks. The applicant is proposing to construct a new home on the property. The existing non-conforming, previously approved, and proposed setbacks are as follows:
Required by ordinance | Existing | Approved in 1993 | Proposal
--- | --- | --- | ---
Shoreland setback  |  |  |  |
house (east) | 50 ft | - | 20 ft | 20 ft **
house (south) | 50 ft | 26.7 | - | 26.7 ft **
deck | 35 ft | 7.5 ft | - | 7.5 *
walkway | 50 ft | 18 ft | - | 25 ft *
decorative stone wall | 50 ft | - | - | 14.5 ft *
Floodplain setback  |  |  |  |
house | 20 ft | - | 0 ft | 0 ft
garage | 20 ft | - | 0 ft | 0 ft
deck | 10 ft | 0 ft | - | 0 ft *
Low floor elevation  |  |  |  |
house | 933.5 ft | 930 ft | - | 933.5 ft
garage | 933.5 ft | - | 930.9 ft | 933.0 ft *
deck | 933 ft | ~ 930 ft | - | 932.9 ft ***
driveway | 932.5 ft | 930 ft | - | 930 ft **
Front yard setback  |  |  |  |
house (north) | 20 ft | 5 ft | - | n/a
house (east) | 20 ft | 3.3 ft | - | 1 ft *
portico (east) | 20 ft | - | - | 18 ft *
garage (east) | 25 ft | 35 ft | - | 31 ft *
Side yard setback  |  |  |  |
north | 7 ft | - | 6.5 ft | 3.5 ft *
west | 7 ft | 7.2 ft | - | 12 ft
Impervious surface | max. 30 % | 51.15 % | - | 30 %

* Variance required
** Expansion permit required
*** Required to meet ordinance by conditions of approval

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

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

1.07 On July 21, 2016, the planning commission held a hearing on the application. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the
variances and 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.

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

Section 3. Findings.

3.01 The proposal meets the expansion permit standards as outlined in City Code §300.29 Subd. 7(c):

1. REASONABLENESS: It is reasonable to construct a new home that maintains the existing setbacks of an existing home. Despite vertical and horizontal expansion within the established setback, the proposed house, garage and deck would not encroach further into the existing shoreland setback.
2. **UNIQUE CIRCUMSTANCE:** The expansion permit is the result of the property’s unique lot configuration, smaller lot size and the existing home’s non-conforming setbacks. The property is only 8,100 square feet in size, which is significantly less than the city’s minimum lot size. This, coupled with the unique lot configuration resulting from an unimproved right-of-way extension, present unique circumstances not common to similarly zoned properties.

3. **NEIGHBORHOOD CHARACTER:** The proposal would not negatively impact the character of the surrounding neighborhood. Approval of the expansion permit would allow the applicant to make reasonable improvements to the property and home without encroaching further into existing setbacks.

3.02 The proposal meets the variance standard outlined in City Code §300.07 Subd. 1(a):

1. **PURPOSE AND INTENT OF THE ZONING ORDINANCE:** The proposed variance requests would be in keeping with the city’s zoning ordinance. The intent of the city’s setback requirements is to ensure that neighborhoods retain residential characteristics while protecting environmental and hydrologic functions of the city’s natural features. Staff finds that the side and front yard setback variances are the result of shifting the house north on the property to maintain the shoreland setback. The remaining floodplain setback variance requests would result in improvements over existing conditions.

2. **CONSISTENT WITH COMPREHENSIVE PLAN:** The proposal would be consistent with the city’s comprehensive plan. The intent of the city’s comprehensive plan is to maintain, preserve and support the character of existing neighborhoods. If approved, the setbacks would be similar to those of the existing home and of homes within the Bantas Point neighborhood.

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

   a) **REASONABLENESS:** Despite the number of approvals required, staff finds that the applicant is proposing a reasonable use of the property:
1) The proposed front and side yard setbacks, despite requiring variances, are similar to those within the existing neighborhood.

2) The proposal would result in improved floodplain conditions. The existing home and garage are constructed at – or below – the 100-year flood elevation. In 1993, the city approved “variances to the floodplain regulations” to allow the construction of the attached garage. As currently proposed, the home would be 2-feet above and the attached garage 1.5-feet above the 100-year flood elevation. While the proposed garage would not meet the city’s minimum 2-foot requirement, the proposal would still result in a significant improvement over existing conditions.

3) The existing deck does not meet floodplain or shoreland setbacks but was constructed after the adoption of the city’s ordinances. Staff finds that the proposed deck would result in an improvement over existing conditions. While the proposed deck would maintain the existing deck’s setback, it would be smaller in size.

4) The proposal would decrease the amount of impervious surface on the property from 51 percent to 30 percent. This would bring the property into compliance with the city’s ordinance.

b) UNIQUE CIRCUMSTANCE: The requested variances are a result of the property’s lot configuration and smaller lot size. A platted right-of-way extension was created by the BANTAS POINT subdivision, in 1914, to provide access to a former lot. Despite the former lot’s combination with another lot to create the subject property, the right-of-way extension is still used to provide access to the property. By ordinance, front yard setbacks are measured from a structure to the platted right-of-way. As such, the front yard setback variances for the proposed house are the direct result of this right-of-way extension. If the extension did not exist, the proposed home would meet the required setback.

Further, the lot is only 8,100 square feet in size. This is significantly less than the city’s minimum lot size. The
property’s unique lot configuration, lot size and existing setbacks are not common to similarly zoned properties.

c) CHARACTER OF LOCATION: The proposal would not negatively impact the character of the surrounding neighborhood. The proposed setbacks would be similar to, or greater than, many of the existing setback within the Bantas Point neighborhood. This is recognized by the city’s long history of variance approvals within the neighborhood. In fact, the city has approved setback and floodplain variances on eight of the 11 properties.

Section 4. City Council Action.

4.01 The city council approves the above-described variance based on the findings outlined in section 3 of this resolution. 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, excepted as modified by the conditions below:

   - Survey dated May 19, 2016
   - Site plan dated May 20, 2016
   - Floor plans dated May 20, 2016
   - Perspectives dated May 20, 2016

2. Prior to issuance of a building permit:

   a) A copy of this resolution must be recorded with Hennepin County.

   b) Submit a revised survey, or site plan, that:

      1) Includes sewer and water locations.

      2) Extend contours into adjacent property at 2515 Bantas Point Lane. The survey must tie the proposed grades into existing site grades within the lot and adjacent properties.
3) Driveways and parking areas must be 1-foot above the 931.5 foot elevation.

4) The attached deck and porch must be 1.5 feet above the 931.5 foot elevation.

c) Submit the following for city staff review and approval:

1) Stormwater management plan. This plan must include calculations to show that 1-inch of volume is captured from the site’s impervious surface.

2) Submit final plans for the construction of the pervious driveway and walkways. The driveway and walkway must be constructed of pervious pavers over a pervious base. Final plans are subject to staff review and inspections.

3) Pervious pavement agreement. This agreement must be in a city-approved format and must be recorded with Hennepin County prior to release of the building permit.

4) Revised hold harmless agreement. This revised agreement must, at a minimum, revise the low floor elevation of the garage from 930.9 to 933 feet. The property owners may choose to release the existing document in order to file a new document. This document must be recorded with Hennepin County prior to release of the building permit.

5) Construction management plan. This plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance. In addition, this plan must outline the following:

   • Contractor parking during construction.
   
   • How the home will be constructed without encroaching onto adjacent properties.

6) Evacuation route. Principal structures, including attached garage, must have areas within 15-feet of the structure at 6-inches above the flood elevation or have
an approved evacuation route from the principal structure to land above the flood elevation.

d) A minimum of two automatic openings must be included on the uninhabitable space used to elevate the low floor 2-feet above the flood elevation on at least two sides of the structure. These openings must be sized 1 square inch per square foot of floodable space.

e) All existing structures, accessory structures and pavement included on the existing conditions survey dated June 25, 2013 must be removed.

f) Install erosion control fencing as required by staff for inspection and approval. These items must be maintained throughout the course of construction.

3. Maximum impervious surface, excluding the pervious paver drive and walkways, must not exceed 30-percent of the lot area above the 929.4 elevation.

4. The total square footage of the walkway and driveway within the lot area may not exceed the square footage shown on the survey dated May 19, 2016. This is a maximum of 828 square feet.

5. This resolution does not approve pervious pavers within the city's right-of-way as shown on the survey and site plan.

6. The proposed deck must be constructed to be pervious.

7. To ensure compliance with the McMansion Policy, the covered porch cannot be enclosed.

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 8, 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 August 8, 2016.

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

Resolution approving a floodplain alteration permit for the construction of a new home at 2512 Bantas Point Road

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

Section 1. BACKGROUND.

1.01 JAL Architects, on behalf of the property owners, are proposing to tear down the existing, one-story home in order to construct a new, two-story home. (Project No. 93026.16a).

1.02 The property is located at 2512 Bantas Point Lane. It is legally described as:

Parcel 1: Tract B, Registered Land Survey No. 474

Parcel 2: Lot 8, Banta’s Point

Parcel 3: Lot 7, except that part thereof which lies Northerly of the following described line: Commencing at the most Northerly corner of said Lot 7: thence Southerly along the West line of said Lot 7 a distance of 20 feet to the point of beginning of the line being described; thence Southeasterly deflecting left 54 degrees 16 minutes to the Southerly line of the Northerly 27.00 feet of said Lot 7: thence Easterly along said Southerly line to the shore line of Lake Minnetonka, and said line there ending Banta’s Point.

1.03 In 1993, the city approved a lot division, lot combination and several setback variances to allow the construction of an attached garage on the property. In addition, the city approved “variances from the floodplain regulations pertaining to setback and minimum basement elevations” for the garage. The existing low floor elevation of the attached garage is 931.3 feet.
1.04 On July 21, 2016, the Planning Commission held a hearing on the application. The applicant was provided the opportunity to present information to the Planning Commission. The Planning Commission considered all of the comments and the staff report, which are incorporated by reference into this resolution. The Commission recommended that the City Council approve the permits.

Section 2. GENERAL STANDARDS.

2.01 City Code §300.24, Subd. 9(c) lists the general standards for alteration of floodplain. These standards are incorporated by reference into this resolution.

2.02 City Code §300.24, Subd. 9(d) lists the specific standards for alteration of floodplain. These standards are incorporated by reference into this resolution.

Section 3. FINDINGS.

3.01 The proposed alteration would meet the general and specific standards for floodplain alteration as outlined in City Code §300.24, Subd. 9.

3.02 The proposed alteration would not negatively impact adjacent properties or the hydrology of the floodplain.

3.03 The proposal would not result in a net fill of the floodplain.

3.04 The proposal would result in an increase of flood storage capacity on the property.

Section 4. CITY COUNCIL ACTION.

4.01 The city council approves the above-described request, based on the above findings. Approval is subject to the following conditions:

1. Subject to staff approval, the floodplain alteration must be in substantial conformance with the following plans, unless modified by the conditions below:

   • Survey dated May 19, 2016
   • Site plan dated May 20, 2016
   • Floor plans dated May 20, 2016
   • Perspectives dated May 20, 2016
2. Prior to issuance of a building permit:
   a) Silt fence must be installed and inspected by city staff. The silt fence must be located outside of the conservation easement.

3. Prior to conducting any excavation or fill:
   a) A copy of this resolution must be recorded with Hennepin County and a copy of the recorded document returned to the city.
   b) Install temporary erosion control, tree and wetland protection fencing, and any other measures required by staff for staff inspection and approval. These items must be maintained throughout the course of site work.

4. After construction an as-built with the flood elevation and volumes must be submitted to city staff to confirm that there has been zero net floodplain fill.

5. During construction, the streets must be kept free of debris and sediment.

6. Approved fill and mitigation must be completed by December 31, 2017. If not completed by that date, this approval will be void.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 8, 2016.

_________________________________
Terry Schneider, Mayor

ATTEST:

_________________________________
David E. Maeda, City Clerk

ACTION ON THIS RESOLUTION:

Motion for adoption:  
Seconded by:  
Voted in favor of:  

Jeannie Buckner  
2512 Bantas Point Lane  
93026.16a
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 August 8, 2016.

_________________________________
David E. Maeda, City Clerk

SEAL
Brief Description  Variances for a blade sign at 1700 Plymouth Road

Recommendation  Adopt the resolution approving the variances

Proposal

Caribou Coffee has submitted a sign package for a new Caribou Coffee/Einstein Bagel location in the Shops at 1700 building, previously known as the Highland Bank redevelopment site. All but one of the proposed signs would comply with sign ordinance standards. (See pages A1–A19.) A blade sign, proposed to be located at the southeast corner of the building, requires several variances:

- By City Code §325.06 Subd.3, signs must be installed within a 26-inch horizontal band on multi-tenant buildings. The proposed blade sign would be vertically-oriented.

- By City Code §325.05 Subd.11(a)(5), wall signs must be mounted parallel to the building and must not project more than 18 inches from the face of the building. The proposed blade sign would be mounted perpendicular to the building.

- By City Code 325.05 Subd.10(b), dynamic displays: (1) are allowed only on monument and pylon signs; and (2) may not change or move more than once every twenty minutes. The proposed wall-mounted blade sign would have a slowly rotating center. A video clip will be presented at the commission’s meeting.

- By City Code §325.30 Subd.3(b)(1), tenant signs must not be located within two feet from lease lines. The proposed blade sign would be located outside of the Caribou Coffee/Einstein Bagel lease space.

Staff Analysis

Though several variances are required, staff finds that the proposed blade sign would meet the variance standard as outlined in state statute and city code and would be similar to other signs recently approved in the community.

- Intent of the Ordinance. The intent and primary goal of the city’s sign ordinance is to provide for effective identification, while promoting signs that are aesthetically compatible with their surroundings. The proposed sign would provide aesthetically interesting, reasonable identification at an appropriate scale to the Shops at 1700 building. (See page A16.)
• **Consistency with Comprehensive Plan.** The Shops at 1700 building is located within the Ridgedale regional village center. The comprehensive guide plan notes that “a critical land use strategy of the regional areas is to continue to support their vitality so that they remain desired destinations for employment, residential development and business.” The proposed blade sign would not detract from this goal. Rather, the proposed sign would provide reasonable identification and appropriate visibility to the traveling public, while adding visual interest to the building.

• **Reasonableness:** The proposed blade sign would be reasonable for a variety of reasons:

  ✓ The projection from the façade of the building would not interfere with pedestrian circulation or impeded installation of other wall signs.

  ✓ Though vertically mounted, the 16 square foot sign would be smaller in total area than other horizontally-oriented signs that would be permitted by ordinance.

  ✓ The slow rotation of the sign, at roughly two rotations per minute, is not anticipated to negatively impact public safety. The dynamic/rotating portion of the sign would have a less frequent “change rate” than “time and temperature” signs, which are allowed by ordinance.

• **Unique Circumstance:** The Caribou/Einstein tenant space is unique. Plymouth Road has the volume of daily traffic of over 23,000 vehicles. As currently designed, the Caribou/Einstein space would be the only commercial tenant in the Shops at 1700 building without direct visibility from this roadway and its traveling public. Further, the Caribou/Einstein location would be one of only two coffee shops in the city that would not have direct frontage on a county road. (This number does not take into account coffees shops located in grocery stores or Ridgedale Mall.) The only non-county road shop, Dunn Brothers, was granted a variance for a vertically-mounted blade sign located outside of its tenant space to allow for visibility from Highway 7. Lack of visibility from a major roadway is a circumstance unique among similar land uses. (See page A20.)

• **Neighborhood Character:** There are a variety of freestanding and wall signs on sites and buildings in the Ridgedale Village Center. Given this variety, the proposed sign would not negatively impact the character of the surrounding area.

**Staff Recommendation**

Adopt the resolution approving variances for a blade sign at 1700 Plymouth Road. (See pages A22–A26.)

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

**Surrounding Land Uses**
- Northerly: commercial building
- Easterly: Plymouth Road and Ridgedale beyond
- Southerly: Commercial strip mall
- Westerly: Commercial strip mall

**Planning**
- Guide Plan designation: mixed use
- Zoning: PID, planned I-394 district

**Signs Approved**
In recent years, staff has supported the use of blade signs when:
(1) a site has a unique visibility need; or (2) such signs would add visual interest to “flat” façades. Blade signs have been approved at: The Ridge (apartment building), Boulevard (restaurant), Bar Louie (restaurant), Mandarin Yang (restaurant), and Dunn Bros. (coffee shop).

**Variance Standard**
A variance may be granted from the requirements of the zoning ordinance when:
(1) it is in harmony with the general purposes and intent of the ordinance; (2) it is consistent with the comprehensive plan; and (3) when an applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties mean that the applicant proposes to use a property in a reasonable manner not permitted by the ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and, the variance if granted, would not alter the essential character of the locality.

![Pyramid of Discretion](image)

**Motion Options**
The planning commission has three options:
1. Concur with the staff recommendation. In this case a motion should be made adopting the ordinance approving the variance requests.

2. Disagree with staff’s recommendation. In this case, a motion should be made directing staff to prepare a resolution for denial to be presented at the next meeting the commission. This motion should include a statement as to why the variance is denied.

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

**Appeals**

Any person aggrieved by the planning commission’s decision about the requested variances 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 360 area property owners and received one response. (See page A21).

**Deadline for Decision**

October 10, 2016
Location Map

Project: Caribou Coffee & Einstein Bros Bagels
Address: 1700 Plymouth Rd
Project No. 87055.16a

This map is for illustrative purposes only.
Caribou Coffee & Einstein Bros Bagels

1700 Plymouth Rd.
Minnetonka, MN

APPLICATION FOR VARIANCE
BLADE SIGN

June 17, 2016
INTRODUCTION

On behalf of Caribou Coffee & Einstein Bros Bagels ("Caribou") Landform is pleased to submit this application for a Variance to permit a projecting “blade” sign with a rotating element for the new Caribou Coffee & Einstein Bros Bagels store at 1700 Plymouth Rd. We are excited to present this proposal which will allow a sign that will add visual interest and character to the development while meeting the practical need to identify the business to motorists and pedestrians.

PROJECT SUMMARY

The new Caribou Coffee & Einstein Bros Bagels is under construction as part of the redevelopment of the Highland Bank site at 1700 Plymouth Rd. The 2-acre site is bordered by Plymouth Rd on the east, Ridgedale Drive on the west and Cartway Lane on the north. The project is 6-story mixed-use structure about 154,000 sq. ft. in area, with 115 residential units over approximately 15,500 sq. ft. of retail space. First floor tenants include Highland Bank (on the northwest corner) and Caribou Coffee and Einstein Bros (on the southwest corner), both of which have drive-through facilities on the west side of the building. An outdoor seating area for Caribou will be located in front of the Caribou space on the south side of the building. The property is zoned PUD, Planned Unit Development.

The owner, 1700 Plymouth, LLC has submitted and received city staff approval of a signage plan for the development. Signs approved for Caribou are wall signs on the south and west sides of the building and a menu board and two small directional signs for the drive-through within the site. In addition, Caribou will have a sign panel (approx. 66 in. by 27 in.) indicating “Drive Thru” and the two logos on the shared pylon sign to be located on Plymouth Rd, near the Cartway Lane intersection. A smaller panel (approx. 26 in. by 12 in."") with the copy “Drive Thru”, the two logos, and an arrow indicating the direction for drive-through traffic will be included on each of two monument signs to be located at the driveways to the site.

Included on the sign plan, but not approved by the city, is a projecting or “blade” sign proposed to be mounted at the southeast corner of the building. The outer ring of the 48 in. circular sign would include the words “COFFEE AND BAGELS” with a 24 in. circular inner element with the Caribou Coffee logo on one side, and the Einstein Bros logo on the other. The logo would rotate slowly, about 2 revolutions per minute, alternating the center circle from the Caribou Coffee logo to Einstein Bros Bagels logo. The rotation speed can be adjusted as needed. The sign would be internally lit and placed at a 120-degree angle to the building wall at a height equal to the building’s wall sign band. The blade sign is part of a new Caribou Coffee & Einstein Bros Bagels sign package is being rolled out across the country as part of a new co-branding effort. The standard rotating sign will allow both brand elements to be displayed in an interesting way, without requiring two separate signs and while reinforcing the two brands coming together as one.
The proposed blade sign on the southwest corner of the building is critically important for identifying Caribou Coffee and Einstein Bros Bagels to customers. The blade sign would be the only “COFFEE AND BAGELS” sign to be visible to motorists and pedestrians on Plymouth Rd, the main approach to the business. It will improve public way-finding and reduce confusion in locating the store, thus benefitting traffic circulation and turning movements around the site. Caribou’s location within the project was dictated by the need for the drive-through which needed to be on the west side. The blade sign would not interfere with wall signs for the future tenants of the retail space at the southwest corner. The property owner is supportive of the design and location of the proposed sign.

A Variance is needed to allow the blade sign for the following reasons:

- Section 5 b) 1) f. of Chapter 300.30 of the Minnetonka Zoning Ordinance (Sign Ordinance) states that “each tenant sign shall not extend closer than two feet from the tenants lease line.” The proposed blade sign is on the opposite corner of the building from the space to be occupied by Caribou.
- Section 10 b) prohibits “signs with dynamic displays”—the definition of which includes signs with any rotating elements—except as regulated in Section 14. That section is directed primarily to electronic signs and outdoor advertising signs (billboards.) The proposed blade sign would comply with some but not all of the criteria in Section 14.
- Section 10 d) prohibits projecting signs. Wall signs are required to be mounted parallel to a building and may not project more than 18 inches from the face of the building. The proposed blade sign would project approximately 54” (48” sign plus 6” mount) from the building wall.
- Section 9 h) allows sign plans with differing requirements to be approved in PUD zoning districts. City staff has stated that, except for the blade sign, the sign plan for this development met the ordinance requirements and has therefore been administratively approved. Staff indicated that flexibility to allow the blade sign would require a variance.

VARIANCE CRITERIA

By state law, variances may be granted from the standards of the city’s zoning ordinance only if:

1. The proposed variance is in harmony with the general purpose and intent of the zoning ordinance;
2. The proposed variance is consistent with the comprehensive plan; and
3. An applicant established that there are practical difficulties in complying with the ordinance standard from which they are requesting a variance. Practical difficulties means:
   1) The proposed use is reasonable;
   2) The need for a variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations; and
   3) The proposed use would not alter the essential character of the surrounding area.
RESPONSE TO VARIANCE CRITERIA

1. The proposed variance is in harmony with the general purpose and intent of the zoning ordinance. It is consistent with the purposes of the sign ordinance by providing for effective communication about the business, while maintaining the high standard of aesthetics established for the area. The sign will be in proportion to the scale of, and be architecturally compatible with, the building and its surroundings. The sign will not adversely impact public safety or unduly distract motorists. It will benefit traffic flow in and out of the site.

Minnetonka, like many cities, places significant restrictions on signs with “dynamic displays,” defined as signs that have, or appear to have, moving or changing elements. These include rotating, revolving, moving, flashing, blinking or animated displays. Newer technologies include LED or “digital ink” panels that allow the sign face to change images electronically. Many cities prohibit “dynamic” signs, based on concerns that actual or perceived movement would be a distraction to drivers, and therefore a public safety hazard. Many of the model codes often used by cities to update their ordinances contain outright prohibitions on such signs.

It is true that distracted driving is a leading cause of automobile crashes. Many studies have noted a correlation between outdoor advertising signs and crash rates, but have not established a causal relationship between signs and crash rates. Most studies have been focused on high-speed roads and interstate highways. The studies also pre-date the current widespread use of texting and internet-connected devices within cars, which may now be a greater concern than signage.

Rather than prohibiting all dynamic signs entirely, regulation can address the appropriate locations, type and speed of movement or changes in the sign, the number and distance between signs, what percentage of a sign face may be dynamic, and the brightness level of lighting. These regulations can allow dynamic signs while minimizing driver distractions.

Section 14 b) of Minnetonka’s Sign Ordinance provides seven standards for new dynamic signs. In summary, they are:

1) *Dynamic displays may occupy no more than 35 percent of the actual copy and graphic area of the sign, and only one contiguous dynamic display area is allowed on a sign face.*

2) *A dynamic display may not change or move more often than once every 20 minutes, except for time and temperature signs.*

3) *The images and messages displayed must be static, and the transition must be instantaneous without any special effects.*

4) *The images displayed must be complete in themselves, without continuation in content to the next image or to any other sign.*
5) *Every line of copy and graphics must meet a minimum size requirement, depending on the speed limit of the adjacent road.*

6) *Dynamic displays must be designed to freeze the device in one position if it malfunctions, and must be stopped if the city finds it to not comply with the ordinance.*

7) *Dynamic displays must comply with the brightness standards elsewhere in the ordinance.*

These standards are designed primarily for electronic signs and message boards, and some are difficult to apply to the more "low-tech" rotating element in the proposed blade sign. It should be noted that the rotating element of the blade sign comprises only about 15% of the sign face. The “COFFEE AND BAGELS” content of the outer ring of the sign would remain static, providing a constant message that will help the public identify the goods and services available on the site. The dynamic logo element in the center will rotate at a constant speed without any special effects to distract drivers. The only change is between the two different logos, unlike electronic messages which can be programmed to show a large variety of messages. The rotation of the logos will be slow (about 2 revolutions per minute) so sudden movements or changes in speed or colors or lights will not distract drivers. If it malfunctions, the rotation will simply stop. The sign will be internally lit at a constant level, without any changes in brightness. All signs on the site will meet the city’s brightness standards. It is our opinion that the proposed rotating sign element has no more potential for distracting drivers than a typical time-and-temperature sign, which is allowed by the ordinance.

2. The proposed variance is consistent with the comprehensive plan and the Ridgedale Village Center plan, which envisioned the mix of high density residential and commercial uses approved within the PUD for redevelopment of the site. The sign will enhance the visibility and viability of the commercial use of the site.

3. There are practical difficulties that necessitate the variance.
   a. The proposed use is reasonable. The total amount of signage approved for the Caribou location is not excessive, particularly give the scale of the building (6 stories) and the lack of visibility from the surrounding streets. The wall signs approved for the Caribou location are restricted to a designated sign band, with most of the letters being less than a foot tall. Most of the additional signage is related to the drive-through, which requires good directional signs due to the need for drivers to travel around the north side of the building and distinguish between the Caribou and Highland Bank drive-through lanes. Additional flexibility is allowed for PUD sign plans, particularly for developments that include a high-rise (greater than 3 story) structure and/or mixed uses. The use of the rotating blade element allows the two
products (coffee and bagels) and two brands (Caribou Coffee and Einstein Bagels) to be identified with a single sign, eliminating the need for two separate signs.

b. The need for a variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations. The need for additional signage is driven by the lack of visibility of Caribou from the main approach on Plymouth Rd for drivers and pedestrians. The Caribou location within the development was dictated by the configuration of the drive-through lanes and windows for two separate businesses (Caribou and Highland Bank.) It was not possible for Caribou to locate in a more visible location within the site.

The blade sign would improve way-finding and reduce confusion in locating the store. Even though it would be located outside the Caribou lease space, the blade sign would not interfere with wall signs for the future tenants of the retail space at the southwest corner, nor would it cause confusion once customers enter the site. After turning into the site from southbound Plymouth Rd, drive-through customers will be directed to turn right to circle the north side of the building to the drive-through lane. Customers who park and access Caribou on foot will see the front of the store and the wall signage on the south face of the building once they are in the parking area. Customers who approach the site from northbound Plymouth Rd would see the sign in time to make the required left turn on Cartway Lane and then a left turn on Ridgedale Drive. They will then enter the site at the southwest corner where the Caribou location will be clearly visible.

The sign ordinance recognizes the need for revised sign requirements based on these unique circumstances of building configuration and visibility. The blade sign would be the only “COFFEE AND BAGELS” sign to be visible to motorists and pedestrians on Plymouth Rd, the main approach to the business. There are other businesses in the area (for example, tenants in the Bonaventure center, across Plymouth Rd) that have been given flexibility for signs outside of the tenant lease space when needed to improve visibility from key vehicle approaches and vantage points.

c. The proposed use would not alter the essential character of the surrounding area. The character of the area is commercial, and several blade signs have already been approved for similar uses in the immediate area (BLVD restaurant at West Ridge Market, Bar Louie at Ridgedale Center, and the Ridge Apartments, at 12708 Wayzata Blvd) and elsewhere in the community (Dunn Bros. at 14545 State Highway 7.) The blade signs were found to provide architectural interest and add vibrancy and energy to the area, and to provide needed visibility from multiple directions. The Dunn Bros. sign is similar to Caribou’s request, in that
the shop is located in a taller building, and the sign is outside of the coffee shop’s lease space. The size of the proposed Caribou blade sign is similar to those approved for the other businesses. It will be compatible with the character already established and encouraged by the city.

CONCLUSION

We respectfully request approval of the Variance to permit a projecting “blade” sign with a rotating element for the new Caribou Coffee & Einstein Bros Bagels store at 1700 Plymouth Rd. We look forward to discussing the request at the July 21, 2016 Planning Commission meeting.

CONTACT INFORMATION

This document was prepared by:
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Landform
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612.202.8325

Any additional questions regarding this application can be directed to Kendra Lindahl at klindahl@landform.net or 612.638.0225.
SIGNAGE PLAN

* Approximate Final Location, Pylon Sign

* Proposed Blade Sign Location

Caribou Lease Space

21'-0" Pylon Sign (SEE EXHIBIT E-1)

Secondary Monument Signage (SEE EXHIBIT E-2)
LOGOS, COFFEE, BAGELS & AMPERSAND - DURANODIC TRIM CAP & RETURNS. LOGO DECORATED WITH VINYL. AMPERSAND HAS DURANODIC VINYL ON FACE WITH 1/4" OUTLINE.

ELEVATION (SIDE) - SCALE: 1/4" = 1'-0"

* LETTERS ARE NON-ILLUMINATED. 1" THICK SIGN FOAM, STUD MOUNTED
WEST ELEVATION (DT SIDE) - SCALE: 1/8" = 1'-0"  

*ALL ELECTRICAL WILL BE RUN BELOW THE ROOF. POWER SOURCES WILL BE LOCATED ON INSIDE WALL.

LOGOS, COFFEE, BAGELS & AMPERSAND - DURANODIC TRIM CAP & RETURNS. LOGO DECORATED WITH VINYL. AMPERSAND HAS DURANODIC VINYL ON FACE WITH 1/4" OUTLINE.

ELEVATION (SIDE) - SCALE: 1/4" = 1'-0"

* LETTERS ARE NON-ILLUMINATED, 1" THICK SIGN FOAM, STUD MOUNTED.
MENU BOARD:
5' 1-1/2" x 7' 6" ILLUMINATED MENU BOARD WITH LOGO ON TOP
OAK: 8' - 0"
LOGO: 1' - 3"
SHROUD HEIGHT: 1' 5-3/4"
DOUBLE POLE, ANCHOR BOLT FOUNDATION
8 PANELS WITH 4 DOORS
FLUORESCENT ILLUMINATION MR16
ALUMINUM CABINET AND POLE SHROUD
PAINTED DURANODIC BRONZE
DIVIDER BARS PAINTED DURANODIC BRONZE
INSERTS BY OTHERS
LOGO:
WHITE LED ILLUMINATION
DURANODIC TRIM CAP & RETURN
POLE FOR LOGO PAINTED DURANODIC BRONZE
2) BARREL LOCKS PER DOOR, ALL LOCKS KEYED TO MATCH
SPEAKER POST:
4'-6" X 10"
PAINTED DURANODIC BRONZE
ANCHOR BOLT FOUNDATION

EXHIBIT: DRIVE THRU MENU BOARD
SCALE: 1/2" = 1' - 0"

A14

Caribou Coffee/Einstein Bagels
1700 Plymouth Road
87055.16a
SIDES A

COFFEE

AND

AND

AND

AND

COFFEE

AND

AND

AND

AND

BAGELS

AND

AND

AND

AND

BAGELS

SIDE B

OUTER RING .080 ROUTED ALUMINUM SIGN FACE
PTM 3m3630-69
"DURANODIC BROWN"

ALL ROUTED WHITE ACRYLIC PUSH-THRU
LETTERS TO HAVE 1/4" WHITE REVEAL

10" x 10" x 1/2" MOUNTING PLATE
WELDED TO (1) 4" x 4" SUPPORT ARM

MAIN POWER LEAD TO RUN THROUGH
4" x 4" SUPPORT ARM THOUGH WALL TO POWER SUPPLY

.040 FABRICATED ALUMINUM
SIGN CABINET PTM 3m3630-69
"DURANODIC BROWN"

1" RETAINER PTM 3m3630-69
"DURANODIC BROWN"

SIGN TYPE:
CARIBOU/ EINSTEIN ROTARY BLADE SIGN ROUTED PUSH-THRU

SIGN FACE:
CENTER CABINET - ACRYLIC FACE W/ APPLIED VINYL GRAPHICS

TRIM CAP:
3m 3630-69 "DURANODIC BROWN"

RETURNS:
3m 3630-69 "DURANODIC BROWN"

LIGHTING:
BOTH CABINETS - L.E.D. LIGHTING

MOUNTING:
CENTER CABINET MOUNTS TO (1) 3/4" ROTATING ROD. "COMPLETED" ROTATING BLADE SIGN MOUNTS FLUSH TO WALL W/ FASTENERS TO SUIT
Nicollet Mall, Minneapolis MN
Edina, MN

Caribou Coffee/Einstein Bagels
1700 Plymouth Road
87055.16a
To: City of Minnetonka Planning Commission

Having read the details and proposal for the above signage, we would like to state our objection to variances from the city's sign ordinance in this particular situation. Our reasons are stated below.

Allowing a rotating sign on this busy street would significantly increase distractions for drivers and would put pedestrians at risk. This fact alone should be reason enough for the Commission to reject the proposal. Signs with movement are more likely to create distractions than those without. In fact, as much as we appreciate the TCF time and temperature sign, occasionally one of us has become mesmerized watching that, rather than the signal lights, and has been tempted to move when it changes from time to temperature, or vice versa. We suspect others may have had the same temptation.

The future density created by the 6-story building currently being constructed, along with the increase in traffic resulting from the addition of the coffee shop drive-through and the bank drive-through at this location, as well as additional traffic from any future proposed high density projects goes against the city plans of having a safe environment for bicyclers and pedestrians. We believe this sign will add to the confusion of this already over-commercialized area.

We are not against low key signage nor appropriate and tasteful advertising, but we would hope to avoid a circus-like atmosphere that is respectful especially to the residential areas to the south and west.

The signage should be kept to a minimum for this and future development (i.e., the TCF, Wells Fargo and US Bank plans). If you allow variances for such signage at this location, you would be hard-pressed to reject it for future developments. Do we really want to create an in-your-face atmosphere?

Having lived in this area for 30 years, we support local businesses, Caribou included. However, we know that in future, we will be avoiding this area as density and traffic increases, and we suspect others in the area will do the same.

We ask that this type of signage not be approved. Thank you.

Kamel & Patty Aossey
Planning Commission Resolution No. 2016-

Resolution approving a variances for blade sign at 1700 Plymouth Road

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

Section 1. Background.

1.01 Caribou Coffee is proposing to install a blade sign at the southeast corner of the Shops at 1700 building.

1.02 The subject property is located at 1700 Plymouth Road and is legally described on EXHIBIT A of this resolution.

1.03 The proposed sign requires the following variances:

1. By City Code §325.06 Subd.3, signs must be installed within a 26-inch horizontal band on multi-tenant buildings. The proposed blade sign would be vertically-oriented.

2. By City Code §325.05 Subd.11(a)(5), wall signs must be mounted parallel to the building and must not project more than 18 inches from the face of the building. The proposed blade sign would be mounted perpendicular to the building.

3. By City Code 325.05 Subd.10(b), dynamic displays: (1) are allowed only on monument and pylon signs; and (2) may not change or move more than once every twenty minutes. The proposed wall-mounted blade sign would have a slowly rotating center.

4. By City Code §325.30 Subd.3(b)(1), tenant signs must not be located within two feet from lease lines. The proposed blade sign would be located outside of the Caribou Coffee lease space.
Planning Commission Resolution No. 2016-

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

Section 2. Standards.

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

Section 3. Findings.

3.01 The proposal would meet the variance standard outlined in City Code §300.07 Subd.1(a):

1. PURPOSE AND INTENT OF THE ZONING ORDINANCE: The intent and primary goal of the city’s sign ordinance is to provide for effective identification, while promoting signs that are aesthetically compatible with their surroundings. The proposed sign would provide aesthetically interesting, reasonable identification at an appropriate scale to the Shops at 1700 building.

2. CONSISTENT WITH COMPREHENSIVE PLAN: The Shops at 1700 building is located within the Ridgedale regional village center. The comprehensive guide plan notes that “a critical land use strategy of the regional areas is to continue to support their vitality so that they remain desired destinations for employment, residential development and business.” The proposed blade sign would not detract from this goal. Rather, the proposed sign would provide reasonable identification and appropriate visibility to the traveling public while adding visual interest to the building.

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

   a) REASONABLENESS: The proposed blade sign would be reasonable for a variety of reasons:
1) The projection from the façade of the building would not interfere with pedestrian circulation or impeded installation of other wall signs.

2) Though vertically mounted, the 16 square foot sign would be smaller in total area than other horizontally-oriented signs that would be permitted by ordinance.

3) The slow rotation of the sign, at roughly two rotations per minute, is not anticipated to negatively impact public safety. The dynamic/rotating portion of the sign would have a less frequent “change rate” than “time and temperature” signs, which are allowed by ordinance.

b) UNIQUE CIRCUMSTANCE: The Caribou tenant space is unique. Plymouth Road has the volume of daily traffic of over 23,000 vehicles. As currently designed, the Caribou space would be the only commercial tenant in the Shops at 1700 building without direct visibility from this roadway and its traveling public. Further, the Caribou location would be one of only two coffee shops in the city that would not have direct frontage on a county road. (This number does not take into account coffee shops located in grocery stores or Ridgedale Mall.) The only non-county road shop, Dunn Brothers, was granted a variance for a vertically-mounted blade sign located outside of its tenant space to allow for visibility from Highway 7. Lack of visibility from a major roadway is a circumstance unique among similar land uses.

4. CHARACTER OF LOCALITY: There are a variety of freestanding and wall signs on sites and buildings in the Ridgedale Village Center. Given this variety, the proposed sign would not negatively impact the character of the surrounding area.

Section 4. Planning Commission Action.

4.01 The planning commission approves the above-described variance based on the findings outlined in section 3 of this resolution. 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, excepted as modified by the conditions below:
• Site and signage plans included the Planning Commission Staff Report dated July 21, 2016

2. Prior to issuance of a sign permit, a copy of this resolution must be recorded with Hennepin County.

3. This variance will expire on December 31, 2017, unless the city has issued a permit for the sign covered by this variance or has approved a time extension.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on July 21, 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 July 21, 2016.

Kathy Leervig, Deputy City Clerk
EXHIBIT A

Parcel 1:

That part of Lot 1, Block 1, Ridgedale State Bank First Addition, lying Southerly of a line drawn parallel with and 90.00 feet South of the North Line of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117 North, Range 22 West, Hennepin County, Minnesota.

Parcel 2:

That part of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117 North, Range 22 West, Hennepin County, Minnesota, described as follows: Beginning at the intersection of the Easterly line of Ridgedale Drive, as now laid out and utilized, according to the duly recorded plat of Ridge Square Second Addition on file in the office of the Hennepin County Recorder, and a line parallel with and 285 feet South from the North line of said Southeast Quarter of the Southeast Quarter; thence East along said parallel line to a point 704 feet East from the West line of said Southeast Quarter; thence South at right angles a distance of 50 feet; thence West at right angles to said Easterly right-of-way line of Ridgedale Drive.

Abstract Property.

and

Lot 1, Block 1, Ridgedale State Bank First Addition, Hennepin County, Minnesota, according to the recorded plat thereof. Together with:

That part of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117, North Range 22, West of the Fifth Principal Meridian, described as follows: Beginning at the intersection of the West line of County Road No. 72 and the North line of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117, North Range 22, West of the 5th Principal Meridian; thence West on the North line a distance of 180 feet; thence South at right angles 85 feet; thence East and parallel to the North line 186 feet to the West line of County Road No. 72; thence North on West line 87.5 feet to the point of beginning, EXCEPT that part thereof lying Westerly of the following described line: Beginning at a point on the North line of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117, Range 22, a distance of 180 feet West of the West line of County Road No. 72, also known as Plymouth Road; thence along a line running Southeasterly at an angle of 78 degrees and 2 minutes from said North line a distance of 86.89 feet. Which lie Northerly of a line drawn parallel with and 90.00 feet South of said North line of the Southeast Quarter of the Southeast Quarter of Section 3.
MINNETONKA PLANNING COMMISSION
July 21, 2016

Brief Description
A conditional use permit, with parking variance, for Eden Prairie Islamic Community Center at 5620 Smetana Drive

Recommendation
Recommend the city council approve the request

Introduction

Eden Prairie Islamic Community Center (EPIC) is requesting a conditional use permit to operate a community center within the existing building at 5620 Smetana Drive. EPIC has been leasing space in Eden Prairie for the last year and is now looking for a permanent location.

At full build-out the community center would include: (1) worship space; (2) a coffee shop that would serve building users; (3) offices; (4) a licensed day care facility; (5) classroom facilities; and (6) a banquet facility. The applicant is proposing to phase in the uses over time. (See the “Supporting Information” section of this report for more information.)

The interior of the building would be remodeled to accommodate the various uses. However, no external site improvements are proposed at this time. (See pages A1-A12.)

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 both the primary questions associated with the applicant’s request and staff’s findings:

1. Is the use generally reasonable?

   Yes. The proposed uses of the building are reasonable and would generally meet standards outlined in city code. Within the B-2 zoning district, licensed day care facilities and coffee shops are allowed as conditionally-permitted uses. While the zoning district does not contain any provisions for schools, religious institutions, or gathering spaces, the ordinance does allow – as conditionally-permitted uses – public buildings and “other uses similar to those permitted in this section, as determined by the city.”

   Based on the programming of the site and the complementary uses proposed, staff determined it would be more appropriate to review the entire proposal under the “other uses similar to” provision rather than to review each individual use separately.
On several occasions and in several zoning districts, the city has reviewed day cares, schools, religious institutions, and gathering spaces under this "other uses similar to" provision. The city has found that these types of uses operate similar to public buildings in which large groups of people gather at specified times for a specified purpose.

The only conditional use permit standard required by ordinance for public buildings is site and building plan approval. But for a parking variance, the proposal would meet all of the required standards for site and building plan approval. The standards and findings are outlined in the “Supporting Information” section of this report.

2. Is the parking variance reasonable?

Yes. For multi-use buildings, the city’s parking ordinance calculates minimum parking requirements based on the individual uses of the building. By ordinance, the applicant’s proposal would require a minimum of 356 stalls. Currently, there are a total of 194 spaces available on site, 164 of which are surface parking and 30 are available via underground parking.

The applicant has a purchase agreement for the subject property, as well as the adjacent property at 5640 Smetana Drive. While the applicant intends to continue the office use of the building, the associated parking lot could serve as “overflow” parking during off-peak office hours. The 5640 Smetana Drive property is currently improved with an additional 197 stalls; 167 surface stalls and 30 underground.

The following chart is intended to summarize the proposed uses and the associated parking stalls required by ordinance:

<table>
<thead>
<tr>
<th>Proposed use</th>
<th>Parking requirement</th>
<th>Minimum number of stalls required by ordinance</th>
</tr>
</thead>
<tbody>
<tr>
<td>5620 SMETANA DRIVE</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Worship space</td>
<td>1 space for every 2.5 seats</td>
<td>160 spaces</td>
</tr>
<tr>
<td>Coffee shop</td>
<td>1 space for every 60 sf</td>
<td>22 spaces</td>
</tr>
<tr>
<td>Day care</td>
<td>1 space for every 6 children</td>
<td>9 spaces</td>
</tr>
<tr>
<td>Office space</td>
<td>1 space for every 250 sf</td>
<td>32 spaces</td>
</tr>
<tr>
<td>School</td>
<td>1 space for every 3 students</td>
<td>33 spaces</td>
</tr>
<tr>
<td>Banquet facility</td>
<td>1 space for every 3 seats</td>
<td>100 spaces</td>
</tr>
<tr>
<td><strong>Total required</strong></td>
<td></td>
<td>356 spaces</td>
</tr>
<tr>
<td><strong>Total available on site</strong></td>
<td></td>
<td>194 spaces</td>
</tr>
<tr>
<td>5640 SMETANA DRIVE</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office space</td>
<td>1 space every 250 sf</td>
<td>171 spaces</td>
</tr>
<tr>
<td><strong>Total available on site</strong></td>
<td></td>
<td>197 spaces</td>
</tr>
</tbody>
</table>
TOTAL FOR 5620 AND 5640 SMETANA DRIVE

<table>
<thead>
<tr>
<th>Total required for both buildings</th>
<th>527 spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total available for both buildings</td>
<td>364 spaces</td>
</tr>
</tbody>
</table>

By literal interpretation of the code, the subject property would be “under-parked.” However, staff finds that the proposed parking variance is reasonable as:

- The proposed uses are complementary and would experience peak parking demand at varied times. Based on the applicant’s narrative, peak parking demand would occur on Fridays between the hours of 1:00 and 2:00 p.m. At this time, approximately 400 worshipers would occupy the worship space, the day care would be operating, and the office spaces would be utilized. By city code, at full capacity, the uses would require 201 parking spaces at this peak time. With the amount of parking on site and the surplus of stalls available on adjacent property 220 stalls are available. As such, this brief peak parking demand could be accommodated on the applicant’s properties. Additional information on complementary religious, school, and day care uses can be found in the “Supporting Information” section of this report.

- The proposed school use would occur during the hours of 10:00 a.m. and 2:00 p.m. on Saturdays. As such, the peak parking demand time for the school would occur at a different time than the office and religious uses of the building.

- As currently proposed, the coffee shop is intended to serve users of the building. As such, requiring additional parking for the coffee shop would result in a “double count” of parking demand.

- The city has issued parking variances for other religious institutions which share space with day cares and schools, finding that the uses are complementary with varied peak parking demand times.

- The proposed community center is intended to “wholly serve” its users. The intent is to provide all the uses necessary to allow users a place to gather and spend time without having to make numerous stops.

3. Would the specific proposal be appropriate for the site?

Yes. The proposed facility would be appropriate for the site. The subject property is located in a mixed-use area of residential, industrial, and commercial land uses. The proposal would occupy two currently vacant buildings within the BRENWOOD BUSINESS PARK and would provide a service not currently offered within Minnetonka.
Traffic and Transportation

Properties within the Opus Overlay District are allocated a maximum number of p.m. peak hour trips to avoid overloading the Bren Road and Highway 169 interchange. The allocated number is not the number of trips at the property driveway. Rather, it is the number of trips anticipated to use the interchange based on the property's proximity to the interchange. A redevelopment of property within the overlay district that increases the amount of trips generated to the interchange above what is allocated is required to pay a trip generation fee. By ordinance, the subject property is allocated a maximum of 33 p.m. peak hour trips. This assumes that 65 percent of the p.m. trips generated to and from the property will utilize the interchange.

By the Institute of Traffic Engineers (ITE), the banquet facility, coffee shop and day care would be the highest traffic generators. The coffee shop and banquet facility would likely not generate trips during the p.m. peak hours. This is due to the fact that the coffee shop would serve existing users of the building and banquet facility use would occur primarily on weekends or after 6:00 p.m. on weekdays. Nonetheless, the city secured WSB & Associates to review the proposal for potential impacts on the traffic operations within the Opus area. While, WSB & Associates has guaranteed that the proposal would be available prior to the planning commission meeting, is was not completed prior to the distribution of the packet. The study will be distributed as soon as it is available. Staff's recommendation regarding the proposal is not dependent on the results of this study. Rather, the study will confirm whether or not the proposal requires that a trip generation fee be paid.

Summary Comments

Staff finds that the proposal would be an appropriate use of the site. While the site would operate differently than an office use, the proposal would not have significant adverse impacts on the surrounding area and would provide a service not currently offered in Minnetonka.

Staff Recommendation

Recommend that the city council adopt the resolution on pages A15-A22. This resolution approves a conditional use permit, with parking variance, for Eden Prairie Islamic Community Center at 5620 Smetana Drive.

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

Project No.  89041.16a

Property  5620 Smetana Drive

Applicant  Eden Prairie Islamic Center (EPIC)

Surrounding Land Uses
Northerly: Industrial flex and warehouse buildings, zoned B-2 and I-1, guided for mixed use
Easterly: Cloud 9 Condos, zoned R-5 and guided for mixed use
Southerly: BRENWOOD BUSINESS PARK office buildings, zoned B-2 and guided for mixed use
Westerly: Lionsgate academy, zoned B-3 and guided for mixed use

Planning
Guide Plan designation: Mixed Use
Zoning: B-2,

Site features
The subject property is part of the BRENWOOD BUSINESS PARK. The business park is 13.5 acres in size and is currently comprised of four office buildings held under current ownership.

The subject property is just over 2.4 acres in size and is improved with a three-story building with underground parking. In addition, a 164-stall parking lot wraps around three sides of the building. An additional 30 underground parking stalls are available.

The applicant has a purchase agreement for the subject property, as well as the adjacent property at 5640 Smetana Drive. While no changes are proposed for the office use of 5640 Smetana Drive building, its parking lot may serve as “overflow” parking for the subject property. The 5640 property is improved with a three-story building with underground parking. It is served by a 167-stall surface parking lot and an additional 30 underground parking stalls.

Proposed Use
The proposal is comprised of several uses. These uses are intentionally complementary to each other and intended to “wholly serve” those who attend the community center. The applicant is intending to obtain approval of the conditional use permit prior to spending a significant amount of resources on the final building plans. As such, the following chart is intended to simply summarize the proposed square footage of each
proposed use. If approved, staff would review the building plans to ensure they are in substantial conformance with the following table and programming:

<table>
<thead>
<tr>
<th>Proposed Use</th>
<th>Amount of space</th>
<th>Max No. of Users</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LEVEL ONE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Worship space</td>
<td>7,335 sf</td>
<td>400 people</td>
</tr>
<tr>
<td>Office Space</td>
<td>1815 sf</td>
<td>n/a</td>
</tr>
<tr>
<td>Coffee shop</td>
<td>1,300 sf</td>
<td>n/a</td>
</tr>
<tr>
<td><strong>LEVEL TWO</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office</td>
<td>6,055 sf</td>
<td>n/a</td>
</tr>
<tr>
<td>Day care</td>
<td>2,000 sf</td>
<td>50 children</td>
</tr>
<tr>
<td>Classroom facilities</td>
<td>3,000 sf</td>
<td>100 children</td>
</tr>
<tr>
<td><strong>LEVEL THREE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Banquet facility</td>
<td>7,000 sf</td>
<td>300 people</td>
</tr>
</tbody>
</table>

Worship Space. Muslims worship/pray five times a day at specified times. During worship the users face Mecca or the spiritual leader who will stands in the direction of Mecca. Unlike other religious institutions, Muslims do not become “members” of a specific facility. Rather, Muslims are welcomed to worship at any facility for prayer.

As proposed, the worship space would be approximately 7,300 square feet in size. Typically, 10-30 people would attend worship throughout the day. Peak occupancy of the worship space would occur from 1:00 to 2:00 p.m. on Fridays, when “Friday Prayer” and the sermon is held. EPIC anticipates that the maximum number of users during this time would be 400 worshipers. The following chart is intended to summarize the times and number of people anticipated to attend worship:

<table>
<thead>
<tr>
<th>Worship Time</th>
<th>Number of attendees</th>
</tr>
</thead>
<tbody>
<tr>
<td>4:30 a.m.</td>
<td>30 people</td>
</tr>
<tr>
<td>1:30 p.m.</td>
<td>10 people</td>
</tr>
<tr>
<td>5:30 p.m.</td>
<td>10 people</td>
</tr>
<tr>
<td>9:00 p.m.</td>
<td>20 people</td>
</tr>
<tr>
<td>10:00 p.m.</td>
<td>30 people</td>
</tr>
<tr>
<td>Friday prayer</td>
<td>400 people</td>
</tr>
</tbody>
</table>

Coffee shop. The coffee shop would serve those who are using the building. While the coffee shop may have an exit-only egress, the primary access would be internal to the building. To avoid
additional traffic impacts, the applicant has agreed to restrict external signage intended to advertise the coffee shop.

**Day care.** In addition to providing day care to those who are in worship, the day care would provide day care services for working worshipers. The licensed capacity would be determined based on community needs. However, the maximum licensed capacity would be 50 children. The day care would operate during typical business hours. Parents or guardians would park their vehicles and walk their children into the facility.

**Classroom facility.** The classroom space would be utilized for Islamic Studies on Saturdays. The school would serve up to 100 students between the hours of 10:00 a.m. and 2:00 p.m.

**Banquet facility.** The banquet facility would typically be used for weddings and memorial services. The facility would have available seating for up to 300 people. Eventually, the applicant would install a full kitchen for use by the facility users. The applicant has indicated that typically weddings and memorial services occur during the later evenings and weekends. These activities would be held inside the facility.

**Parking**

In the past, the city has issued parking variances to allow schools and day cares on properties with religious institutions, finding that the uses are complementary and have varied peak parking demand times. While the city attorney has advised that this does not necessarily set precedent for future approvals, it does indicate that the city has acknowledged that the peak parking times of these types of uses occur at varied times. The table below is intended to summarize similar parking variances approved by the city.

<table>
<thead>
<tr>
<th>Religious Facility</th>
<th>Uses</th>
<th>Required Parking Stalls</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bethlehem Lutheran Church: 5701 Eden Prairie Road</td>
<td>church and day care</td>
<td>114 stalls</td>
<td>75 stalls and 45 in proof-of-parking</td>
</tr>
<tr>
<td>Faith Presbyterian and International Spanish Language Academy (ISLA); 12007 Excelsior boulevard</td>
<td>church and school</td>
<td>263 stalls</td>
<td>212 stalls</td>
</tr>
<tr>
<td>MN Seventh Day Adventist Church, Minnetonka Christian Academy and Nasha Shkola</td>
<td>church and two schools</td>
<td>430</td>
<td>218 with proof-of-parking for 31 more</td>
</tr>
</tbody>
</table>
Currently, the four buildings within the BRENWOOD BUSINESS PARK are held in common ownership. EPIC has a purchase agreement to purchase two of the four buildings. While staff finds that the parking demand for the two buildings could likely be accommodated on site, the current application may present an opportunity to formalize a shared parking agreement amongst all four buildings. This would provide additional parking during EPIC’s peak parking times.

CUP Standards

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

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

   **Finding:** A public building is a conditionally-permitted use within the B-2 district. The city has conditionally allowed day cares, schools, and religious institutions as uses similar to a public building under the “other uses similar to” section of this ordinance.

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

   **Finding:** The site is located within the Opus area, which is guided for mixed use. The larger development includes industrial, commercial, office, and residential land uses.

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

   **Finding:** The proposal has been reviewed by the city’s building, engineering, planning, natural resource and fire staff. Staff has determined that it would not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements.

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

   **Finding:** The proposal is consistent with the city’s water resources management plan. No significant changes are proposed to the property at this time.

5. The use is in compliance with the performance standards specified in Section 300.28 of this ordinance; and
Finding: The majority of the performance standards outlined in the zoning ordinance are related to development and construction. The proposal is for the use of an existing building with minimal impacts to the site and exterior building. But for a parking variance to allow a reduction of parking, the proposal would meet the standards outlined.

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

Finding: Staff does not believe that the proposal would have an undue adverse impact on the public’s health, safety or welfare.

Specific CUP Standards and Site and Building Plan Standards

City Code §300.21 Subd. 3(m) requires that public buildings must meet site and building plan standards as outlined in City Code §300.27. As the applicant is also requesting site and building plan approval, staff has included the standards and findings for both below:

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

Finding: The proposal has been reviewed by the city’s building, engineering, planning, natural resources, and fire staff to ensure consistency with the city’s development guides.

2. Consistency with this ordinance;

Finding: But for a parking variance, the proposal would be consistent with the ordinance. Staff finds that the parking variance is reasonable, as the proposed uses are complementary and would experience varied peak parking demand times.

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: No external modifications to the property are proposed at this time.
4. Creation of a harmonious relationship of buildings and open space with natural features and with existing and future buildings having a visual relationship to this development;

**Finding:** All proposed changes would be internal to the building. As such, the proposal would not change the site’s visual appearance.

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 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 with 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 applicant is not proposing any site or exterior building improvements at this time. As such, there would be no negative impacts to existing open space on the property.

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 proposal is for the reuse and remodel of an existing building.

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

**Finding:** The proposal would be complementary to existing uses within the immediate area. Further, the proposal would not have any negative impact on adjacent or neighboring properties.

**Approving Body**

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

**Motion options**

The planning commission has the following motion options:

1. Concur with staff’s recommendation. In this case, a motion should be made recommending the city council approve 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 the city council deny the request. 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.

**Pyramid of Discretion**

The city sent notices to 601 area property owners and received one comment. See page A14.

**Deadline for Decision**

October 8, 2016
Project: EPIC
Address: 5620 Smetana Dr
Project No. 89041.16a
Al-Amaan Center / Eden Prairie Islamic Community (EPIC) can be reached at:

- 8725 Columbine Road #46482
- Eden Prairie, MN 55344
- alamaan.org
- info@alamaan.org
- facebook.com/alamaancenter
- @alamaancenter
- @alamaancenter

All contributions are fully tax-deductible.
Tax ID: 5527592-47

A unique, exciting opportunity to invest in our future!
We owe Allah SWT our utmost gratitude, for He has blessed Minnesota with an incredible, beautiful, richly diverse community. We’ve come a long way since the establishment of the Dinkytown masjid. We have steadily grown and strengthened over the years, successfully established opportunities for learning, da’wah, education, spiritual development, socializing as a community and bonding as families.

Our community is like a patchwork quilt, with various cultural, ethnic, socioeconomic backgrounds, sewn together with the threads of mutual affection and respect onto a foundation of the Qur’an, the Sunnah, and the love of Allah SWT and His Prophet saw.

The challenge we now face is in further developing and growing our community.

Our community has spent decades on the establishment and maintenance of the community and our Muslim identity. Through the grace of Allah SWT we have established programming that enriches community members of all ages. The challenge we now face is in further developing and growing our community, inspiring a love of learning, confidence in our identity, and a desire to continue da’wah work, with the Masjid and community firmly anchored in the heart.

To this end, we came together to form Al-Amaan Center, a sanctuary, as reflected in its name: rooted in the Qur’an and Sunnah, anchored in the community, pivoting towards the future. A Center for all generations of Muslims - be they immigrants, refugees, baby-boomers, gen x-ers, millennials, and those yet to come. A Center where all are welcomed and served as the guests of Allah SWT.

Rooted in the Qur’an and Sunnah, anchored in the community, pivoting towards the future. A center for all generations of Muslims.
The name Al-Amaan was chosen because it evokes peace, safety, serenity and tranquility. Guided by ayah 125 of surat al-Baqara, “Remember We made the House a place of assembly for mankind and a place of safety,” we have obligated upon ourselves the mission to welcome and serve all the guests of Allah SWT and to develop and maintain, in the House of Allah, an environment of peace, safety and tranquility.

We are committed to equality in facilities, and equity in access to knowledge and resources. Imagine a Center designed with your needs in mind - a Center for you

We envision a community organization built and run by its own people, following the example set by our beloved Prophet saw and those that followed him. This would include a General Assembly of individuals who have a deep connection with the masjid and are actively involved in the community, a Lead Imam to provide spiritual guidance, and a small decision-making body (or “Board”) employing consultative decision-making processes, i.e. our long-standing tradition of shura, to allow everyone a say and to make known the will of the people.

Sara is new to the Twin Cities community and lives in the western suburbs with her husband and their two children (5 years & 12 months). She’s an independent design consultant whose needs are simple: a place to work, care for her baby, professional development opportunities, Islamic activities for her older child, a place to pray, and inspiring programming for personal enrichment.

Meet Sara

Sara has been looking for a class on Android app development - a friend suggests checking out Al-Amaan Center.

She heads over to Al-Amaan Center for her class, checks her baby in at Al-Amaan Kidz Club.

She heads over to the cafe to grab a coffee, then settles in at the coworking space to get some work done while waiting for her husband to join.

She attends her class in a professional classroom setting.

This is Sara’s Al-Amaan story.

What’s yours?
V. The Center

By the Grace of Allah SWT, we have found a home for Al-Amaan Center, alhamdulillah. Our new home will inshaa Allah host a Masjid that welcomes and serves the guests of Allah, and an Education Center offering:

• Sessions in traditional Islamic Sciences
• Islamic Daycare/Preschool
• Islamic School for our youth
• Hifdh/Qur'an School
• Professional Development

Other planned projects include a cafe, community library, bookstore, coworking/collaborative spaces, a banquet hall, facilities to support our mothers, and professional office spaces.

A multilevel building with over 30,000 sq ft • Spacious musalla on the 1st floor measuring over 8,000 sq ft • Over 200 parking spaces, including underground parking • Fully wheelchair accessible

VI. How to turn ideality into reality

1. Your Du'a

Allah SWT says in the Qur'an (2:186): "I respond to the invocations of the supplicant when he calls on Me," so make du'a freely and frequently for the community and this venture, may Allah SWT put baraka in them, inshaa Allah, ameen.

2. Your Help

When we come together to work for the sake of Allah SWT, all things are possible. This new vision needs beautiful, dedicated hearts like yours to make it a reality, and reap the rewards of supporting the Al-Amaan project, envisioned to serve generation upon generation to come.

3. Your Investment

"Whosoever shares in building a masjid for Allah, Allah SWT will build for him a house in Paradise." We’re trying to raise $1 million, but this isn’t just another “fundraiser”

This is an opportunity to invest in a vision of unity, in striving together to build a center of excellence that will inshaa Allah be of benefit to every member of the community who seeks it. Your investment is a loan to Allah SWT that He will return manyfold - a sadaqa jariya, inshaa Allah. All contributions are appreciated, whatever their size, but to achieve this goal we seek 1000 community members to make an investment of $1000 each.

It seems like a lot, but over a year, it amounts to less than $3/day, less than $100/month.

How to contribute

1. Visit alamaan.org/invest
2. Email invest@alamaan.org, call Dr Mohamed Ibrahim at 612.240.0545 with questions or to set something up, or complete a pledge form
3. For all other types of contributions, email info@alamaan.org

1000 for 1000

EPIC
5620 Smetana Drive
89041.16a
JUNE 10, 2016

City of Minnetonka

Dear Planning Department,

Eden Prairie Islamic Community Center (EPIC), has entered into a purchase agreement for the acquisition of 5620 Smetana Drive, Minnetonka, identified as building 4 (IV) with legal description- LOT 002 BLOCK 001 BRENWOOD BUSINESS PARK = PID #: 3611722140015; And 5640 Smetana Dr, Minnetonka, identified as building 3 (III) with legal description- LOT 003 BLOCK 001 BRENWOOD BUSINESS PARK = PID #: 3611722140016. It is the intent of EPIC to utilize 5620 Smetana Drive as a community center. The center needs to become a fully functional community center that caters to the needs of the EPIC community. The center envisions the space to be mostly a place of worship for the entire community. The building’s main level will be dedicated for this purpose. The rest of the space will be used as classrooms for weekend school for kids, provide daycare services for young children and accommodate office facilities. A future coffee shop/convenience store and a banquet facility with a full service kitchen is on the horizon as well. For these, we will seek required city permits, as needed in the future. These space allocation plans are geared towards building a strong community whose present and future needs are adequately planned and provided for. At the present time, EPIC has no specific plans for building 5640 and that building will most likely remain as an office complex for the time being.

Warm regards,

Nemat Janetkhan/ Doctor Mohamed Ibrahim

952-451-3053/612-240-0545
Level One:

- Worship space (7332 square feet):
  - Worship 5 times a day, rows of people standing in designated spaces
  - The following is intended to summarize the times and number of people attending worship:

<table>
<thead>
<tr>
<th>Worship time</th>
<th>Number of attendees</th>
</tr>
</thead>
<tbody>
<tr>
<td>4:30 a.m.</td>
<td>30 people</td>
</tr>
<tr>
<td>1:30 p.m.</td>
<td>10 people</td>
</tr>
<tr>
<td>5:30 p.m.</td>
<td>10 people</td>
</tr>
<tr>
<td>9:00 p.m.</td>
<td>20 people</td>
</tr>
<tr>
<td>10:00 p.m.</td>
<td>30 people</td>
</tr>
<tr>
<td>Friday prayer</td>
<td>400 people</td>
</tr>
</tbody>
</table>

- Office space (1814 square feet)
- Coffee shop (1300 square feet)

Level Two:

- Office (6054 sq ft)

- Daycare (2,000 sq ft)
  - Number of students and teachers to be determined by the need of the community needs.

- Classroom (3,000 sq ft)
  - Saturday school for Islamic students serving 50-100 students from 10 a.m. to 2 p.m.

Level Three:

- Banquet facility (6,000-7,000 sf) with seating for approximately 300 people
- For weddings and memorial services for the deceased
- Anticipated that the use will be between 50 and 250 people.
- Typically used only during the weekends and evenings.
Place of Worship

Future place of coffee Shop

Will remain as offices

LEVEL ONE

NOT TO SCALE
LEVEL TWO

This level will be designated for offices, day care, classroom facility

NOT TO SCALE
Neighborhood feedback
I am concerned how this project will impact the traffic on Green Circle Dr. Specific to the condo at 5607 Green circle Drive. A traffic survey should be conducted before the project is approved.

Thanks
A. Miller
Resolution No. 2016-

Resolution approving a conditional use permit, with a parking variance, for Eden Prairie Islamic Community Center (EPIC) at 5620 Smetana Drive

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

Section 1. Background.

1.01 Eden Prairie Islamic Community Center (EPIC) has requested a conditional use permit to operate a community center within an existing building.

1.02 The property is located at 5620 Smetana Drive.

   It is legally described as:

   Lot 2, Block 1, Brenwood Business Park

1.03 At full capacity the community center would include: (1) worship space; (2) a coffee shop to serve building users; (3) offices; (4) a licensed day care facility; (5) classroom facilities; and (6) a banquet facility.

1.04 The proposal requires a parking variance from 356 to 194 parking stalls.

1.05 City Code §300.18 Subd. 4(n) allows public buildings as conditional uses within the B-2 zoning district.

1.06 City Code §300.18 Subd. 4(t) other “uses similar to those permitted within this section, as determined by the city” as conditional uses within the B-2 zoning district.

1.07 The proposed community center would be similar to a public building, as it is a place where a group of people would gather at a specified time for a specific purpose.
On July 21, 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 permit, with variance.

Section 2. Standards.

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

1. The use is consistent with the intent of the ordinance;
2. The use is consistent with the goals, policies, and objectives of the comprehensive plan;
3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;
4. The use is consistent with the city’s water resources management plan;
5. The use is in compliance with the performance standards specified in §300.28 of the ordinance; and
6. The use does not have an undue adverse impact on the public health, safety and welfare.

2.02 City Code §300.21 Subd. 3(m) outlines the following specific standards that must be met for granting a conditional use permit for public buildings:

1. Site and building plan pursuant to section 300.27 of this ordinance.

2.03 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.

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

Section 3. Findings.

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

1. A public building is a conditionally-permitted use within the B-2 district. The city has conditionally allowed day cares, school, and religious institutions as uses similar to a public building under the “other uses similar to” section of the ordinance.

2. The site is located within the Opus area, which is guided for mixed-use. The larger development includes industrial, commercial, office, and residential land uses.

3. The proposal has been reviewed by the city’s building, engineering, planning, natural resource and fire staff. The use is not anticipated to have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements.

4. The proposal is consistent with the city’s water resources management plan. No significant changes are proposed to the property at this time.

5. The majority of the performance standards outlined in the zoning ordinance are related to development and construction. The proposal is for the use of an existing building with minimal impacts to the site and exterior building. But for a parking variance to allow a reduction of parking, the proposal would meet the standards outlined.

6. Staff does not believe that the proposal would have an undue adverse impact on the public’s health, safety or welfare.

3.02 The proposal would meet all but one of the specific conditional use permit standards outlined in City Code §300.21 Subd. 3(m) and site and building plan standards outlined in City Code §300.27, Subd. 5.
1. The proposal has been reviewed by the city’s building, engineering, planning, natural resources, and fire staff to ensure consistency with the city’s development guides.

2. But for a parking variance, the proposal would be consistent with the ordinance. Further, the parking variance is reasonable as the proposed uses are complementary and would experience varied peak parking demand times.

3. No external modifications to the property are proposed at this time.

4. All proposed changes are internal to the building. As such, the proposal would not change the site’s visual appearance.

5. The applicant is not proposing any site or exterior building improvements at this time. As such, there would be no negative impacts to existing open space on the property.

6. The proposal is for the reuse and remodel of an existing building.

7. The proposal would be complementary to existing uses within the immediate area. Further, the proposal would not have any negative impact on adjacent or neighboring properties.

3.03 The proposal would meet the variance standard as outlined in City Code §300.07 Subd. 1(a):

1. The proposal meets the purpose and intent of the zoning ordinance. The intent of the parking ordinance is to ensure the development provides adequate parking to meet the parking demand. The proposed uses of the building are complementary and would have varied peak parking demand times throughout the day and week. Based on programming, the peak parking demand would occur between 1:00 and 2:00 p.m. on Fridays. At this time at full capacity, approximately 400 worshipers would utilize the worship space, the day care would be operating, and the offices would be occupied. By city code, 201 spaces would be required to accommodate these uses at this peak time. A total of 220 parking stalls would be available on site and on the adjacent property at 5640 Smetana Drive, which the applicant is also purchasing. As such, the required amount of parking could be accommodated.

2. The variance is consistent with the comprehensive plan that encourages mixed-use developments, which experience peak
parking demands at different times for the different uses in the development.

3. There are practical difficulties in complying with the ordinance:
   a) It is reasonable to provide flexible parking requirements based on the actual characteristics and programming of the proposed development.
   b) In the past, the city has found that day care, educational, and religious institutions have complementary uses. Based on the facility’s programming, the peak parking demand for the religious institution would occur on Fridays from 1:00 and 2:00 p.m. The peak parking demand for the school would occur on Saturday’s from 10:00 a.m. to 2:00 p.m. Further, the coffee shop is intended to serve existing users of the building and would likely not generate or require additional parking. While similar to other religious institutions within the city that have parking variances for varied uses and peak parking demand, this is not common to all other similarly zoned properties.
   c) The parking variance would not adversely affect the character of the surrounding neighborhood. The site would meet the anticipated peak parking demand on site. However, parking would also be available on the applicant’s adjacent property at 5640 Smetana Drive. While each property must be reviewed individually, the adjacent property would provide “overflow” parking in the off-peak office parking times if needed.

Section 4. City Council Action.

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

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

<table>
<thead>
<tr>
<th>Proposed Use</th>
<th>Amount of space</th>
<th>Max No. of Users</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEVEL ONE</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Worship space</td>
<td>7,335 sf</td>
<td>400 people</td>
</tr>
<tr>
<td>Office Space</td>
<td>1815 sf</td>
<td>n/a</td>
</tr>
</tbody>
</table>
Coffee shop | 1,300 sf | n/a
--- | --- | ---
Office | 6,055 sf | n/a
Daycare | 2,000 sf | 50 children
Classroom facilities | 3,000 sf | 100 children
--- | --- | ---
Banquet facility | 7,000 sf | 300 people

2. This resolution must be recorded with Hennepin County.

3. A shared parking agreement should be formalized between the properties at 5640 and 5620 Smetana Drive. This agreement should be filed with Hennepin County.

4. Kitchens – including kitchens in the banquet facility kitchen, coffee shop, day care and school – must meet all food code requirements.

5. Prior to certificate of occupancy, all applicable state, county, and city licenses/permits must be obtained and copies submitted to the city.

6. The building must comply with all requirements of the Minnesota state building code, fire code, and health code.

7. Sign permits are required for any exterior signs.

8. The applicant must inform city staff in writing if any significant changes in programming that would increase the p.m. peak trip generation. This includes, but is not limited to, general programming changes and user increases, as it may require an updated traffic study. If an updated study indicates a negative impact on the surrounding roadway system or parking demand, staff may require the conditional use permit be brought back to the city council for further review.

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

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 8, 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 August 8, 2016.

David E. Maeda, City Clerk
Brief Description  Preliminary plat of HIGHVIEW PLACE, a nine-lot subdivision, generally located at the northwest corner of I-494/State Highway 7 interchange

Recommendation  Recommend the city council approve the preliminary plat

Background

In September 2014, the city adopted the residential alternative (R-1A) ordinance. Unlike the planned unit development (PUD) zoning – which is considered a flexible zoning district – R-1A is a traditional zoning classification that allows for a smaller-lot, single family residential development option.

On July 11, 2016, AKARE Companies, represented by Rob Eldridge, requested that a portion of the property at 4301 Highview Place and an adjacent, unaddressed parcel be rezoned from R-1 to R-1A. The city council approved the request to rezone the area, informed by the conceptual plat submitted, based on the following findings:

- The R-1A would not detract from the existing surrounding neighborhood. The site is located at the edge of an existing neighborhood and at the intersection of I-494 and Highway 7.

- As presented on the conceptual plat, the R-1A area would be served by a new public street. This area would result in the creation of a new neighborhood. (See pages A1-A6.)

Proposal Summary

AKARE Companies, represented by Rob Eldridge, is now requesting approval of HIGHVIEW PLACE preliminary plat. As presented in the conceptual plat, HIGHVIEW PLACE would include nine lots; one R-1 lot containing the existing home and eight new R-1A lots accessed via a new public cul-de-sac. (See pages A8-A17.) The following is intended to summarize the applicant’s proposal. Additional information can be found in the “Supporting Information” section of this report.

- **Existing Site Conditions.**

  The existing site is comprised of two properties generally located at the intersection of I-494 and Highway 7. The total site is 4.5 acres in size. The property generally slopes downward from the existing home towards the I-494/Highway 7 interchange. The site does not include a woodland preservation area. However, it
does include 101 high priority trees. These high priority trees are predominately of oak, walnut, pine, elm and ash species and are clustered in the northeast corner of the site and along the western property lines. From I-494 and Highway 7 there does appear to be a significant amount of vegetative buffer. However, a majority of these are on the site and are not regulated as high priority trees. There are very few trees within the right-of-ways of these roadways. 

- **Proposed Lots.**

  The existing home at 4301 Highview Place would remain. Despite being reconfigured to accommodate the new R-1A lots, this lot would comply with all minimum R-1 standards. The new R-1A lots would range in size from 15,600 square feet to 22,377 square feet. (See page A10.)

- **Site Impacts.**

  Grading and tree removal would be required to accommodate the new public infrastructure, including the new cul-de-sac, water and sewer utilities, and stormwater management facilities. A retaining wall would be constructed and grading would occur in the southeastern portion of the site to accommodate the new lots and the cul-de-sac. (See pages A13.) The proposal would result in removal or significant impact to 35 high priority trees. This results in a 35-percent loss, which is the maximum amount allowed by ordinance.

**Primary Questions and Analysis**

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

- **Is the proposed plat appropriate?**

  Yes. The proposed plat would allow the existing home to remain on a reconfigured lot and eight new R-1A lots. The new lots would be “smaller” than traditional R-1 lots and would be subject to maximum floor area ratios and impervious surface requirements. All of the lots would meet the lot standards for their respective zoning districts. The specific standards are outlined in the “Supporting Information” section of this report.

- **Are the anticipated site impacts acceptable?**

  Yes. The redevelopment of the area would result in significant grading and tree removal. Based on staff’s review of the plans, the site contains 101 high priority trees, of which 35 – or 35% - would be removed or significant impacted. This is in compliance with the city’s tree ordinance.
Staff Recommendation

Recommend the city council adopt the resolution on pages A18–A30 approving the preliminary plat of HIGHVIEW PLACE.

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

**Project No.** 88082.16a

**Property** 4301 Highview Place and an adjacent, unaddressed parcel

**Applicant** AKARE Companies represented by Rob Eldridge

**Surrounding Land Uses**
- Northerly: Single family residences, zoned R-1
- Easterly: I-494 and the Highway 7 ramp
- Southerly: Highway 7
- Westerly: Single family residences, zoned R-1

**Planning**
- Guide Plan designation: low density residential
- Zoning: R-1 and R-1A

**Lot Standards** The proposed plat would meet the R-1 and R-1A development standards:

<table>
<thead>
<tr>
<th>LOT</th>
<th>AREA</th>
<th>WIDTH</th>
<th>DEPTH</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td>Buildable</td>
<td>ROW</td>
</tr>
<tr>
<td>R-1</td>
<td>CODE</td>
<td>22,000 sf</td>
<td>3,500 sf</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>22,270 sf</td>
<td>15,080 sf</td>
</tr>
<tr>
<td></td>
<td>CODE</td>
<td>15,000 sf</td>
<td>2,400 sf</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>16,305 sf</td>
<td>7,385 sf</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>22,380 sf</td>
<td>11,495 sf</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>19,335 sf</td>
<td>8,460 sf</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>16,845 sf</td>
<td>6,650 sf</td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>18,345 sf</td>
<td>7,645 sf</td>
</tr>
<tr>
<td></td>
<td>7</td>
<td>19,035 sf</td>
<td>9,485 sf</td>
</tr>
<tr>
<td></td>
<td>8</td>
<td>15,670 sf</td>
<td>7,395 sf</td>
</tr>
<tr>
<td></td>
<td>9</td>
<td>16,265 sf</td>
<td>8,085 sf</td>
</tr>
</tbody>
</table>

Rounded to the nearest 5 ft.

**FAR and Impervious Surface** The R-1A ordinance establishes maximum floor area ratios (FAR) and impervious surface requirements for lots within the zoning district.

Based on the code-defined and the city's McMansion policy, floor area is the sum of the above ground horizontal area of a home,
as measured from exterior walls and including attached garage space and enclosed porch areas, and one-half the horizontal area of a partially exposed level such as walkout or lookout level. FAR is the floor area divided by the lot area.

The maximums for the new eight proposed R-1A lots would be as follows:

<table>
<thead>
<tr>
<th>LOT</th>
<th>LOT AREA</th>
<th>MAXIMUM</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>CODE</td>
<td>15,000 sf</td>
<td>.24 &lt; 17,500 sf</td>
<td>.22 if ≥ 17,500 sf</td>
<td>50%</td>
</tr>
<tr>
<td>2</td>
<td>16,305 sf</td>
<td>3,915 sf</td>
<td>8,150 sf</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>22,380 sf</td>
<td>4,925 sf</td>
<td>11,190 sf</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>19,225 sf</td>
<td>4,230 sf</td>
<td>9,610 sf</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>15,845 sf</td>
<td>3,800 sf</td>
<td>7,920 sf</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>18,345 sf</td>
<td>4,035 sf</td>
<td>9,170 sf</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>19,035 sf</td>
<td>4,190 sf</td>
<td>9,520 sf</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>15,670 sf</td>
<td>3,760 sf</td>
<td>7,835 sf</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>16,265 sf</td>
<td>3,905 sf</td>
<td>8,130 sf</td>
<td></td>
</tr>
</tbody>
</table>

All numbers rounded to the nearest 5 sf

**Stormwater**

The city’s water resources engineering coordinator has reviewed the plans associated with HIGHVIEW PLACE and finds them to be generally acceptable. The plans would meet the standards of the city’s Water Resources Management Plan for rate control, volume control and water quality treatment.

Under current conditions, runoff from the site is directed southeast on the site. Under proposed conditions, this runoff pattern would be maintained, but would be more formally directed to a new infiltration basin in the southeast corner of the site. (See page A14.)

**Infrastructure**

A new cul-de-sac is proposed to provide access to the newly created lots. Public utilities would be located within the new right-of-way until it terminates at the end of the cul-de-sac. From there, the storm sewer would connect to the filtration basin between proposed Lots 4 and 5. The water main would be looped and connect to the existing waterman at the terminus of the Highview Place cul-de-sac. (See page A12.)
Natural Resources

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

Neighborhood Comments

The city sent notices to 39 area property owners and received no comments to date.

Deadline for Decision

August 22, 2016
Rezoning
Ordinance No. 2016-09

An ordinance rezoning portions of the existing properties at 4301 Highview Place and an adjacent unaddressed parcel

The City Of Minnetonka Ordains:

Section 1.

1.01 Portions of the property located at 4301 Highview Place and an adjacent unaddressed parcel are requested to be rezoned from R-1 to R-1A.

Section 2.

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

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

Section 3.

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

1. The R-1A area will be appropriately integrated into the existing development.

2. The R-1A area will not detract from the existing surrounding development, as it would be located at the edge of an existing neighborhood and at the intersection of Highway 7 and Interstate 494.

3. All lots within the R-1A area will be served by a new street.

4. The rezoning is consistent with the comprehensive plan.
Section 4.

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

Adopted by the city council of the City of Minnetonka, Minnesota, on July 11, 2016.

___________________________
Terry Schneider, Mayor

Attest:

___________________________
David E. Maeda, City Clerk

**Action on this ordinance:**

Date of introduction: June 6, 2016  
Date of adoption: July 11, 2016  
Motion for adoption: Wagner  
Seconded by: Wagner, Ellingson, Allendorf, Acomb, Wiersum, Bergstedt, Schneider  
Voted in favor of:  
Voted against:  
Abstained:  
Absent:  
Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on July 11, 2016.

___________________________
David E. Maeda, City Clerk
EXHIBIT A

Legal Description to be Inserted Prior to Planning Commission Public Hearing
Current Preliminary Plat Request
GOVERNING SPECIFICATIONS:

3. All applicable federal, state, and local laws and regulations will be complied with in the execution of the work.
4. The City of Minnetonka Standard Specifications & Details.

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SHEETS: 11" x 17" 38 SHEETS...
LEGAL DESCRIPTION:

Parcel 1: That part of Lot 5, Block 1, Pierce's Addition, lying Southwesterly of a line drawn from a point on the Southerly line of said Lot 5 distant 70.0 feet East of the most Westerly corner thereof and measured along said Westerly line 56.15 feet Northeasterly of the most Westerly corner thereof.

Parcel 2: Tracts B, C and D, Registered Land Survey No. 557, Hennepin County, Minnesota, except that part of said Tract C lying southerly of the following described line: Commencing at the Northwest corner of said Tract C; thence on an assumed azimuth 182 degrees 25 minutes 01 seconds along the West line of said Tract C for 56.98 feet to the point of beginning of the line to be described; thence southeasterly for 123.37 feet on a non-tangential curve, concave to the southwest, having a radius of 66.00 feet, a delta angle of 86 degrees 48 minutes 42 seconds and a chord azimuth of 135 degrees 52 minutes 42 seconds to the northerly right of way line of Trunk Highway No. 494 as now located and established and said line there terminating.

NOTE:

1. Existing conditions survey prepared by - Advance Surveying & Engineering.
LEGAL DESCRIPTION:
Parcel 1: That part of Lot 5, Block 1, Pierce's Addition, lying Southerly of a line from a point on the Southerly line of said Lot 5 distant 70 feet East, and containing a point on the Northerly line of said Lot 5 distant 56 feet North, and bounded and described as follows:

Parcel 2: Tracts B, C and D, Registered Land Survey No. 557, Hennepin County, Minnesota, except that part of said Tract C lying northerly of the following described line: Commencing in the northwesterly corner of said Tract C at an estimated point of 352 degrees 25 minutes 41 seconds along the west line of said Tract C. It is to be described such as to be described 123.75 feet on a northerly curve, centered in the southeast, lying north of the 00' view; a cable length is to be described 45 seconds and a chord outward.

HIGHVIEW PLACE
RIDGE CREEK CUSTOM HOMES
MINNETONKA, MN
PRELIMINARY PLAT

GOVERNING SPECIFICATIONS:
3. All applicable Federal, State and Local Laws and Ordinances shall be complied with in the construction of this project.

LEGEND:
- Property lines
- Contours
- Utilities
- Existing water bodies
- New water bodies
- New streets
- Existing streets
- New developments
- Existing developments
- New utility lines
- Existing utility lines
- Existing buildings
- New buildings
- Survey points
- Survey lines

NOTE: All existing easements within the property area to be included.

DRAINAGE AND UTILITY EASEMENTS:
- Stormwater drainage
- Sewer lines
- Water lines
- Gas lines

NOTE: The area shown as "offsite" includes access to the property from the public right-of-way and the minimum setback and other requirements as shown on the plat.
Resolution No. 2016-

Resolution approving the preliminary plat of HIGHVIEW PLACE
generally located at the I-494/State Highway 7 interchange

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

Section 1. Background.

1.01 AKARE Companies, represented by Rob Eldridge, has requested preliminary plat approval for HIGHVIEW PLACE, a nine-lot subdivision. (Project 89082.16a).

1.02 The property is located at 4301 Highview Place and an adjacent, unaddressed parcel. The site is legally described on Exhibit A of this resolution.

1.03 On July 21, 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 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.

2.02 City Code §300.37 Subd. 6 outlines standards for R-1A lots. 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 and §300.37 Subd. 6.


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

1. Final plat approval is required. A final plat will not be placed on a city council agenda until a complete final plat application is received.
   a) The following must be submitted for a final plat application to be considered complete:
      1) A final plat drawing that clearly illustrates the following:
         1. A minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way(s) and minimum 7-foot wide drainage and utility easements along all other lot lines.
         2. Provide drainage and utility easements:
            • Over existing and proposed public utilities, as determined by the city engineer.
            • Over wetlands, floodplains, and stormwater management facilities, as determined by the city engineer.
            • For a maintenance path to the infiltration basin on the south side of Lot 4.
            • For a drainage path between Lot 3 and 4.
      2) Application for vacation of existing easements per document 1974181.
      3) 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 thirty days before release of the final plat.

2. Documents establishing a homeowner’s association. The association must be responsible for maintaining common areas, common drives, retaining walls, required drainage ponding, and any other required drainage improvements approved by the city.

3. A Contract for Residential Development (or Developers Agreement) if the applicant or developer is constructing any public improvements. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements.

2. Prior to final plat approval:
   a) This resolution must be recorded with Hennepin County.
   b) The documents outlined in section 4.01(1)(a)(2) above must be approved by the city attorney.

3. Prior to release of the final plat for recording:
   a) Submit the following:
      1) Two sets of mylars for city signatures.
      2) An electronic CAD file of the plat in microstation or DXF.
      3) Park dedication fee of $40,000.
   b) If the developer is petitioning the city to construct the public improvements, an appropriate petition must be submitted and the city council must order the improvements.

4. Subject to staff approval, HIGHVIEW PLACE must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:
• Site plan with revisions dated July 11, 2016
• Preliminary plat with revisions dated July 11, 2016
• Preliminary street and storm sewer plan with revisions dated July 11, 2016
• Grading plan with revisions dated July 11, 2016
• Utility plan with revisions dated July 11, 2016
• Tree preservation plan with revisions dated July 11, 2016

5. 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) A signed Development Agreement. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements.

2) Evidence of filing the final plat at Hennepin County and copies of all recorded easements and documents as required in section 4.01(1)(a)(2) of this resolution.

3) A maintenance agreement for the retaining walls and filtration basin recorded against all affected properties for review and approval by the city attorney. This agreement must delineate maintenance responsibilities for the filtration basin and retaining walls located in the southeast corner of the site unless Homeowner’s Association maintained.

4) Encroachment agreements for the retaining walls within platted easements for review and approval by the city attorney.

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

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

7) Final site, grading, drainage, utility, landscape, and tree mitigation plans, and a stormwater pollution prevention plan (SWPPP) for staff approval.
a. Final grading plan must:

- Install bituminous curb where existing driveways are removed.
- Provide spot elevations to show how Maple Lane will be graded at the intersection. This plan must also demonstrate associated drainage.
- The maintenance path must be compacted to 95 percent density, be constructed of structural fill materials and contain no waste soils. The path must then have 4 inches of topsoil and be seeded. The path is subject to approval and inspection by city staff.
- Provide a drainage swale across Lots 3 and 4 to maintain flow across the site from the 12-inch CMP shown on as-built plans.

b. Final drainage plan must

- Change the label of the basin from “filtration” to “infiltration” to be consistent with stormwater management report.

c. Final utility plan must:

- Include newly constructed water and sewer services.
- Remove unused sewer and water services on Highview Place. Water service must be removed to the main and the corporation stop must be turned off. Sewer service must be removed to the main, remove the wye and sleeve.
- Identify water main connection types.
• Include a gate valve in cul-de-sac prior to entering green space.

• Not include any services from the water main loop in the green space.

• Provide additional information regarding the extent of the directional drill water main.

d. Final stormwater management plans must:

• Specify how an infiltration rate of 0.5 inch per hour was determined.

• Meet the requirements of the city’s Water Resources Management Plan, Appendix A. Design.

e. Final tree preservation plan must:

• Illustrate that no more than 35 of the site’s high priority trees will be removed or significantly impacted.

• Provide appropriate seed mix for infiltration basin.

• Provide mitigation for the removal of 17 significant trees. This would be 31, 2-inch trees and 15, 6-foot evergreens.

f. Final landscaping and tree mitigation plans must meet minimum landscaping and mitigation requirements as outlined in the ordinance. However, at the sole discretion of natural resources staff, mitigation may be adjusted based on site conditions.

8) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to construct streets and utility improvements, comply with grading permit, wetland restoration, tree mitigation requirements, and to restore the site. One itemized
letter of credit is permissible, if approved by staff. The city will not fully release the letters of credit or cash escrow until: (1) as-built drawings have been submitted; (2) a letter certifying that the streets and utilities have been completed according to the plans approved by the city has been submitted; (3) vegetated ground cover has been established; and (4) required landscaping or vegetation has survived one full growing season.

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

10) A copy of the approved MPCA NPDES permit.

11) A copy of the approved Minnesota Department of Health permit.

12) A copy of the MPCA sewer extension permit.

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

14) All required administration and engineering fees.

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

16) Cash escrow in an amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge:
• The property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and

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

b) Prior to issuance of the grading permit, install a temporary rock driveway, erosion control, tree and wetland protection fencing and any other measures identified on the SWPPP for staff inspection. These items must be maintained throughout the course of construction.

c) Permits may be required from other outside agencies including, Hennepin County, the Minnehaha Creek Watershed District. It is the applicant’s and/or property owner’s responsibility to obtain any necessary permits.

6. Prior to issuance of a building permit for the first new house within the development, submit the following documents:

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

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

c) An electronic CAD file or certified as-builts for public infrastructure in micro station or DXF and PDF format.

7. Prior to issuance of a building permit for any of the lots within the development:

a) Submit the following items for staff review and approval:

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

2) Final grading and tree preservation plan for the lot. The plan must:


b. Show sewer and water services to minimize impact to any significant or high-priority trees. No trees may be removed for installation of services.

3) A tree mitigation plan. The plan must meet minimum mitigation requirements as outlined in the ordinance. However, at the sole discretion of staff, mitigation may be decreased.

4) 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.

b) Install a temporary rock driveway, erosion control, tree and wetland protection fencing and any other measures identified on the SWPPP for staff inspection. These items must be maintained throughout the course of construction.
c) Install heavy duty fencing, which may include chain-link fencing, at the conservation easement. This fencing must be maintained throughout the course of construction.

d) Submit all required hook-up fees.

8. All lots and structures within the development are subject to all setback, floor area ratio, impervious surface, and height ratio requirements outlined in Exhibit B of this resolution. In addition:

a) 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. Existing landscape boulders must be removed from right-of-way adjacent to the northern driveway.

10. No landscaping is allowed in drainage and utility easements.

11. The retaining wall located near the infiltration basin must be fully engineered.

12. The city will not be responsible for maintaining the retaining walls within the plat.

13. During construction, streets must be kept free of debris and sediment.

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

15. This preliminary plat approval will be void if: (1) a final plat application is not received and approved by August 8, 2017; and (2) the city council has not received and approved a written application for a time extension by August 8, 2017.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 8, 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 August 8, 2016.

David E. Maeda, City Clerk
EXHIBIT A

The property at 4301 Highview Place is legally described as:

That part of Lot 5, Block 1, Pierce's Addition, lying Southwesterly of a line drawn from a point on the Southerly line of said Lot 5 distant 70.0 feet East of the most Westerly corner thereof to a point on the Northwesterly line of said Lot 5 distant 56.15 feet Northeasterly of the most Westerly corner thereof and measured along said Northwesterly line.

The unaddressed parcel is legally described as:

Tracts B, C and D, Registered Lane Survey No. 557, Hennepin County, Minnesota except that part of said Tract C lying southwesterly of the following described line: Commencing at the northwest corner of said Tract C; thence on an assumed azimuth of 182 degrees 25 minutes 01 seconds along the west line of said Tract C for 56.98 feet to the point of beginning of a line to be described; thence southeasterly for 123.37 feet on a non-tangential curve, concave to the southwest, having a radius of 66.00 feet, a delta angle of 86 degrees 48 minutes 42 seconds and a chord azimuth of 135 degrees 52 minutes 42 seconds to the northerly right of way line of Trunk Highway No. 494 as now located and established and said line there terminating.
## EXHIBIT B

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<tr>
<td>1</td>
<td>Highview Pl: 35 ft Maple Lane: 25 ft Proposed street: 25 ft</td>
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* Double frontage lot.

** Floor area is the sum of the above ground horizontal area of the home, as measured from exterior walls and including attached garage space and enclosed porch areas, and one-half the horizontal area of any partially exposed level such as a walkout or lookout level. Floor area ratio (FAR) is the floor area divided by the lot area.

*** On properties zoned R-1, the maximum principal structure height is 35 feet. On properties zoned R-1A, the maximum principal structure height is 35 feet unless the building is a walkout or lookout, in which case the maximum height is 25 feet.
MINNETONKA PLANNING COMMISSION
July 21, 2016

Brief Description
Side yard setback variance from 10 feet to 0.75 feet for installation of a solar array at 3528 Moorland Road

Recommendation
Adopt the resolution denying the request

Proposal

Oxbow Sunworks, on behalf of property owners Karen Howe and Leilani Hotaling, is proposing to install a solar array on the south side of an existing detached garage at 3528 Moorland Road. A minimum 10-foot side yard setback is required. As proposed, the solar array would be located 0.75 feet from the south property and a side yard setback variance is required. (See pages A1–A18.)

Staff Analysis

The city may grant a variance to zoning ordinance requirements only when: (1) the requested variance is consistent with the purpose and intent of ordinance standards; (2) the requested variance is consistent with the comprehensive plan; and (3) an applicant establishes that there are practical difficulties in complying with ordinance standards. Practical difficulties means that the property owner proposes to use the property in a reasonable manner not permitted by this ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, would not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Both state law and city code recognize that inadequate access to direct sunlight for solar energy systems constitutes a practical difficulty. However, city codes goes onto state that, “inadequate access means the failure to achieve reasonable access to direct sunlight, not optimal or maximal access.” (See pages A19–A20.)

Staff finds that there is no practical difficulty in complying with the required 10-foot setback. There are at least four locations on the property where the proposed solar array could be located that would both meet the minimum setback requirement and allow for reasonable access to sunlight. (See pages A21–A22.) The locations are:

1. Breezeway. The array could form a “breezeway” type connection between the existing home and garage. The array would have a southerly exposure.

2. North Side. The array could be located on the north side of the home, which has reasonable exposure to sunlight.

3. West Side. The array could be located on the west side of the home, which has reasonable exposure to sunlight.
4. Backyard. The array could be located in the backyard. The array would have a southerly exposure.

These locations may not be preferred by the property owners due to the fact that they may cost more to install or may not allow for optimal or maximal solar access. However, neither economic considerations nor failure to achieve optimal or maximal solar access constitutes a practical difficulty.

**Summary Comments**

The City of Minnetonka supports and encourages the use of alternative energy sources and staff commends the property owners for their efforts to improve the energy efficiency of their home and reduce their carbon footprint. Nevertheless, from staff’s perspective, the positive goal of optimal access to sunlight does not outweigh or negate setback regulations or the variance standard.

**Staff Recommendation**

Adopt the resolution denying the side yard setback variance from 10 feet to 0.75 feet for a solar array at 3528 Moorland Road. (See pages A25–A27.)

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

**Surrounding Land Uses**
The lots on all sides of the subject property are zoned and guided for single-family homes.

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

**Variance Standard**
A variance may be granted from the requirements of the zoning ordinance when: (1) it is in harmony with the general purposes and intent of the ordinance; (2) it is consistent with the comprehensive plan; and (3) when an applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties mean that the applicant proposes to use a property in a reasonable manner not permitted by the ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and, the variance if granted, would not alter the essential character of the locality.

**Pyramid of Discretion**

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

1. Concur with the staff recommendation. In this case a motion should be made adopting the resolution denying the variance request.

2. Disagree with staff’s recommendation. In this case, a motion should be made directing staff to prepare a resolution for approval to be presented at the next meeting the commission. This motion should include a statement a how the variance standard is met.
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 variances 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 52 area property owners. A petition in support of the request was received and is attached on pages A23–A24.

**Deadline for Decision**

September 26, 2016
Project: Oxbow Sunworks
Address: 3528 Moorland Rd
Project No. 16013.16a

This map is for illustrative purposes only.
Legal Description:

Owners: Kaaren Howe and Leilani Hotaling

Address: 3528 Moorland Rd

PID: 17-117-22-42-0019
Municipality: MINNETONKA
Addition Name: STARINGS TONKA WOOD-CROFT
Lot: 003
Block: 003

LOT 8 AND S 1/2 OF LOT 7

Written Statement:

We are asking for a variance to allow a solar array installation on our home property that does not meet the ten foot setback requirements for structures.

We are long time business owners and residents of Minnetonka. We have owned Minnetonka Animal Hospital since 1998. We completed an extensive remodeling project in 2013. We have lived in Minnetonka since 1998. When we downsized from our home on The Strand, we purchased 3528 Moorland Road in December 2014. We moved one block, to stay in Minnetonka and keep a small commuting carbon footprint.

We have made substantial improvements to our Moorland home, focusing on improved energy efficiency, including:

- Windows: replaced all but five windows with Marvin Ultimate energy efficient windows
- Insulation: spray foam insulation used in the upper ½ story and half of the main floor
- Electric: rewired the majority of the house, all replaced light fixtures use LED lights
- HVAC: replaced furnace with a very energy efficient unit, added an air exchanger, replaced the oversized heat ducts to appropriate size, moved the supply side to the interior walls of the house and the returns on the exterior walls of the house to improve energy efficiency, and replaced the air conditioner with a heat exchanger
- Plumbing: installed on demand water heater, bathroom toilet is Water Sense labeled as is the faucet (0.3 gallon/minute solar powered motion activated faucet). Low flow shower head and kitchen sink faucet. All plumbing pipes have been replaced
- Appliances: refrigerator, washer and dryer are Energy Star certified
- Roof: replaced with Shasta White Energy Star certified shingles

Suffice to say, we are committed to creating the most energy efficient home we can.

Adding solar to our home is another way we can decrease our carbon footprint. The average American household generates 7.4 tons of carbon dioxide per year through electrical use. Carbon dioxide has been
proven to cause global warming, which is wreaking havoc on our Earth—causing glaciers to melt, shorelines to erode and animals to be endangered. In addition, solar reduces reliance on foreign and nonrenewable energy sources.

In November of 2015, we won the state solar incentive lottery to install twenty Minnesota Made solar panels. The only unshaded, south facing roof space is on the garage at the back of the property. However, the garage only fits eight of the twenty panels. To accommodate for this we would like to install the rest of the 12 solar panels on posts that would allow for canoes or a car to be parked underneath them. The space next to the garage where the carport is being proposed currently has a concrete pad that is used to store canoes. The previous owners parked their RV (which was taller than the garage itself) in that location, see photo.

The carport array would be three rows of four panels. The setback on the south side is one foot three inches from the property line. The west setback is eight feet one third inch. The type of panels being used are tenKsolar panels, which come with a reflector, made of 3M reflective material that increase the productivity of the panels. These reflectors are very aesthetically pleasing, see example photo.

The structure will be used to produce clean electricity to provide us with a financial benefit, energy security and provide the community with pollution free energy. The structure will also be used to provide shelter for canoes or car.

We explored other options for the solar panels to see if we could meet City setback requirements.

1. A layout of two rows of six panels each would give a setback of six feet on the south however the carport would either stick out beyond the garage to the east, which would obstruct use of the garage, or it could be centered on the garage in the east west positon. This design still would not meet setback requirements.
2. Mount the panels on the south face of the house. The tenKsolar panels cannot be mounted on the side of a house.
3. Mount the panels on the west side of the house. Due to site limitations such as heavy tree foliage blocking the light penetration to the panels, this option will produced twenty percent less electricity.
4. Raise the support structure and relocate it above the garage... not a viable option per the solar contractors.
Any redesign of the structural support for the panels will result in increased charges of at least $750 for structural engineering, closer to $8000 for option 4.

The carport design will have virtually no impact on the adjacent neighbors, as the intersection of the properties where the carport will be located has dense foliage and existing structures that will block the carport from site. See attached picture.

A neighborhood petition of support for the project will be delivered prior to the meeting.

We believe that our proposal meets the Practical Difficulties requirements for a variance in that the proposal is reasonable, the need for the variance is caused by circumstances unique to the property, and the proposed use would not alter the essential character of the surrounding area. Minnesota law, variance procedure Section 300.07, allows local zoning boards to create variances in zoning rules in situations where practical difficulties, such as lack of access to sunlight for solar-energy devices, impinge on a particular property. In addition, Minnetonka zoning code does allow variances to be granted for the specific purpose of capturing solar resources. In our case, the variance is needed in order to provide adequate access to direct sunlight for the solar energy system. We have demonstrated above that there are no reasonable alternatives and that the project does not create problems or diminish community character.

The following are the specific sections of Minnetonka’s Comprehensive Plan that are pertinent to our request for a variance in that they encourage and support the use of “green Technologies” including solar panels:

Ch. III Overall Policy and Growth Strategies
p. III-3 Policy Use and Definitions
  B. Definitions
    c. Green technology: applications to conserve the natural environment and resources, and to mitigate the negative impacts of human involvement in the built environment. Examples include the use of solar panels, incorporating plants and landscaping on portions of buildings, and the use of renewable energy sources.

p. III-7 Policies
  C. Land Use, Development and Redevelopment
    Community Values: *promote use of green technology and sustainable development
Community Values: *promote use of green technologies and sustainable development

Green Technology: Since the early 1990s the city has incorporated...green technologies and techniques to conserve and reduce reliance on nonrenewable energy sources. Current...green technologies utilized and encouraged by the city include recycling, use of solar energy, and non-toxic cleaning methods for utility and facility management.

Policy No. 3: Provide education and programs to residents and businesses to encourage the use of...green technologies.

Policy No. 6: Encourage the use of technologies, including solar access and other or new forms of renewable energy, oriented towards energy conservation and efficiency.

Finally, Minnetonka is a GreenStep City, and has claimed credit for Best Practice #26 Renewable Energy: Remove barriers to and encourage installation of renewable energy generation capacity. “Minnetonka Resolution No. 2013-123, Section 2.02 Will claim credit for having implemented and will work at its own pace toward implementing at least 16 GreenStep best management practices that will result in energy use reduction, economic savings, quality of life improvement and reduction in the City’s greenhouse gas footprint.” Thus far, Minnetonka has achieved Action Step 1 and 3 towards the Greenstep solar energy standards:

★★ Action 1: Adopt solar energy standards or a wind energy ordinance that allows or encourages appropriate renewable energy installations.
Date completed/entered: 02/23/2015
Date updated: 02/23/2015

- Implementation details: The Minnetonka City Code allows solar equipment as a permitted accessory use within all residential zoning districts...Additionally the city has recommended approval to the planning commission of solar equipment in other zoning districts as part of the site and building plan review process. Conditional use permit standards include setbacks, system design control standards, and compliance with applicable building and electrical code requirements.
- Outcome measures/metrics: The city has been tracking the installation of solar panels within the city through the submission of building permits. The city has seen an increase in solar panel installation in recent years.

★★★★ Action 3: Create/participate in a renewable energy financing program such as PACE for commercial property owners to install generation capacity/energy efficiency equipment.
Date completed/entered: 07/21/2014
Date updated: 08/07/2014

- Implementation details: The City of Minnetonka has entered into a joint powers agreement with the St. Paul Port Authority. The St. Paul Port Authority is designated as the implementing entity to implement and administer the MN PACE program. The program provides a financial opportunity to construct or install energy efficient improvements.

By granting our request for a variance for the solar panels that encroach on the setback requirements, Minnetonka would be making a step forward towards Action 2:
Adopt the Minnesota Solar Challenge land use best practices...with provisions that promote rather than restrict renewable energy installations. Include incentive provisions such as...fast-tracking permits (as noted in action 26.7).
Greenstep provides examples of model solar energy standards that support implementation of solar projects. One component would be to protect access to solar resources such that development of neighboring properties (structures or vegetation) does not restrict a homeowner’s access to direct sunlight. Another example would be to commit to meeting climate protection goals by removing regulatory barriers to solar energy such as ensuring reasonable access not unduly limited by height, setback, or coverage limitation, recognizing the distinct design and function of solar technologies.

We commend the City on its progressive stance on sustainability. We look forward to receiving a variance for the setback requirements for our proposed solar array. Please let us know if you have any questions.

Kaaren Howe, DVM, MBA
Leilani Hotaling, DVM
3528 Moorland Rd
Minnetonka MN 55345
952-237-7380
952-237-7381
Option 4
Proposed Carport Structure.
Built in accordance with Structural Review Letter for Ground Mount Solar Installation at the Howe Residence, dated 9/1/2015
MMY Project #15554

Existing Garage

See Sheet A04

W6X9 Post
Embedded 60" in concrete
Typ.

Concrete pier 20" x 72"
Typ.

A16

W6X9 grade A992
Steel post
Typ.

13'-0"

8'-0"

10'-11"

5'-0"

6'-0"

1'-8"
Note:
All attachments between panels, rail, L feet and standoff are per manufacturers specified methods and using manufacturers specified hardware and torqued appropriately.
study and report and may not be acted upon by the governing body until it has received the recommendation of the planning agency on the proposed amendment or until 60 days have elapsed from the date of reference of the amendment without a report by the planning agency.

Subd. 5. Amendment; certain cities of the first class. The provisions of this subdivision apply to the adoption or amendment of any portion of a zoning ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial of a property located in a city of the first class, except a city of the first class in which a different process is provided through the operation of the city's home rule charter. In a city to which this subdivision applies, amendments to a zoning ordinance shall be made in conformance with this section but only after there shall have been filed in the office of the city clerk a written consent of the owners of two-thirds of the several descriptions of real estate situate within 100 feet of the total contiguous descriptions of real estate held by the same owner or any party purchasing any such contiguous property within one year preceding the request, and after the affirmative vote in favor thereof by a majority of the members of the governing body of any such city. The governing body of such city may, by a two-thirds vote of its members, after hearing, adopt a new zoning ordinance without such written consent whenever the planning commission or planning board of such city shall have made a survey of the whole area of the city or of an area of not less than 40 acres, within which the new ordinance or the amendments or alterations of the existing ordinance would take effect when adopted, and shall have considered whether the number of descriptions of real estate affected by such changes and alterations renders the obtaining of such written consent impractical, and such planning commission or planning board shall report in writing as to whether in its opinion the proposals of the governing body in any case are reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use, and shall have conducted a public hearing on such proposed ordinance, changes or alterations, of which hearing published notice shall have been given in a daily newspaper of general circulation at least once each week for three successive weeks prior to such hearing, which notice shall state the time, place and purpose of such hearing, and shall have reported to the governing body of the city its findings and recommendations in writing.

Subd. 6. Appeals and adjustments. Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

1. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

2. To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance...
SECTION 300.07. VARIANCES.

1. Limitations.

a) A variance may be granted from the requirements of this ordinance including those placed on nonconformities. A variance is only permitted when it is in harmony with the general purposes and intent of this ordinance and when the variance is consistent with the comprehensive plan. A variance may be granted when the applicant establishes that there are practical difficulties in complying with this ordinance. Practical difficulties means that the property owner proposes to use the property in a reasonable manner not permitted by this ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, would not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties also includes inadequate access to direct sunlight for solar energy systems. Inadequate access means the failure to achieve reasonable access to direct sunlight, not optimal or maximal access. Variances must be granted for earth sheltered construction as defined in state law, when in harmony with this ordinance. The city may impose conditions in the granting of a variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

b) A lot that does not meet the minimum requirements of this ordinance and section 400 is not buildable unless a variance is granted. No variance will be granted to declare a substandard lot buildable unless, in addition to meeting the criteria enumerated in paragraph (a) of this subdivision, the applicant has exhausted all reasonable possibility of combining the lot with an adjacent vacant lot. Notwithstanding the above, no variance is needed to declare buildable any lot which was a lot of record zoned for single family residential use on February 12, 1966 and which meets all of the following minimum standards:

1) 15,000 square feet;
2) 90 feet in width at building setback line; and
3) 110 feet in depth.

c) No variance shall be granted to permit a use which is not allowed as a permitted use, accessory use or conditional use under this ordinance for property in the district in which the land is located.

d) No variance shall be granted in the wetlands, floodplain or shoreland districts which allows for a lesser degree of flood protection than is required by sections 300.23, 300.24 or 300.25 of this ordinance.

e) A variance from the standards applicable to another land use approval, such as a site plan, conditional use permit, and subdivision, does not require a separate application, but the applicant for the underlying land use approval must provide a written narrative explaining the justification for any requested variance. The planning commission and city council may act separately on
OPTION 1: “BREEZEWAY” CONNECTION

OPTION 2: NORTH SIDE OF GARAGE
OPTION 3: WEST SIDE OF HOME

OPTION 4: BACKYARD
Petition to City of Minnetonka Planning Commission

Petition summary and background

We, Kaaren Howe and Leilani Hotaling of 3528 Moorland Rd Minnetonka MN, are asking the City of Minnetonka Planners to approve a variance for a carport with solar panels that will be within the ten foot setback requirement. We applied for and won the state solar incentive lottery to install twenty Minnesota Made solar panels. The only unshaded, south facing roof space is on the garage at the back of the property. However, the garage only fits eight of the twenty panels. To accommodate for this, we would like to install the rest the panels (12) on posts that would allow canoes or a car to be parked under them. This space is next to the garage and currently has a concrete pad that the previous owners used to park a RV that was taller than the garage. The solar panels will not extend above the garage. This corner of the property has extensive vegetation and structures on the adjacent neighbors properties so the solar panels should not interfere aesthetically for these neighbors. We have evaluated other options for solar panel placement and the proposed location is the only functional location for the panels. The structure will be used to produce clean electricity and provide the community with pollution free energy (any excess energy produced goes back into the grid for use by other people in the community).

Action petitioned for

We, the undersigned, support the installation of solar panels, which provides pollution free energy, on a carport as described in the above Petition Summary. We recognize that the carport will be within the normal ten foot setback that is required by the City of Minnetonka. We have reviewed plans for the carport and find the plan to be aesthetically acceptable.

<table>
<thead>
<tr>
<th>Printed Name</th>
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<th>Address</th>
<th>Comment</th>
<th>Date</th>
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<td>(across the street)</td>
<td>6-17-16</td>
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<tr>
<td>Sandi Garce</td>
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<tr>
<td>Mary Anderson</td>
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<td>Mary Shumaker</td>
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<td>Save the world!</td>
<td>6-11-16</td>
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<tr>
<td>Stephanie Jacobson</td>
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<td>Give it to them</td>
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<tr>
<td>Jennifer Scard</td>
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<td>3732 Elmwood Pl</td>
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<tr>
<td>Paul S.</td>
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<td>April Schmidt</td>
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<td>Katie Kline</td>
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<td>Sheryl Greenwood</td>
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<td>Roger Miller</td>
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<td>Caroline Kelling</td>
<td>C Kelling</td>
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<td>Janet Tandy</td>
<td>J Tandy</td>
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<td>Lucile Johns</td>
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<td>Adrian Potter</td>
<td>A Potter</td>
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<tr>
<td>Larry Thompson</td>
<td>L Thompson</td>
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<td>Emily Thompson</td>
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<td>Mark Fleischhacker</td>
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<td>Lindsey Moen</td>
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<td>Lyndsay Samuels</td>
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<td>Michael Kirk</td>
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<td>Wendie</td>
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<td>Kyle Grunwell</td>
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<td>Peter Springer</td>
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<td>L Hally</td>
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</table>
Planning Commission Resolution No. 2016-
Resolution denying a side yard setback variance for installation of a solar array at 3528 Moorland Road

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

Section 1. Background.

1.01 Oxbow Sunworks, on behalf of property owners Karen Howe and Leilani Hotaling, is proposing to install a solar array on the south side of an existing detached garage at 3528 Moorland Road.

1.02 The subject property is legally described as:
Lot 8 and the South Half of Lot 7, Block 3, Staring’s Tonka Wood-Croft, Hennepin County, Minnesota

1.03 By City Code §300.10 Subd.6(c)(1), accessory structures must conform to the setbacks established for principal structures, except that accessory structures located more than 10 feet from a principal structure may be located a minimum of 10 feet from a rear or side lot line.

1.04 The proposed solar array would be located more than 10 feet from the principal structure on the site. The applicant is requesting a variance to allow the array to be located 0.75 feet from the side lot line.

1.05 Minnesota Statute §462.357 Subd. 6, and City Code §300.07 authorizes the planning commission to grant variances.

Section 2. Standards.

2.01 By City Code §300.07 Subd.1(a), a variance may be granted from the requirements of this ordinance including those placed on nonconformities. A variance is only permitted when it is in harmony with the general purposes.
and intent of this ordinance and when the variance is consistent with the comprehensive plan. A variance may be granted when the applicant establishes that there are practical difficulties in complying with this ordinance. Practical difficulties means that the property owner proposes to use the property in a reasonable manner not permitted by this ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, would not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties also includes inadequate access to direct sunlight for solar energy systems. Inadequate access means the failure to achieve reasonable access to direct sunlight, not optimal or maximal access.

Section 3. Findings.

3.01 The proposal would not meet the variance standard outlined in City Code §300.07 Subd.1(a). There is no practical difficulty in complying with the required 10-foot setback. There are at least four locations on the property where the proposed solar array could be located that would both meet the minimum setback requirement and allow for reasonable access to direct sunlight. While these locations may not be preferred by the property owners due to the fact that they may cost more to install or may not allow for optimal or maximal solar access, neither economic considerations nor failure to achieve optimal or maximal solar access constitutes a practical difficulty.

Section 4. Planning Commission Action.

4.01 The planning commission hereby denies the above-described variance based on the findings outlined in section 3 of this resolution.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on July 21, 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 July 21, 2016.

______________________________
Kathy Leervig, Deputy City Clerk
MINNETONKA PLANNING COMMISSION  
July 21, 2016

**Brief Description**  
Preliminary and final plats, with lot area, buildable area, and lot width at setback variances at 16965 and 16957 Cottage Grove Avenue and unaddressed adjacent parcel

**Recommendation**  
Recommend the city council adopt the resolution denying the plats.

---

**Background**

The subject properties are located on the west side of Cottage Grove Avenue, just south of Grays Bay Boulevard. For clarity, the properties will be referred to as Parcels A, B, and C for the remainder of this report.

<table>
<thead>
<tr>
<th>Address</th>
<th>Relative Location</th>
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<tbody>
<tr>
<td>Parcel A</td>
<td>Northern parcel</td>
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<tr>
<td>16965 Cottage Grove Ave</td>
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<tr>
<td>Parcel B</td>
<td>Middle parcel</td>
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<td>16957 Cottage Grove Ave</td>
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<tr>
<td>Parcel C</td>
<td>Southern parcel</td>
</tr>
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Parcels A, B and C are separate tax parcels. The current configuration of Parcel A is the result of the combination of two lots originally platted in 1916 as part of the THORPE BROS GROVELAND SHORES subdivision. A home was constructed on Parcel A in 1924. Parcels B and C remain in their original 1916 configuration and staff can find no record of any home construction on either lot. (See pages A1–A2.) All of the parcels are non-conforming:

<table>
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<th>Width</th>
<th>Depth</th>
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<td>Total</td>
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<td>At ROW</td>
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<tr>
<td>Required</td>
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<tr>
<td>Parcel A</td>
<td>11,870 sq.ft.</td>
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<tr>
<td>Parcel B</td>
<td>5,385 sq.ft.</td>
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<tr>
<td>Parcel C</td>
<td>6,355 sq.ft.</td>
<td>40 ft</td>
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</table>

* all numbers rounded down to closest 5 ft or 5 sq.ft.

Parcels A, B, and C were held in common ownership by Mr. Jerry Wendling until January 2016 when the current owner and applicant, Mr. David Olshansky, purchased the parcels. Mr. Olshansky is now proposing to combine Parcels B and C and construct a new home on the combined site. (See pages A3–A13.) The proposal requires the following:

- **Preliminary and Final Plats, with variances.** The applicant proposes platting to essentially: (1) establish a new legal description for Parcel A; and (2) combine Parcels B and C into a new lot.
The lots would require: (1) lot area variances from 22,000 square feet to 11,870 and 11,740 square feet; (2) a buildable area variance from 3,500 square feet to 3,305 square feet; and (3) lot width at setback variances from 110 feet to 80 feet.

- **Vacation of Easement.** There is a sanitary sewer line and associated easement located on existing Parcel C. The line services adjacent properties to the west. The applicant proposes to relocate this sewer line and reestablish an easement. Vacation requests are heard by the city council.

**Primary Issues and Analysis**

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

- **Is the proposal consistent with city code and policy?**

  No. The proposal to combine Parcels B and C and construct a new home on the newly created lot is not consistent with city code or variance policy.

  **City Code:** By City Code §300.29 Subd.6, “a lot or parcel of land that is non-conforming and that is not improved with a principal use is not entitled to be developed with a principal use if it has been in common ownership with adjacent land, including land that is across a street, or if it has been part of a larger parcel of land, at any time after adoption of the standard that causes the lot or land to be non-conforming.” Parcels B and C are non-conforming and have been since adoption of the city’s first zoning ordinance. The undeveloped Parcels B and C were previously, and continue to be, held in common ownership with the developed Parcel A.

  **Variance Policies:** The planning commission has a series of written policies that “establish a framework whereby reasonable use of single-family residential property is outlined and fair treatment can be applied to all properties.” (See pages A17–A19.) The applicant’s proposal is not consistent with several of the written policies pertaining to undersized or non-conforming lots including:

  1. **The size of the lot should be consistent with the average neighborhood lot area.** The combination of Parcels B and C would result in an 11,740 square foot lot. While there are some smaller lots, the average size of the developed lots in the immediate area is 18,594 square feet. (See page A15.)

  2. **If the property is and has been assessed and taxed as a buildable lot, strong consideration will be given to dimensional and setback variances.** Parcels B and C have not been assessed or taxed as buildable lots. In fact, their non-conforming status has been specifically reflected in
their tax value of $25,000 and $30,000 respectively. Given that developed lots of similar size have significantly higher land value, these low values suggest an “unbuildable” status of the lots. (See page A16.)

3. **If an undersized lot was in common ownership with an adjacent lot after adoption of the zoning ordinance, then no hardship exists.** Parcels A, B and C have been, and continue to be, under common ownership.

4. **If an undersized lot was purchased after adoption of the zoning ordinance, then the hardship is self-created.** Parcels A, B, and C have been undersized/non-conforming since adoption of the city’s first zoning ordinance.

- **Would the proposal result in similar requests?**

  Perhaps. There are several, undeveloped, non-conforming lots located in the Grays Bay area. Many of these lots are held in common ownership with adjacent land or land that is across a street. (See page A1.)

- **Would denial of the proposal deny reasonable use?**

  No. The city must provide an owner with reasonable use of their property. The city is not obligated to provide an owner with maximum use. The owner/applicant has two options that would afford reasonable use:

  1. **Maintain the existing configuration.** Parcels A, B, and C could remain individual tax parcels. Under this option the “buildability” of the properties as they were purchased would remain. The applicant would own one developed parcel – on which the existing home could remain or a new home could be constructed – and two undeveloped and unbuildable parcels. All of the lots would continue to be non-conforming.

  2. **Combine the properties.** Parcels A, B, and C could be combined creating one conforming lot just over 22,000 square feet in size.

**Summary Comments**

Staff acknowledges that the Gray’s Bay area contains a variety of homes on lots of a variety of sizes and configurations. This does not, however, justify creation of yet another substandard lot to allow for construction of yet another home.

**Staff Recommendation**

Recommend the city council adopt the resolution denying the preliminary and final plats, with lot area, buildable area, and lot width at setback variances, at 16965 and 16957 Cottage Grove Avenue and an unaddressed adjacent lot. (See pages A20–A23.)
Originator: Susan Thomas, AICP, Assistant City Planner
Through: Loren Gordon, AICP, City Planner


Supporting Information

Surrounding

The subject properties are surrounded by residential lots, zoned and guided for single-family development.

Land Uses

Planning

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

Proposed Lots

<table>
<thead>
<tr>
<th></th>
<th>Area Total</th>
<th>Buildable Area</th>
<th>Width At ROW</th>
<th>Width At Setback</th>
<th>Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>22,000 sq.ft</td>
<td>3,500 sq.ft.</td>
<td>80 ft</td>
<td>110 ft</td>
<td>125 ft</td>
</tr>
<tr>
<td>Parcel A</td>
<td>11,870 sq.ft</td>
<td>3,900 sq.ft.</td>
<td>80 ft</td>
<td>80 ft</td>
<td>140 ft</td>
</tr>
<tr>
<td>Combined Parcel B/C</td>
<td>11,740 sq.ft</td>
<td>3,305 sq.ft.</td>
<td>80 ft</td>
<td>80 ft</td>
<td>135 ft</td>
</tr>
</tbody>
</table>

* all numbers rounded down to closest 5 ft or 5 sq.ft.

Variance Standard

By City Code §400.055, a variance to the subdivision standards may be granted, but is not mandated, when the applicant meets the burden of proving that: (1) the proposed variance is a reasonable use of the property, considering such things as functional and aesthetic justifications for the variance and improvement to the appearance and stability of the property and neighborhood; (2) the circumstances justifying the variance 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 variance would not adversely affect or alter the essential character of the neighborhood.

The applicant's proposal does not comply with the variance standard. There is no unique circumstance justifying the requested variances. The three subject properties are non-conforming and have been since adoption of the city's first zoning ordinance. The properties at 16957 Cottage Grove Avenue and the unaddressed adjacent parcel are undeveloped and have been valued and taxed as unbuildable. The variance request is solely based on the applicant's desire to create a buildable lot where no buildable lot exists.

Sewer Line

There is a large sewer line located on Parcel C. This line provides service to the existing single-family homes at 2941 and 2945 Beechwood Avenue. (See page A7.) The applicant's proposal includes relocation of the line and associated easement. While
relocation could technically be done, staff would prefer that the existing line – which is relatively straight and functioning well – be maintained.

Pyramid of Discretion

Motion Options  The planning commission has three options:

1. Concur with the staff recommendation. In this case a motion should be made recommending the city council adopt the resolution denying the proposal.

2. Disagree with staff’s recommendation. In this case, a motion should be made recommending the city council approve the proposal. This motion should include a statement as to how the variance standard is met.

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

Neighborhood Comments  The city sent notices to 49 area property owners and received one comment. See page A20.

Deadline for Action  September 26, 2016
Location Map

Project: Olshansky Subdivision
Applicant: David Olshansky
Address: 16965, 16957 Cottage Grove Ave
Project No. 16012.16a

This map is for illustrative purposes only.
Narrative for City Submittal
16965 and 16957 Cottage Grove Avenue, Minnetonka

Approvals Requested:  
(1) Preliminary Plat and Final Plat approval at 16965 and 16957 Cottage Grove Avenue;
(2) Variance to declare the lot buildable;
(3) Lot area variance;
(4) Buildable area variance;
(5) Sanitary Sewer easement vacation;

Property Owner:  
David Olshansky, Lots 11 & 12;
Mark Olshansky, Lots 13 & 14;

Civil Engineer and Land Surveyor:  EVS, Inc.

Existing Land Survey Information

A Certified Land Survey was completed on April 19, 2016 and is attached to this report. It includes property legal boundary description, utilities, topography, trees, landscaping, building structures and unique appurtenances located on the surveyed property. The description of the property surveyed includes Lots 11, 12, 13 and 14, Block 7, THORPE BROS GROVELAND SHORES, Hennepin County, according to the recorded plat thereof. We are still researching the property legal description material since the early 1900’s to locate the easement description for the existing Sanitary Sewer that runs east-west through the subject property and serves two homes on Beechwood Avenue. When this material is located, it will be transmitted to the City. It is expected this will be available on June 6th.

Development Plan Request

It is the intent of the land owner to construct a new home on Lots 13 and 14. These lots are currently combined into one overall property made up of Lots 11, 12, 13, and 14 located on Cottage Grove south of Gray’s Bay Blvd. The request is to reorganize these four lots into a new Plat including two lots as shown on the attached Preliminary Plat. The current arrangement of the lots on the Hennepin County Property Data base is as follows:

<table>
<thead>
<tr>
<th>Address</th>
<th>PID</th>
<th>Lot Area</th>
<th>2016 Taxes</th>
</tr>
</thead>
<tbody>
<tr>
<td>16965 Cottage Grove</td>
<td>#1711722210040</td>
<td>11,870 sf</td>
<td>$5,131</td>
</tr>
<tr>
<td>16957 Cottage Grove</td>
<td>#1711722210041</td>
<td>5,386 sf</td>
<td>$366</td>
</tr>
<tr>
<td>16957 Cottage Grove</td>
<td>#1711722210042</td>
<td>6,358 sf</td>
<td>$526</td>
</tr>
</tbody>
</table>

The current property at 16965 Cottage Grove has a single family residence structure with garage and driveway. The property is currently zoned R-1 low density residential. The property is wooded and slopes
to higher elevations from Cottage Grove to the east. All drainage on the property flows to Cottage Grove Avenue.

Due to the irregular shape of the lot and right-of-way, the minimum buildable area of 3,500 sf would not be met on the new lot. However, the applicant requests the city to take into consideration that if the right-of-way were curved as is often the case, the proposed lot would have approximately 3,560 sf of buildable area. The property owner is also willing to negotiate any right-of-way turnback that would not affect the effective width of the right-of-way.

There is an existing 8" sanitary sewer line that serves two properties on Beechwood Avenue and flows into the Sanitary Sewer line in Cottage Grove street right of way. To allow the new structure to be constructed on 16957 Cottage Grove It is proposed to remove the existing sewer and re-align the new 8" sewer within a 20 foot easement on the northerly edge of Lot 13. Attached is a schematic layout of the proposed sewer line within the 20 foot easement. This new line will be buried approximately 8 feet deep.

Cottage Grove is part of the Libbs Lake neighborhood street reconstruction project. It is hopeful, schedule permitting, that the sewer line will be relocated to the location shown on the attachment during the schedule for the street reconstruction of the utilities within Cottage Grove Avenue. This is schedule to occur during June - July, 2016.

The following is a summary of the project elements proposed (graphically shown on the attached plan sheets):

**Proposed Plat Data**

Lot Dimensions for new lots 13 & 14:

- Minimum Width: 110 feet
- Minimum Lot Depth: 125 feet
- Lot Size: 11,744 sf
- Minimum Buildable Area, based upon setbacks: 2,700 sf
- Max Lot Impervious Area: 25%

**Setbacks**

- Total Combined Side Yard Setbacks: 30 ft
- Front Setback: 35 ft
- Rear Setback: 40 ft

**Site Access**

The proposal will require the addition of a new private driveway to Cottage Grove Ave.

**Grading**

The existing site has good drainage from the west edge of the lots toward Cottage Grove Avenue. Stormwater practices will meet the City stormwater management requirements. The Sanitary Sewer relocation plan also includes a conceptual grading plan. The specific building plan, at the time of building permit application, will include a more detailed grading and drainage plan.
Sanitary Sewer and Watermain

It is hopeful that this project will be approved in time to allow coordination with the ongoing street and utility reconstruction project in the Libbs Lake neighborhood. A water service stub will be requested for the new parcel. Additionally, the sanitary sewer for the new structure will utilize the new sanitary sewer line that will be relocated on the new 20-foot easement.

Tree Preservation

A few trees will need to be removed as part of the new sanitary sewer construction project. The final construction plan for the building permit will be more detailed concerning tree removal. The tree removal will be below the 35% allowable tree removal threshold.

Architecture for the New Residential Structure and the Existing Residential Structure

It is planned to construct a two level house with basement and attached garage. Upon the lot split approval, the building plans will be immediately submitted for building permit approval. The existing structure on Lots 11 and 12 is proposed to be completely renovated. Attached is a schematic rendering of the house and garage structure that is planned for the site and that will meet the 2,700 buildable area requirement.

Project Schedule

If the City approves the proposed lot split, the utility project will be immediately initiated with the new 8" sanitary sewer line being constructed. The neighbors to the east fronting on Beechwood Avenue have been communicated with and are aware of the general plan. A neighborhood meeting will be scheduled to precede the Planning Commission meeting on this proposal.

Report attachments detailing the project proposal

1. Existing Conditions certified Land Survey by EVS
2. Preliminary Plat proposed for Lot Split
3. Sanitary Sewer relocation proposal
4. Setbacks and Buildable area on the new lot
5. Concept schematic of proposed new residential structure planned for 16957 Cottage Grove
DESCRIPTION OF PROPERTY SURVEYED

Lots 11, 12, 13 and 14, Block 7, THORPE BROS GROVELAND SHORES, Hennepin County, according to the recorded plat thereon.

SURVEY NOTES

1) Initial field work was completed on 04/07/2016.
2) All distances shown hereon are in U.S. Survey feet and tenths or hundredths of a U.S. Survey foot.
3) Angular units are shown in degrees (°), minutes ('), and seconds (")
4) Coordinate System is referenced to the Hennepin County Coordinate System, NAD83 (2011 Adj.), Lambert Conic Conformal, Minnesota.
5) Elevations are referenced to the NAVD88 Datum.
6) Contour interval = 1 foot.
7) The aerial photography incorporated into this drawing was provided by the Geolocation function within AutoCAD Civil 3D and is not orthorectified.
8) This survey was performed without the benefit of a title commitment. There may or may not be easements of record encumbering subject property.
9) Subject to easements and restrictions of record, if any.
10) We have shown limited buried structures and utilities on and/or serving the site to the best of our ability. Please note that we have not placed a Gopher State One Call for this survey. There may or may not be other utilities serving this site. Therefore extreme caution must be exercised before excavation takes place on or near this site. Before digging, you are required by law to notify Gopher State One Call at least 48 hours in advance at 811.
11) Unable to locate a storm structure at this location, there may or may not be a buried structure in this area.

LEGEND

- FOUND PIN
- SANITARY MH
- TELEPHONE PEDESTAL
- UTILITY POLE
- SPOT ELEVATION
- DECIDUOUS TREE
- CONIFEROUS TREE
- GAS
- OVERHEAD UTILITY
- FENCE
- SANITARY SEWER
- SANITARY SEWER

SURVEYOR'S CERTIFICATION

I hereby certify that the plans or drawings hereon were prepared by the undersigned, a duly licensed professional surveyor under the laws of the State of Minnesota.

M. W. Wray

REGISTERED SURVEYOR NUMBER: MN000277

DATE: PROJECT #: SHEET NUMBER:
04.19.2016 2016-044.2 10F1

Drawn By: Checked By: Date: Project #: Sheet Number:
MRW MPK 04.19.2016 2016-044.2 10F1

MINNETONKA, MN

Boundary & Limited Topographic Survey

MINNETONKA, MN

Boundary & Limited Topographic Survey
LEGAL DESCRIPTION OF PROPOSED UTILITY EASEMENT

THE SOUTH 6.00 FEET OF LOT 1 AND THE NORTH 14.00 FEET OF LOT 2,
ALL IN - LOC: Lot 1, Ols Subd - Lot 2, Ols Subd - HN - B1 - 16965 Cottage Grove Ave

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.

____________________

______

6/02/2016

11083
CITY OF MINNETONKA PLANNING COMMISSION POLICIES

General Policies regarding specific types of variance requests:

The following policies are not intended to be hard and fast rules, since each variance request is unique unto itself. The policies have evolved from past decisions of the City along with administrative interpretation of the zoning ordinance. The primary purpose of the following sections is to establish a framework whereby reasonable use of single-family residential property is outlined and fair treatment can be applied to all properties.

A. Garages

1. A two-car garage on single-family residential property and a one-car garage on a double dwelling property is generally considered to be a reasonable use. Larger garages may be approved if consistent with neighborhood characteristics and the findings for a variance.

2. Maximum standard two-car garage dimensions are 24’ x 24’. Maximum standard one-car garage dimensions are 13’ x 24’.

3. Garages that require variances should minimize setback intrusion to the greatest extent possible.

4. Conversion of garage area to living space does not justify a variance for new garage space.

5. Neighborhood characteristics may dictate the size and setbacks of a garage considered to be a reasonable use.

6. Variances are considered in light of mature tree location and preservation opportunities.

B. House Additions

1. Reasonable use of property is considered in light of general City-wide development standards.

2. Variances to allow setback intrusion are considered in light of reasonable use as long as variances are limited to the greatest extent practicable.

3. Variances are considered in light of providing room additions of functional size with adequate internal circulation.

4. The configuration and position of the existing house is considered when reviewing variance requests.

5. The proposed addition should be designed to conform to development...
constraints of the property.

6. Variances are considered in light of mature tree location and preservation opportunities.

C. Accessory Attached Structures

1. Decks, screen porches, and bay windows are by definition accessory uses or uses incidental to the principal use.

2. The need for accessory structures primarily results from personal circumstances rather than hardship inherent in the property.

3. Variances are considered in light of the size and configuration of the structure so that variances are limited to the greatest extent possible.

4. Variances are considered in light of impacts to adjoining properties.

5. Neighborhood characteristics may be considered for review of accessory attached structures.

6. Deck variances will be reviewed in light of ordinance provisions that permit encroachment into required setbacks.

D. Accessory Detached Structures Other Than Garages

1. Sheds, barns, utility buildings, and recreational facilities are by definition accessory uses or uses incidental to a principal use.

2. The need for accessory structures primarily results from personal circumstances rather than hardship inherent to the property.

3. In light of the above policy to allow two-car garages, accessory structures are, in most cases, above and beyond the reasonable use of the property.

4. Mitigating circumstances may exist whereby accessory structure variances may be considered. These circumstances primarily relate to unique conditions resulting from extraordinarily burdensome regulations applied to a property.

5. Where mitigating circumstance exists, neighborhood characteristics can be considered.

E. Undersized Lots

1. Undersized lots of record not meeting the minimum dimensional requirements, may be considered for variances to apply a buildable status.

2. Buildable status will be applied only if a reasonable development opportunity will result.
3. The size of the lot should be consistent with the average neighborhood lot area.

4. Efforts to obtain additional property should be exhausted.

5. The house should be designed to fit the dimensional constraints of the lot and conform to all setback requirements.

6. If the property is and has been assessed and taxed as a buildable lot, strong consideration will be given to dimensional and setback variances.

7. If an undersized lot was in common ownership with an adjacent lot after adoption of the zoning ordinance, then no hardship exists.

8. If an undersized lot was purchased after adoption of the zoning ordinance, then the hardship is self-created.

Revised March 2, 2001
Readopted with changes March 3, 2011
Hello Susan and Brad,

We live one lot south of the proposed development (16965 and 16957 and an adjacent undressed parcel, all on Cottage Grove Ave.) to combine two existing vacant properties and construct a new home. We support the proposal as we believe one home on the two vacant lots will enhance the value and aesthetics of the rest of the neighborhood better than two homes.

Sincerely,

Steve and Linda Ruelle
16929 Cottage Grove Ave.
Minnetonka, MN  55391
Resolution No. 2016-

Resolution denying preliminary and final plats, with lot area, buildable area, and lot width at setback variances at 16965 and 16957 Cottage Grove Avenue and an unaddressed adjacent parcel

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

Section 1. Background.

1.01 David Olshansky recently purchased three individual tax parcels located at 16965 and 16957 Cottage Grove Avenue and an unaddressed adjacent parcel. The properties are legally described as:

Lots 11 and 12, Block 7, THORPE BROS GROVELAND SHORES, Hennepin County.

And

Lot 13, Block 7, THORPE BROS GROVELAND SHORES, Hennepin County.

And

Lot 14, Block 7, THORPE BROS GROVELAND SHORES, Hennepin County.

1.02 The property at 16965 Cottage Grove Avenue contains an existing single-family home. The property is non-conforming in lot area and lot width at front yard setback.

1.03 The properties at 16957 Cottage Grove Avenue and the unaddressed adjacent parcel are unimproved and are non-conforming in lot area, buildable area, and lot width at front yard setback.
1.04 David Olshansky is proposing preliminary and final plats to essentially: (1) establish a new legal description for 16965 Cottage Grove Avenue; and (2) combine 16957 Cottage Grove Avenue and the unaddressed adjacent parcel.

1.05 The plats include the following variances:

1. Lot area variances from 22,000 square feet to 11,780 and 11,740 square feet;

2. Buildable area variance from 3,500 square feet to 3,305 square feet; and

3. Lot width at setback variances from 110 feet to 80 feet.

1.06 On July 21, 2016, the planning commission held a hearing on the proposed plats. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council deny the plats.

Section 2. Standards.

2.01 By City Code §300.29 Subd.6, a lot or parcel of land that is non-conforming and that is not improved with a principal use is not entitled to be developed with a principal use if it has been in common ownership with adjacent land, including land that is across a street, or if it has been part of a larger parcel of land, at any time after adoption of the standard that causes the lot or land to be non-conforming.

2.02 City Code §400.030 outlines design standards for residential subdivisions. These standards are incorporated here by reference.

2.03 By City Code §400.055, a variance to the subdivision standards may be granted, but is not mandated, when the applicant meets the burden of proving that: (1) the proposed variance is a reasonable use of the property, considering such things as functional and aesthetic justifications for the variance and improvement to the appearance and stability of the property and neighborhood; (2) the circumstances justifying the variance 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 variance would not adversely affect or alter the essential character of the neighborhood.
Section 3. Findings.

3.01 By City Code §300.29 Subd.6, the owner is not entitled to develop the undeveloped properties with a principal use.

3.02 The proposed plats do not meet the standards for residential subdivisions as outlined in City Code §400.030.

3.03 The applicant has not met the burden of proof for approval of a variance as outlined in City Code §400.055. There is no unique circumstance justifying the requested variances. The three subject properties are non-conforming and have been since adoption of the city’s first zoning ordinance. The properties at 16957 Cottage Grove Avenue and the unaddressed adjacent parcel are undeveloped and have been valued and taxed as unbuildable. The variance request is solely based on the applicant’s desire to create a buildable lot where no buildable lot exists.

3.04 Denial of the proposed plats would not deny the applicant reasonable use of the properties. Rather, two options that would afford reasonable use exist:

1. Maintain the existing configuration. The parcels could remain individual tax parcels. Under this option the “buildability” of the properties as they were purchased would remain. The applicant would own one developed parcel – on which the existing home could remain or a new home could be constructed – and two undeveloped and unbuildable parcels. All of the lots would continue to be non-conforming.

2. Combine the properties. The parcels could be combined creating one conforming lot just over 22,000 square feet in size.


4.01 The above-described preliminary and final plats, with lot area, buildable area, and lot width at setback variances, are hereby denied based on the findings outlined in Section 3 of this resolution.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 8, 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 August 8, 2016.

______________________________
David E. Maeda, City Clerk