Planning Commission Agenda

June 25, 2015—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: June 11, 2015

5. Report from Staff

6. Report from Planning Commission Members

7. Public Hearings: Consent Agenda (No Items)

8. Public Hearings: Non-Consent Agenda Items

   A. Conditional use permit for Kona Grill at 12401 Wayzata Boulevard

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

      • Recommendation to City Council (Tentative Date: July 13, 2015)
      • Project Planner: Jeff Thomson

   B. Variance for a pool and spa to be located between the front property line and the existing home at 4915 Highland Road

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

      • Final Decision Subject to Appeal
      • Project Planner: Ashley Cauley
C. Items concerning the property at 3211 Chase Drive.
   Recommendation:  Recommend the city council approve the request (4 votes)
   • Recommendation to City Council (Tentative Date: July 13, 2015)
   • Project Planner: Ashley Cauley

D. Preliminary plat, with lot width variances, for a two lot subdivision at 12601 Ridgemount Avenue
   Recommendation:  Recommend the city council deny the request (4 votes)
   • Recommendation to City Council (Tentative Date: July 13, 2015)
   • Project Planner: Ashley Cauley

E. Preliminary plat, with lot width variance, for OAKHAVEN ACRES 2nd ADDITION at 13929 Spring Lake Road
   Recommendation:  Recommend the city council approve the request (4 votes)
   • Recommendation to City Council (Tentative Date: July 13, 2015)
   • Project Planner: Jeff Thomson

F. Preliminary plat, with lot width variances, for BUCKMAN ADDITION at 15700 Highwood Drive
   Recommendation:  Recommend the city council approve the request (4 votes)
   • Recommendation to City Council (Tentative Date: July 13, 2015)
   • Project Planner: Susan Thomas

G. Preliminary plat of SAVILLE WEST, a twelve lot subdivision generally located at the southeast quadrant of the County Road 101/Excelsior Boulevard intersection
   Recommendation:  Recommend the city council approve the request (4 votes)
   • Recommendation to City Council (Tentative Date: July 13, 2015)
   • 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 scheduled for the July 9, 2015 Planning Commission meeting:

   Project Description: Redstone American Grill is proposing to relocate to a new restaurant space within Ridgedale Mall. The restaurant would be located on the north side of the mall expansion that is currently under construction. The proposal includes updates to the exterior of the mall. The proposal requires a conditional use permit and an amendment to the existing Ridgedale sign plan.
   Project No.: 03046.15c       Staff: Jeff Thomson
   Ward/Council Member:  2-Tony Wagner       Section: 2

   Project Description: The property owners at 500 Milbert Rd. are proposing to construct a new home on the property. The home would include a 950 square foot accessory apartment intended for use by senior family members. The apartment requires a conditional use permit.
   Project No.: 15020.15a       Staff: Jeff Thomson
   Ward/Council Member:  3- Brad Wiersum       Section: 03
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**

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

2. **Roll Call**

Commissioners Rettew, Calvert, Knight, Magney, O’Connell, and Kirk were present. Odland was absent.

Staff members present: Community Development Director Julie Wischnack, Principal Planner Susan Thomas, Planner Jeff Thomson, Planning Technician Ashley Cauley, Water Resources Engineer Liz Stout, and Natural Resource Manager Jo Colleran.

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

4. **Approval of Minutes:** May 7, 2015

   *Magney moved, second by O’Connell, to approve the May 7, 2015 meeting minutes as submitted.*

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

5. **Report from Staff**

Wischnack briefed the commission on land use applications considered by the city council at its meeting of May 18, 2015 and June 1, 2015:

- Adopted a resolution approving the Music Barn Apartments.
- Affirmed the interim use permit for the Big Thrill Factory.
- Approved a work plan for the Glen Lake Village Center Study. Meetings will start in July and last through September.

6. **Report from Planning Commission Members**

Chair Kirk and Wischnack reported on the SWLRT project.

7. **Presentation**
A. NEMO Presentation

Stout introduced John Bilotta from the University of Minnesota extension service program. Mr. Bilotta gave a presentation on land use issues related to the commission’s purview and how decisions impact water resources.

In response to Kirk’s questions, Mr. Bilotta explained that in regard to holding water, pollutants, and sediment on a site, the alternative would be to allow them to travel downstream which causes issues wherever the sediment settles. The quality, quantity, and rate of water is controlled in on-site ponding to prevent flooding, stop pipes from blowing up, and causing pollution.

Calvert asked if ground water levels have changed over the last 30 years. Mr. Bilotta referred commissioners to a presentation by Jason Meckel from the Department of Natural Resources that can be viewed online. That is the question for 2015. It has not been determined how surface water impacts ground water.
8. Public Hearings: Consent Agenda

No items were removed from the consent agenda for discussion or separate action.

*Rettew moved, second by Calvert, to approve the items listed on the consent agenda as recommended in the respective staff reports as follows:*

A. Amendment to the sign plan for 12800 Whitewater Drive.

Adopt the resolution approving an amendment to the Minnetonka Corporate Center Sign Plan for the relocation of a wall sign at 12800 Whitewater Drive.

B. Seven Hi sign plan amendment.

Adopt the resolution repealing and replacing the Seven Hi sign plan.

C. Conditional use permit for Cross Fit Gym at 2806 Hedberg Drive.

Recommend that the city council adopt the resolution approving a conditional use permit for a fitness facility within the existing industrial building at 2806 Hedberg Drive.

*Rettew, Calvert, Knight, Magney, O’Connell, and Kirk voted yes. Odland was absent. Motion carried and the items on the consent agenda were approved as submitted.*

The city council is tentatively scheduled to review Item 8C at its June 22, 2015 meeting. The planning commission’s decisions may be appealed to the city council for Items 8A and 8B if notice is provided in writing within 10 days to planning staff.
9. Public Hearings

A. Items concerning 4124 Skyview Road.

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

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

Rettew asked if locating the addition on the east side had been considered. Thomas answered affirmatively. She described the layout of the house. It is possible the front yard setback would not be met if the proposed addition would be moved.

Diann Crane, 4124 Skyview Road, applicant, appreciated commissioners considering her variance request. She is happy to be at the meeting to hear the NEMO presentation. She is an entomologist with the MN Mosquito Control District. She appreciates the concerns. The rain event in 1987 did not cause any problems for her property.

The public hearing was opened.

Donald Grussing, 15404 Lake Street Extension, stated that he got 15 inches of rain in 1987. His back yard is at the same elevation as the applicant’s. He had no water in his backyard at that time. The city did dredge the pond in the 1970s. He is concerned sediment may have settled in it again, but there is absolutely no chance of flooding occurring in the floodplain.

No testimony was submitted and the hearing was closed.

Chair Kirk asked how the impact to the floodplain would impact things downstream. Stout explained that the floodplain ordinance requires zero net fill of floodplain with any alteration. An equal amount of excavation must be done to keep the volume amount the same. Thomas added that the proposed addition is not within the floodplain. Rather, it is below the emergency overflow of the floodplain.

Chair Kirk questioned if sediment build up in the pond would be monitored. Stout explained that a natural wetland used for stormwater purposes is handled differently than a stormwater pond constructed for a development. The area pond is a natural wetland. There are rules for dredging or any type of alteration that
would be handled by the natural resources staff. The city has permit requirements to inspect and maintain stormwater ponds.

Magney moved, second by O’Connell, to adopt the resolution and changes provided in the change memo dated June 11, 2015 approving floodplain setback variances and an expansion permit to maintain existing lowest floor elevation for remodel/additions to the existing home at 4124 Skyview Road (see pages A14–A20 of the staff report).

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

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

B. Conditional use permit for a school in an industrial district at 11111 Bren Road West.

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

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

Rettew asked if a parking study had been done. Cauley explained that the existing site has over 800 parking stalls which is well above the anticipated parking needs of the proposal as well as what is required by the ordinance. Eagle Ridge has a permitting process that will limit the number of staff and students who would park on site. The proposal would still have sufficient parking.

Calvert asked if the increase in traffic during peak hours is a cause for concern. Cauley explained that the traffic study found that there would be no significant adverse impact. The intersection would operate at a satisfactory level.

Chair Kirk noted that schools are unique. He asked how many parents would be dropping off students. Cauley stated that it is estimated that 55 percent of the students would be bused.

Chair Kirk asked how close the light rail would be located to the proposed site. Cauley provided a map with the SWLRT location. It would come within a quarter mile of the proposed site. The traffic study noted that few students would use the light rail.
Jason Aldridge, representing the applicant Eagle Ridge Academy, stated that Cauley knows the school better than he does. There are more students waiting to get into Eagle Ridge Academy than there are students currently enrolled at Eagle Ridge Academy. He was available for questions.

Knight asked if all of the bus traffic would travel on Shady Oak Road. Mr. Aldridge answered affirmatively. The buses would enter the site from Shady Oak Road and exit onto Bren Road.

Calvert asked what surfaces would be used for the sports fields. Mr. Aldridge answered grass. The playground would also be grass.

Rettew asked what attracted the applicant to this site. Mr. Aldridge answered that the site is almost perfect. It would be within 10 minutes from the current site; the building would be at least 160,000 square feet; the site is 17.74 acres; and it would have ample parking. There are 120 staff members. A small percentage may use light rail. The school controls the number of parking permits. There would be plenty of parking area. Data Card had over 800 employees.

Chair Kirk noted that there would be no overflow parking for events. Mr. Aldridge stated that the events occur after the peak evening hours. The school would control the scheduling. The afternoon busy time is from 3:10 p.m. to 3:35 p.m. The times can shift as needed.

Chair Kirk asked if an all-school event ever occurs that would overwhelm parking on the site. Mr. Aldridge answered in the negative. The band concerts draw 200 to 250 families. There would be an auditorium. The site would not be able to host graduation. Another site would be used for that.

Cauley noted that 142 parking stalls are required by ordinance. The proposal would be well over the required amount.

The public hearing was opened. Patricia Shoop, 11012 Abbot Lane, stated that she was a school teacher for 40 years. Personally, she felt like the area is being locked in. There is a school on the south side. The proposed school would be huge. United Health is on another side. It is impossible for a driver to get onto Ferndale. A motorist cannot travel north between 3 p.m. and 5 p.m. The traffic is horrendous. She wants to know where the playground would be located. The noise level travels. The postcard was received May 29. She would have liked to provide input earlier. She is not against the school. She is concerned about the noise and traffic.
Rick Nelson, 9615 Briar Circle, working with the applicant, stated that he worked with the Data Card employees who told him that they had between 850 and 900 employees in the building. The only reason the business moved was because the building could not accommodate its future growth. Data Card’s traffic burden during peak hours was significantly more than what would be created by Eagle Ridge Academy. If he was a resident, he would rather see a use like Eagle Ridge occupy the site than a user that would fill the building similar to Data Card.

Melissa Mein, 3925 Williston Road, stated that her three children attend Eagle Ridge Academy. She passionately believes in the school. The wait list is huge. The building would fill those needs. She understood the traffic and noise concerns. She volunteers at school and she does not hear students on the other side of the building.

Dave Horner, resident of Eden Prairie, stated that three of his children attend the school and he cannot say enough good things about it. He also works for United Health Group. He would be happy to answer questions. The traffic would be the same if one would be traveling to school. It is congested wherever a school is located. He likes the one-way street system. The current site’s parking is tight. He has faith that the school administration would handle any parking problem at the proposed site.

Christie White, 17409 Comet Circle, has a child at Eagle Ridge and two children at the Minnetonka School District. She is very impressed by the Minnetonka School District, but Eagle Ridge provided her oldest a fresh, wonderful start in a smaller setting. Minnetonka would be lucky to have Eagle Ridge.

Ann Watanabe, chair of the board of Eagle Ridge Academy and parent of students attending Eagle Ridge Academy, provided a plan illustrating the location of the playground. It would be surrounded by trees, be on a higher elevation than the entire site, and no adjacent properties would be residential.

Paul Hines, 11112 Abbot Lane, stated that he would like his neighborhood recognized as a neighborhood by commissioners and the city council. The staff report describes the subject property as surrounded by mixed use with residential, industrial, and commercial properties. He was sure the school may do a good job of educating students, but the current school on Bren Road is not kind to his neighborhood. This would be the third school adjacent to his property despite the staff report that omits residential houses from “surrounding land uses.” He believes that there are houses closer to the proposed building than the Sundial Center and St. Mary’s Cemetery. There are houses across the street from the proposed site. Noise would be created by traffic. He doubted that the
number of vehicles would not increase from when Data Card was in operation. There would be 12 to 15 buses every day which make more noise than cars. His neighborhood keeps being encroached upon by neighbors who are not always as friendly as the cemetery folks. The school owning the property would make the site exempt from property taxes. He would appreciate commissioners giving consideration to the 74 homeowners in the neighborhood.

No additional testimony was submitted and the hearing was closed.

Chair Kirk clarified that the property tax question is not in the purview of the planning commission. He reviewed the questions provided in the public hearing. He asked if having three schools in one area would be an issue. Cauley explained that the ordinance lists allowed uses and conditionally permitted uses for each zoning district. Commissioners are reviewing if the proposal would meet the conditional use permit standards. The city has previously approved schools for the area with conditional use permits. Thomas added that there is no regulation of how many of the same uses may be located in an area.

Chair Kirk asked staff to comment on the noise concern. Cauley explained that the noise ordinance applies from 10 p.m. to 7 a.m. The children would not be at school during that time.

Chair Kirk noted that parts of the Opus one-way and two-way streets would be rerouted due to the SWLRT. Wischnack stated that is not true. The one-way system helps with traffic. There is one stop light in the entire park and 12,000 drivers. The direction of Red Circle Drive would be reversed and Green Oak would be reversed to travel north bound and have a circle pattern around the proposed lite rail station. There is a major pedestrian-improvement plan for the entire Opus area that includes a trail from Shady Oak along Bren Road. The changes would be an improvement to the area.

Chair Kirk asked about public notice timing. Cauley clarified that the applicant may have entered into a purchase agreement on the property in March, but the city does not notify residents until a land use application is received. The residents within 400 feet of the proposed site are sent public hearing notifications.

Mr. Aldridge explained that the school operates from 8 a.m. to 3 p.m. There would be students outside for 1 hour to 1.5 hours. The athletic field would be a practice field and may also be used for physical education. The summer program has up to 55 students. The students may be outside a couple hours each day.
The building and a ravine would block the playground from residents. There would be no lights on the athletic field.

Calvert was helped by hearing the comparison of a fully saturated business with the proposal in terms of traffic generation. Even with the buses, the proposal would result in a net reduction of traffic trips. She favored natural turf. The proposal would be a nice improvement to the site.

Chair Kirk noted that the conditional use permit would stay with the property. He asked how the conditions such as hours of operation and use of the soccer field would be governed. Cauley explained that any changes would require the conditional use permit to be reviewed again by the planning commission and city council.

Calvert asked if there would be a benefit to utilize an interim use permit rather than conditional use permit to limit the property’s use to one owner. Cauley responded that the industrial district does not have an interim use provision.

Rettew agrees with Calvert. The site will not remain vacant. The site could have 900 employees driving individually instead of 55 percent of the students being bused. For the region, it would reduce traffic. It feels like a coup for the use to move to Minnetonka. He supports the proposal.

Kirk concurred. He supports the project. He was not sure at first if a school would be a good neighbor for a SWLRT station. It would open up the opportunity for people that live near the SWLRT to access the school. The proximity may fit. He agreed that the traffic would be less impacted by a school than Data Card. The traffic problem would be minimized to 15 minutes in the morning.

**Calvert moved, second by Rettew, to recommend that the city council adopt the resolution on pages A20–A25 of the staff report. This resolution approves a conditional use permit for Eagle Ridge Academy at 11111 Bren Road West.**

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

Chair Kirk stated that an appeal of the planning commission’s decision must be made in writing to the planning division within 10 days.
10. **Other Business**

A. **Concept plan review for Pagel Activity Center at 19313 State Highway 7.**

Thomson 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.

Tom Morris, with HTG Architects, on behalf of the applicant, stated that there are issues with traffic, parking, and a steep slope. There would be a concrete retaining wall. The floor level would be the same as the existing facility. A traffic study is being completed by SRF. His son plays hockey at the existing facility, so he knows what navigating the current parking lot is like.

Jim VanBergen, member of the Minnetonka Youth Hockey Association Board of Directors, stated that the project has been considered for a number of years. There is a serious ice-shortage issue. There are 879 kids who are in the Minnetonka School District and are in the program. USA Hockey is the governing body. The association is 1,200 hours short of ice time to run the program. The proposal would be a focused, practice facility. It would not be used for varsity games or other large-scale events. The current Pagel rink would maintain its current use and design. The added space would be a scaled down rink with no bleachers. The youth hockey association would completely fund and build the project. There would be no use of taxpayer dollars. The land is unusable for any other purpose. The youth association would not have access to the rink starting at 5:15 p.m. The high school has control of the facility all day long. If there would be a game at the Pagel rink, then there would be no use of the proposed rink. He was available for questions.

Calvert is familiar with the site. It is one of the few places on campus that has a porous surface. She asked how stormwater management would be handled. Mr. Morris stated that would be looked into. Stout indicated that the high school constructed an “oversized” stormwater management system under the tennis courts on the south side of the site to provide water quality treatment and filtration for what the master development plan considered the maximum build-out conditions for the site. However, rate control would still need to be evaluated for this proposal. There is some additional capacity in the existing system.

Rettew asked why this site was picked. Mr. VanBergen stated that purchasing land somewhere else and building a new facility is not a possibility economically. There is value in having connected rinks and the association works in partnership
with the school district. The infrastructure cooling system could work for both rinks. There are no other reasonable options.

Rettew stated that he will have questions when an application is reviewed for the proposal on how the stormwater treatment plan would handle the steep slopes.

Mr. VanBergen noted that the proposal would eliminate the need for the team practicing off site to travel off site after school since there would be enough ice to accommodate both of the boys and girls high school teams.

Chair Kirk asked if there would be a way to reduce the massive-box look. Mr. Morris explained that the wall panels would match the other panels. Some of it would be set into the slope. He would like to see alternatives to a big, flat wall. He suggested horizontal striping.

Mr. VanBergen said that a tournament on one rink does not work. The proposal would allow more practice time, but not a tournament.

Chair Kirk mentioned that the hill down to the dome gets crazy congested in the winter. He asked how the drop-off would work for the proposal. He asked if way finding signs could be located on the county road. Thomson said that could be considered. Adding internal way finding signs has been discussed with the fire marshal. The traffic study will look at the entire campus parking and traffic issues and enrollment. The school district would be part of the planning effort.

Magney asked about the potential road connection to Michaele Lane. Thomson said there is no city interest in making connection between the school and the neighborhood. Magney noted that there has been an ice shortage for 20 years.

Tim Connelly, 5270 Michaele Lane, stated that his concern is directed at the high school. When Pagel was built, the school district agreed to have a gate installed on the east side to control traffic. After a couple years, the school abandoned it. He wants that implemented again and required to be maintained. There should be a gate by the music hall as well to close off the east lot. The traffic and noise is increased dramatically without the gates. He appreciated commissioners being volunteers.

Calvert wondered what provisions would be put in place to minimize disruption to the school. Mr. VanBergen said that the construction would not start during the school year. Construction would not begin until next summer. The bulk of heavy construction would be done in the summer and completed within 5 months.
Wischnack summarized the requests for more information on the proposal's stormwater treatment plan, steep slope issues, involving school district staff on creating a comprehensive campus solution, the exposed view from the west side, congestion created by the dome, the Pagel gate system, and moving the proposal closer to the east side. The city council will review the concept plan June 22, 2015.
11. Adjournment

*Calvert moved, second by Rettew, to adjourn the meeting at 9:40 p.m. Motion carried unanimously.*

By: _______________________

Lois T. Mason
Planning Secretary
Minnetonka Planning Commission Meeting
June 25, 2015
Agenda Item 7

Public Hearing: Consent Agenda
(No Items)
Minnetonka Planning Commission Meeting
June 25, 2015

Agenda Item 8

Public Hearing: Non-Consent Agenda
Brief Description
A conditional use permit for Kona Grill at 12401 Wayzata Boulevard

Recommendation
Recommend the city council approve the request.

Proposal
Kona Grill is proposing to locate a new restaurant within Ridgedale mall. The restaurant would be located on the north side of the mall expansion that is currently under construction. The proposal includes an addition to the building, and updates to the exterior of the mall. The proposal requires a conditional use permit and an amendment to the sign plan for Ridgedale Center. (See plans on pages A1-A7.)

Background Information
On March 7, 2013, the city council approved the master development plan for Ridgedale Mall. The master development plan consists of three phases:

- **Phase 1:** The first phase included construction of an 80,000 square foot addition to Macy’s, updating the exterior of the Macy’s store, as well as parking lot, stormwater and landscaping improvements on the north side of the site. Phase 1 was approved by the city in 2013 and construction is complete.

- **Phase 2:** The second phase consists of demolishing the existing Macy’s Men’s and Home store, and constructing an addition to the mall and a new 140,000 square foot anchor department store. Phase 2 also includes parking lot, stormwater, and landscaping improvements along the south side of the mall property. Phase 2 is currently under construction.

- **Phase 3:** Phase 3 consists of three new freestanding restaurants on the northwest side of the mall, as well as the final parking lot and landscaping improvements. Phase 3 continues to be a future phase of the master development plan.

The plans for the Phase 2 expansion to the mall included two new sit-down restaurants to be located on the north side of the mall, adjacent to the new north entrance. One restaurant would be located within the existing mall space, and the second would be located within the new mall addition. The city included the restaurant uses in the analysis of parking, traffic, and overall site design. However, the city council did not approve the conditional use permits for the restaurants. The reason the city did not approve the CUPs is because it was anticipated that each of the restaurants were going to provide separate “trade dress” design on the exterior of the mall which would be
unique to the actual restaurant tenant. It was anticipated that the conditional use permits would be reviewed at a later time once the restaurants were identified.

Ridgedale Center has now identified that Kona Grill and Redstone Grill would be the tenants occupying the restaurant space. Kona Grill has applied for a conditional use permit for its restaurant, and submitted detailed information on the restaurant. Redstone Grill has also applied for a conditional use permit, and will be reviewed by the planning commission meeting at a later date.

**Proposed Restaurant**
Kona Grill is a full service, sit down restaurant that serves an international menu in a casually elegant atmosphere. They currently operate 32 restaurants in the United States and Puerto Rico. The proposed restaurant at Ridgedale Center would be just under 9,000 square feet in size, and would include a bar and 278 seats. The proposal includes the following items:

- **Building Addition:** The applicant is proposing to construct an addition on the north side of the mall, which would be used as a year-round dining room. The walls within the addition would consist of bi-folding glass partitions and overhead doors which would open to the outside to provide an open-air dining space in the summer months. In the winter, the space would function as an expanded dining room, or could be used for private banquet facilities. The building addition is proposed as an alternative to an outdoor dining patio. There would not be a seasonal outdoor dining patio included in the restaurant. (See page A3.)

- **Exterior Architecture:** The applicant is proposing to provide “trade dress” design on the exterior so that the restaurant has a visual presence on the outside of the mall. The exterior design materials include predominantly glass partition walls and doors, with limestone tile, wood, and metal panels. The design also includes a tower element consisting of metal panel with bronze finish, and translucent fiberglass panels that would illuminate in the evening. (See pages A4-A6.)

- **Signs:** The applicant has submitted two options for the exterior signs for the restaurant. Option 1, which is the applicant’s preferred design, is to put the sign up above the restaurant tenant space on the exterior of the mall, rather than on the exterior of the tenant space. The proposed sign would be 54 inches in height, with a total size of 153 square feet. Option 2 would place the sign on the canopy of the restaurant addition. The sign would be 42 inches in total height. The plans also include a second sign at the base of the tower, which is intended to be viewed at pedestrian level. (See pages A5-A6.)

**Staff Analysis**

(1) **Conditional use Permit**
Staff finds that the proposed restaurant is reasonable:
The master development plan for the mall, and the larger vision outlined in the city’s Ridgedale village center study, have always anticipated adding additional restaurants to the mall property. The restaurants increase the vitality of the mall as a regional attraction, and continue the adaptation and reinvestment in Ridgedale Center.

The parking demands and traffic associated with the restaurant can be accommodated within the existing site without the need for parking or traffic improvements. The restaurants were included in the parking and traffic analysis that were conducted in 2014 for the mall expansion project, and there have been no changes which would adversely impact parking and traffic on the site.

The proposed exterior design maintains the high quality design and materials that are being used in the other improvements at the mall, including the new Macy’s, Nordstrom, and update of the mall entrances. The materials used – glass, wood, tile, and metal panels – are all used extensively within the current mall updates.

(2) Pedestrian Accommodations
One of the goals of the Ridgedale village center study was to increase the pedestrian accommodations with the larger Ridgedale area. During the review of the master development plan of the mall, the pedestrian connections to the mall were reviewed in detail, and the site plan reflects the desire to have better pedestrian connections through the parking lot into the mall. The proposed addition would occupy a significant portion of the sidewalk area on the north side of the new north entry. Although it was always anticipated that the restaurants would have an outdoor patio that would utilize the sidewalk area, the proposed plan would only leave 5 feet for the sidewalk. Staff finds that this is an important pedestrian connection for the mall, since it connects the exterior entrances to Macy’s and Nordstrom with the north mall entrance. As such, staff believes that the sidewalk should maintain a width of at least 10 feet. Staff has discussed this issue with the applicant, and they are concerned about the impacts of reducing the size of the addition to provide a wider setback. A second option needs to be explored that looks at pushing back the curb line of the drive aisle in this location. This would allow for a wider setback. Staff has reviewed the site plan for the mall, and believes this option would be feasible. However, the applicant, the city, and mall ownership, General Growth, need to work on an acceptable solution. The sidewalk width is included as a condition of approval. Staff will continue to work with the applicant and the mall to address this issue.

(3) Revised Sign Plan
Staff recognizes that Ridgedale Center is a unique destination in the community and has a need to provide varying signs beyond what the standard sign ordinance would allow. These unique visibility needs are recognized in the
existing sign plan that was reviewed and approved by the planning commission earlier this year. Under the existing sign plan, the anchor department stores and restaurants with exterior frontage are the only tenants that are allowed signs on the exterior of the mall. Staff continues to find that allowing exterior signs for Kona Grill is reasonable. However, staff is concerned about the location and size of the applicant's preferred sign plan, Option 1. It is standard practice throughout the community, and also at Ridgedale Center, that exterior signs for tenants must be located with the leased space of that tenant. Option 1 would place the sign outside of the leased frontage of the restaurant, and is located unnecessarily high on the building which leads to the size being taller and larger than is necessary to provide adequate identification and visibility. Staff supports the second option, Option 2, which provides a sign that is better integrated into the exterior design of the restaurant, and provides good visibility and identification for the restaurant. As such, staff is recommending that the sign plan for Ridgedale Center be amended to increase the maximum height for restaurant signs from 30 inches to 42 inches.

**Staff Recommendation**

1) Recommend that the city council adopt the resolution on pages A8-A12 which approves the conditional use permit for a restaurant in Ridgedale Center at 12401 Wayzata Boulevard.

2) Recommend that the city council adopt the resolution on pages A13-A16 which approves an amendment to the sign plan for Ridgedale Center at 12401 Wayzata Boulevard.

Originator: Jeff Thomson, Planner
Through: Susan Thomas, AICP, Principal Planner
Supporting Information

Project No. 03046.15b

Property Ridgedale Center, 12401 Wayzata Blvd.

Applicant Kona Grill and Ware Malcomb Architects

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)

Surrounding Land Uses

Northerly: I-394
Easterly: Crane Lake, zoned PID/Planned I-394 District and guided for open space
Southerly: Mix of institutional, office, residential and hospitality uses, zoned PID and guided for mixed use
Westerly: Mix of bank, retail, restaurant and commercial uses, zoned PID and guided for mixed use

Planning

Guide Plan designation: Mixed Use
Zoning: PID/Planned I-394 District

CUP Standards

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

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

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

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

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

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

6. The use does not have an undue adverse impact on the public health, safety or welfare.
The proposal would meet the specific conditional use permit standards as outlined in City Code §300.31 Subd. 4(b)2(o) for restaurants located on property designated for retail use:

1. Must be in retail multiple tenant centers only and conform to the architecture of a specific center;

   **Finding:** The proposed restaurant would be located in Ridgedale Center, a multiple tenant regional shopping center. The exterior design of the restaurant is incorporated into the design of the mall, and maintains the high quality design and materials that are being used in the other improvements at the mall.

2. Will not be permitted when traffic studies indicate significant impacts on the levels of service as defined by the Institute of Traffic Engineers on the roadway system;

   **Finding:** The traffic associated with the restaurant can be accommodated within the existing roadway system on and on-site access and parking areas.

3. Outdoor seating areas will be approved only subject to the following:
   a) must be located in a controlled or cordoned area with at least one opening to an acceptable pedestrian walk. When a liquor license is involved, an enclosure is required and the enclosure shall not be interrupted; access must be only through the principal building;
   b) must be set back at least 200 feet and screened from any adjacent property designated in the comprehensive plan for residential use;
   c) must be located and designed so as not to interfere with pedestrian and vehicular circulation;
   d) must be located next to an entrance to the main use;
   e) must be equipped with refuse containers and periodically patrolled for litter pick-up;
   f) must not have speakers or audio equipment that is audible from adjacent residential parcels; and
   g) must meet building setback requirements.

   **Finding:** The proposed restaurant does not include an outdoor dining patio.

4. Drive-up windows and related stacking spaces will be approved only subject to the following:
a) public address systems must not be audible from any residential parcel; and
b) stacking for a minimum of six cars per aisle must be provided subject to applicable parking lot setbacks.
c) must be set back at least 100 feet and screened from any adjacent property designated in the comprehensive plan for residential use.

**Finding:** The proposed restaurant does not include a drive-up window.

5. Restaurants or fast-food restaurants with less than 1,200 square feet gross floor area, designed seating capacity not exceeding 25, having no drive-up window and located in retail multiple tenant centers are exempt from the requirements of this section and are considered to be a standard retail use. For tenants with accessory fast-food restaurants, the 1,200-square-foot calculation will include the total gross area of all restaurants and fast-food restaurants within the tenant space.

**Finding:** The proposed restaurant would exceed 1,200 square feet, so the requirements of the section would apply to the proposal.

**Neighborhood Comments**  
The city sent notices to 234 area property owners and received no comments.

**Deadline for Decision**  
September 8, 2015
Location Map

Project: Kona Grill
Applicant: Ware Malcomb
Address: 12401 Wayzata Blvd #1068
(03046.15a)

This map is for illustrative purposes only.
This conceptual design is based upon a preliminary review of entitlement requirements and on unverified and possibly incomplete site and/or building information, and is intended merely to assist in exploring how the project might be developed.
This conceptual design is based upon a preliminary review of entitlement requirements and on unverified and possibly incomplete site and/or building information, and is intended merely to assist in exploring how the project might be developed.
Sign - Option 1

4′-6″ x 34′ BACKLIT SIGNAGE

KONA GRILL
kitchen - sushi - cocktails
This conceptual design is based upon a preliminary review of entitlement requirements and on unverified and possibly incomplete site and/or building information, and is intended merely to assist in exploring how the project might be developed.
Resolution No. 2015-

Resolution approving a conditional use permit for a restaurant at Ridgedale Center at 12401 Wayzata Boulevard

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

Section 1. Background.

1.01 Kona Grill and Ware Malcomb Architects have requested a conditional use permit for a restaurant. (Project 03046.15b)

1.02 The property is located at 12401 Wayzata Boulevard. It is legally described as:

Legal description to be inserted

1.03 On June 25, 2015, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the planning commission. The planning commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. General Standards.

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

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

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

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

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

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

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

Section 3. Specific Standards.

3.01 City Code §300.31 Subd. 4(b)2(o) lists the following specific standards that must be met for granting a conditional use permit for restaurants located on property designated for retail use:

1. Must be in retail multiple tenant centers only and conform to the architecture of a specific center;

2. Will not be permitted when traffic studies indicate significant impacts on the levels of service as defined by the Institute of Traffic Engineers on the roadway system;

3. Outdoor seating areas will be approved only subject to the following:

   a) must be located in a controlled or cordoned area with at least one opening to an acceptable pedestrian walk. When a liquor license is involved, an enclosure is required and the enclosure shall not be interrupted; access must be only through the principal building;

   b) must be set back at least 200 feet and screened from any adjacent property designated in the comprehensive plan for residential use;

   c) must be located and designed so as not to interfere with pedestrian and vehicular circulation;

   d) must be located next to an entrance to the main use;

   e) must be equipped with refuse containers and periodically
patrolled for litter pick-up;

f) must not have speakers or audio equipment that is audible from adjacent residential parcels; and

g) must meet building setback requirements.

4. Drive-up windows and related stacking spaces will be approved only subject to the following:

a) public address systems must not be audible from any residential parcel; and

b) stacking for a minimum of six cars per aisle must be provided subject to applicable parking lot setbacks.

c) must be set back at least 100 feet and screened from any adjacent property designated in the comprehensive plan for residential use.

5. Restaurants or fast-food restaurants with less than 1,200 square feet gross floor area, designed seating capacity not exceeding 25, having no drive-up window and located in retail multiple tenant centers are exempt from the requirements of this section and are considered to be a standard retail use. For tenants with accessory fast-food restaurants, the 1,200-square-foot calculation will include the total gross area of all restaurants and fast-food restaurants within the tenant space.

Section 4. Findings.

4.01 The proposal meets the conditional use permit standards.

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, except as modified below.

- Floor plan received May 12, 2015
• Building elevations dated June 5, 2015

2. Prior to issuance of a building permit:
   a) This resolution must be recorded with Hennepin County.
   b) The site plan must be revised so that the sidewalk along the north side of the restaurant maintains a minimum width of 10 feet.

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

4. 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 July 13, 2015.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the
City Council of the City of Minnetonka, Minnesota, at a meeting held on July 13, 2015.

__________________________________
David E. Maeda, City Clerk
Resolution No. 2015-
Resolution amending the existing sign plan for
Ridgedale Center at 12401 Wayzata Boulevard
_____________________________________________________________________
Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01 Kona Sushi Inc. has requested an amendment to the existing sign plan for
    Ridgedale Center, at 12401 Wayzata Boulevard.

1.02 Under the existing sign plan, restaurants with frontage on the mall exterior
    are allowed wall signs not exceeding 30 inches in height. The requested
    amendment would increase the maximum height to 42 inches. No other
    changes to the existing plan are proposed.

1.03 On June 22, 2015, the planning commission held a hearing on the proposal.
    The applicant was provided the opportunity to present information to the
    commission. The commission considered all of the comments received and
    the staff report, which are incorporated by reference into this resolution. The
    commission recommended the city council approve the sign plan
    amendment.

Section 2. Findings.

2.01 Ridgedale Center includes a mix of commercial uses, including retail, 
    restaurant, automotive, and anchor department stores.

2.02 The site has unique visibility needs compared to other commercial 
    properties. Ridgedale abuts three major streets, Wayzata Boulevard, 
    Ridgedale Drive, and Plymouth Road, and has visual frontage from I-394. 
    The site also has seven separate vehicle access points from these public 
    streets. In addition, the site is a regional destination which anchors the 
    larger Ridgedale area regional center.
Section 3. City Council Action.

3.01 The requested sign plan amendment is hereby approved. The amended sign plan is outlined in EXHIBIT A of this resolution.

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 13, 2015.

______________________________
Terry Schneider, Mayor

Attest:

______________________________
David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on July 13, 2015.

______________________________
David E. Maeda, City Clerk
EXHIBIT A
RIDGEDALE SIGN PLAN

Exterior signs for Ridgedale Center must meet all of the requirements of the city’s sign ordinance, expect for the following:

1. The mall is allowed exterior signs according to the following standards:
   a) The signs must not exceed the following number, height, and size:

<table>
<thead>
<tr>
<th></th>
<th>Quantity (max.)</th>
<th>Height (max.)</th>
<th>Copy and graphic area (max.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>pylon sign</td>
<td>1</td>
<td>85 ft.</td>
<td>480 sq. ft.</td>
</tr>
<tr>
<td>monument signs</td>
<td>4</td>
<td>8 ft.</td>
<td>40 sq. ft.</td>
</tr>
<tr>
<td>directional signs</td>
<td>9</td>
<td>8 ft.</td>
<td>20 sq. ft.</td>
</tr>
<tr>
<td>entrance towers</td>
<td>4</td>
<td>N/A</td>
<td>225 sq. ft.</td>
</tr>
</tbody>
</table>

   b) There may be no additional freestanding or pylon signs than identified above. All freestanding signs must include the name of the shopping center only, and must not include individual tenant identification. Directional signs must include only directional messages.

2. Anchor department stores that exceed 100,000 square feet in size are allowed exterior signs according to the following standards:
   a) Maximum of one wall sign per exterior elevation.
   b) The total height of the sign must not exceed 8 feet.
   c) The total length of the sign must not exceed 25% of the lineal footage of the surface to which it is affixed.

3. Restaurants that have frontage on the mall exterior are allowed exterior signs according to the following standards:
   a) Maximum of one wall sign per exterior elevation.
   b) The total height of the sign must not exceed 42 inches.

4. Freestanding buildings are allowed exterior signs according to the following standards:
a) Maximum of one wall sign per exterior elevation.

b) The total height of the sign must not exceed 5 feet.

c) The total length of the sign must not exceed 75% of the lineal footage of the surface to which it is affixed.

5. All other tenants are not allowed exterior signs, including temporary business signs.
Brief Description  Variance for a pool and spa to be located between the front property line and the existing home at 4915 Highland Road

Recommendation  Adopt the resolution approving the variance request

Project No.  15011.15a
Property  4915 Highland Road
Applicant  Alene Haug
Proposal  The property owner is proposing to construct a pool, spa and associated accessory structure between the front property line and the existing home at 4915 Highland Road. (See pages A1-6.)

Proposal Requirements  The proposal requires:

- **Variance**: A front property line is any property line adjacent to a public right-of-way; the orientation of the home does not dictate this definition. By ordinance swimming pools must be located behind the front building line of the house. In other words, a pool cannot be located between a home and the street. The property owner is proposing to locate the pool and spa in the front of the existing home. While the proposed pool and spa would be located more than 100 feet from the front property line, the proposal requires a variance from the locational standard.

Approving Body  The planning commission has final authority to approve or deny the request. (City Code §300.07 Subd.4)

Site Features  The subject property is 4.6 acres in size and is improved with a single family home and a detached garage. The existing home is a 6,500 square foot home with an attached garage. The home is generally oriented toward the east; with the “rear” of the home facing Highland Road.
The city council approved a conditional use permit for a 2,000 square foot detached garage in July 2007. The subject property generally slopes downward in all directions from the existing home. The slope downward increases as it nears the wetland complex on the eastern side of the property. While the existing grade is significant, it would not be considered a steep slope by ordinance. The wetland and associated 25-foot buffer were placed in a conservation easement as required in 2007. (See page A5.)

**Staff Analysis**

Staff finds that the applicant’s proposal meets the variance standard outlined in city code:

- **Reasonable Use and Neighborhood Character:** The proposed location of the pool and spa is reasonable and would not negatively impact the character of the surrounding neighborhood. The items would:
  
  o Be a reasonable use of a single family residential property.
  
  o Be generally consistent with the ordinance. By ordinance, pools must be located behind the front line of the existing home. The intent of the ordinance is to screen and provide appropriate separation between the pool and adjacent right of way.
  
  o The existing home was designed such that the “rear” of the home is orientated towards Highland Road. As such, based on the home’s design the proposed pool and spa would appear to be located in the rear yard.

- **Unique Circumstance:** Despite the property’s size, a large portion of the property is encumbered by floodplain, wetland and significant grade changes. This coupled with the location and orientation of the existing home, driveway, and detached garage restrict the location of the pool. Despite the proposal’s location in front of the home, the proposed location is the best suited on the property.
Staff Recommendation

Adopt the resolution on pages A7–A11, which approves a variance to construct a pool and spa in front of the existing home at 4915 Highland Road.

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

Surrounding Land Uses
All surrounding properties are zoned R-1 and guided for low density residential.

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

Spa
The ordinance does not specifically address spas – more commonly known as hot tubs. However, staff has found them to be similar to pools. As such, staff has applied the accessory structure standards and setbacks for pools to proposed spas.

Accessory Structure
A proposed pool house is shown on the plans. The pool house would be 300 square feet in size. Based on the plans, the accessory structure would meet the required setbacks outlined in the ordinance. By ordinance, accessory structures which are located between the existing house and the front lot line shall maintain a minimum setback of 50 feet. As shown, the proposed structure would have a front setback of over 110 feet. Included as a condition of approval, a building permit is required for the structure.

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.

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

1. **Concur with staff’s recommendation.** In this case, a motion should be made to approve the variance.

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

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

**Neighborhood Comments**  
The city sent notices to 73 area property owners and has not received any comments to date.

**Deadline for Decision**  
August 11, 2015
Location Map

Project: Alene Haug
Address: 4915 Highland Rd
(15011.15a)

This map is for illustrative purposes only.
PROPERTY INFORMATION

<table>
<thead>
<tr>
<th>Property Address</th>
<th>4915 HIGHLAND ROAD, MINNETONKA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parcel ID Number</td>
<td>28-117-22-24-0002</td>
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OWNER INFORMATION

<table>
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<tr>
<th>Owner Name</th>
<th>ALENE HAUG</th>
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<tr>
<td>Owner Address</td>
<td>4915 HIGHLAND ROAD, MINNETONKA</td>
</tr>
<tr>
<td>Owner Phone</td>
<td>952-513-7371</td>
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<tr>
<td>Owner Email</td>
<td><a href="mailto:alene.haug@hotmail.com">alene.haug@hotmail.com</a></td>
</tr>
</tbody>
</table>

APPLICANT INFORMATION

<table>
<thead>
<tr>
<th>Applicant Name</th>
<th>ALENE HAUG</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant Address</td>
<td>SAME AS ABOVE</td>
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<tr>
<td>Applicant Phone</td>
<td>SAME AS ABOVE</td>
</tr>
<tr>
<td>Applicant Email</td>
<td>SAME AS ABOVE</td>
</tr>
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</table>

VARIANCE REQUEST

<table>
<thead>
<tr>
<th>Front Yard Setback</th>
<th>FROM Ft TO Ft</th>
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</thead>
<tbody>
<tr>
<td>Floodplain Setback</td>
<td>FROM Ft TO Ft</td>
</tr>
<tr>
<td>Rear Yard Setback</td>
<td>FROM Ft TO Ft</td>
</tr>
<tr>
<td>Wetland Setback</td>
<td>FROM Ft TO Ft</td>
</tr>
<tr>
<td>Side Yard Setback</td>
<td>FROM Ft TO Ft</td>
</tr>
<tr>
<td>Shoreland Setback</td>
<td>FROM Ft TO Ft</td>
</tr>
<tr>
<td>Aggregate Side Yard</td>
<td>FROM Ft TO Ft</td>
</tr>
<tr>
<td>Other</td>
<td>FROM Ft TO Ft</td>
</tr>
</tbody>
</table>

OWNER’S STATEMENT

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

Alene Haug

4-13-15

APPLICANT’S STATEMENT

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

Alene Haug

4-13-15
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 establishes that there are practical difficulties in complying with the ordinance standard from which they are requesting a variance. Practical difficulties means:

- The proposed use is reasonable;
- 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
- The proposed use would not alter the essential character of the surrounding area.

### PRACTICAL DIFFICULTIES WORKSHEET

<table>
<thead>
<tr>
<th>Describe why the proposed use is reasonable</th>
<th>Plenty of land to support a pool</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Describe:</th>
<th>4.8 acre lot size</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Wouldn't be visible from Highland Rd.</td>
</tr>
<tr>
<td></td>
<td>150 feet from Highland Rd. to house</td>
</tr>
<tr>
<td></td>
<td>Due to property grade and wetland this sight is the only option</td>
</tr>
<tr>
<td></td>
<td>As house sits on lot, pool would be located in the backyard of our house</td>
</tr>
<tr>
<td></td>
<td>Pool would not be visible by any neighbors</td>
</tr>
</tbody>
</table>

| Describe why the variance would not alter the essential character of the neighborhood | See above |

VARIANCE APPLICATIONS WILL NOT BE ACCEPTED IF THIS WORKSHEET IS NOT COMPLETE

Alene Haug
4915 Highland Road
15011.15a
View of subject property from Highland Road
Planning Commission Resolution No. 2015- 
Resolution approving a variance for a pool and spa to be located 
between the front property line and the existing home at 
4915 Highland Road

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

Section 1. Background.

1.01 Alene Haug has requested a variance from the city code to allow the construction of a pool and spa between the front property line and the existing home. (Project #15011.15a)

1.02 The property is located at 4915 Highland Road. It is legally described as:

The north ½ of the southeast ¼ of the southeast ¼ of the Northwest ¼ of Section 28, Township 117 North, Range 22, West of the Fifth Principal Meridian, according to the U.S. Government Survey thereof.

1.03 City Code §300.10 Subd. 6 requires that swimming pools be located behind the front building line of the house. The applicant is proposing to locate the pool and spa in front of the existing home.

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 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 variance standard outlined in City Code §300.07 Subd. 1(a):

1. PURPOSE AND INTENT OF THE ZONING ORDINANCE: The proposal would generally be consistent with the purpose and intent of the zoning ordinance. By ordinance, pools are considered a reasonable accessory use within single family neighborhoods. Further, the standard limiting the location of the pool to behind the front line of the home is intended to provide screening and to provide for appropriate separation between a pool and adjacent right of way. The proposed pool and spa would be setback more than 100 feet from the adjacent roadway.

2. CONSISTENT WITH COMPREHENSIVE PLAN: The guiding principles in the comprehensive guide plan provide for maintaining, preserving and enhancing existing single-family neighborhoods. The proposal would not notably impact the character of the neighborhood. The proposal would be a reasonable enhancement of a single family property.

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

   a. REASONABLENESS: The proposal is reasonable. By ordinance, pools are considered a reasonable use of a single family residential property. The intent of the locational standard is to provide for adequate separation between the pool and adjacent roadway. The proposed pool would be more than 100 feet from the front property line. The proposed spa would be more than 125 feet from the front property line.

   b. UNIQUE CIRCUMSTANCE: Despite its larger size, the property is encumbered by floodplain, wetland and significant grade changes. This – coupled with the 150-foot front yard setback, orientation of the existing home, and location of driveway and detached garage – restricts the location of the proposed pool and spa and presents a circumstance not
common to every residential property. Despite the need for a locational variance, the proposed location is the best suited on the property.

c. CHARACTER OF LOCATILITY: The proposed pool and spa would be located more than 100 feet from the adjacent roadway. This provides an appropriate physical and visual separation of the proposal from the roadway.

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 and detailed survey date-stamped April 30, 2015.

2. Prior to issuance of a building permit:

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

   b) Submit a landscaping plan for staff review. The landscaping plan must provide adequate screening of the pool from the adjacent roadway.

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

3. This approval specifically allows a 42-foot x 24-foot pool with a setback of 105 feet from the front property line and an 11-foot x 11-foot spa with a setback of 125 feet from the front property line.

4. The pool must maintain a minimum 15-foot setback from the side property line to the water’s edge, and a 10-foot setback to the pool apron.

5. The spa must maintain a minimum 15-foot setback from the side property line to the spa edge.
6. A building permit for the 300 square foot accessory structure must be submitted for staff review. The accessory structure must maintain the minimum 10-foot side yard setback.

7. The pool and spa must be enclosed by a minimum five-foot non-climbable, opaque fence with a self-latching gate.

8. Any changes to the location or size of the pool or spa will be brought back to the planning commission for further review.

9. This variance will end on December 31, 2015, 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 June 25, 2015.

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 June 25, 2015.

__________________________
Kathy Leervig, Deputy City Clerk
MINNETONKA PLANNING COMMISSION
June 25, 2015

Brief Description
Items concerning the property at 3211 Chase Drive:

1) Aggregate side yard setback variance for an addition; and

2) Conditional use permit for an accessory apartment.

Recommendation
Recommend the city council approve the request.

Project No. 15009.15a
Property 3211 Chase Drive
Applicant Michael and Helen Mason
Proposal The property owners are proposing to remove an existing, three-car, detached garage in order to construct a new, three-car, attached garage with second story accessory apartment. (See narrative and plans on pages A1-A10.)

Proposal Requirements
The proposal requires:

• Aggregate side yard setback variance: The proposal requires a variance to reduce the aggregate side yard setback from 30 feet to 21 feet.

• Conditional use permit: The proposal requires a conditional use permit for an accessory apartment.

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

Site features The subject property is just over 16,600 square feet in size. The property is improved with a single family residential home and a detached three-car garage. The existing house was constructed in 1952 and is just over 1,500 square feet in size. The existing home and garage meet all setback requirements.
Proposed Addition

The proposed addition would be 2,264 square feet in total size with a footprint of 1,200 square feet. The second story apartment would be accessed via a newly constructed handicap accessible staircase or elevator and would be 1,064 square feet in size.

The proposed addition would maintain the minimum required 10-foot side yard setback. However, the addition would not meet the minimum 30-foot aggregate side yard setback. (See page A6.)

Staff Analysis

Variance

Staff finds the requested aggregate side yard setback variance is reasonable:

- REASONABLENESS AND NEIGHBORHOOD CHARACTER: The proposed setbacks are reasonable and would not negatively impact the character of the surrounding neighborhood.
  1. The proposal is largely driven by the need of the property owners to provide housing which meet accessibility standards for a family member.
  2. But for an addition to connect the proposal to the existing home, the proposal would be located within the footprint of the existing three-car garage. The proposal would maintain the minimum required 10-foot side yard setback.
  3. The property owners have designed the proposed addition to be architecturally consistent with the existing home and surrounding neighborhood.

- CIRCUMSTANCE UNIQUE TO THE PROPERTY: While both the existing garage and home currently comply with all required setbacks, an enclosed stairwell for accessibility purposes could not be constructed on the property without an aggregate side yard setback variance. Coupled with the location of the existing site improvements, the property is less than 17,000 square feet in size. These present circumstances not common to all similarly zoned residential properties.

Conditional Use Permit

Staff finds the conditional use permit for the accessory apartment is reasonable:

- The accessory apartment would not have any adverse impacts on adjacent properties and would not alter the residential character of the neighborhood. But for a small addition between the existing home and the proposed garage for a
stairwell and elevator, the addition would be constructed within the footprint of the existing garage.

- The addition is designed such that it would maintain and enhance the single-family appearance of the existing home and garage. As such, the proposed apartment would not have the outward appearance of a separate dwelling unit.

- Parking for the proposed apartment can be accommodated within the proposed three-car garage and paved driveway.

- The proposal complies with all conditional use permit standards. The standards and findings are included in the “Supporting Information” section of this report.

**Staff Recommendation**

Recommend the city council adopt the resolution approving an aggregate side yard setback variance for an addition and a conditional use permit for an accessory apartment at 3211 Chase Drive. (See pages A13–A19.)

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

**Surrounding Land Uses**

All properties to the north, east, south and west are zoned R-1, and guided for low density residential.

**Planning**

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

**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, the property is not defined as a small lot by ordinance. As such, standard R-1 setbacks are applicable.

**McMansion**

The McMansion policy is a tool the city can utilize to ensure new homes and additions requiring a variance are consistent with the character of the existing homes in the neighborhood. By policy the floor area ratio (FAR) of the subject property cannot be greater than the largest FAR of properties 1,000 feet on the same street, and a distance of 400 feet from the subject property.

The current proposal would comply with the McMansion Policy. The subject property would be consistent with the current highest FAR in the neighborhood. The current property with the highest FAR in the neighborhood is located east of the subject property and has a FAR of 0.22. (See page A11.)

**Original proposal**

The property owners originally submitted a proposal which would have also required a side yard setback variance reducing the setback from 10 feet to seven feet. As originally proposed, the home would not have complied with the McMansion Policy. Following discussions with staff, the property owners revised their plans to eliminate the need for the side setback variance by reducing the overall size of the proposed addition. By doing so, the property owners effectively brought the proposal into compliance with the McMansion Policy.
Reasonable Accommmodations

The proposal is largely driven by the need by the property owners to provide housing which meet accessibility standards for a family member.

Reasonable accommodations is the granting of a modification or waiver of city regulations or policies to an individual with a disability when necessary to eliminate barriers to the Fair Housing Amendments Act of 1988. By City Code §215.020, it the policy of the city to provide reasonable accommodations for persons with disabilities seeking fair and equal access to housing.

In making the decision, the following factors must be considered:

a) whether there is a qualifying disability;

b) whether the request is needed to allow a disabled person equal opportunity to use and enjoy a dwelling, or to live in a particular neighborhood, as a person without disabilities;

c) whether the request is reasonable, considering such things as the potential impacts to the surrounding uses, the extent to which the accommodation meets the stated need, and other alternatives that may meet that need;

d) whether the request would constitute a fundamental alteration of the city’s regulations, policies, or procedures;

e) whether the request would impose an undue financial or administrative burden on the city; and

f) any other factor that may have bearing on the request.

Typically, an approved request can be granted administratively as it would be granted only to an individual and would not run with the land unless the director finds that (a) the accommodation is physically integrated into the residential structure and it cannot be removed or altered or (b) the accommodation is to be used by another individual with a disability.

The city has reviewed the proposal and finds that it meets the reasonable accommodations standards. However, while the proposal is driven by the need to provide accessibility the variance is the result of the size of the garage and accessory apartment. As such, staff determined that rather than an administrative approval, the variance request should be concurrent with the conditional use permit for the apartment.
Variance Standard

Despite being located within the existing garage’s footprint, the proposed garage addition requires an aggregate side yard setback variance. The existing three-car garage was located more than 10 feet from the existing home. As such, the existing garage was considered an accessory structure. The aggregate side yard setback variance applies only to principal structures.

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 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)

CUP Standards

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

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

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

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

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

The proposal would meet the specific conditional use permit standards for accessory apartments as outlined in City Code §300.16, Subd. 3(d):

1. to be created only on property zoned for single family detached dwellings and no more than one apartment to be created in any dwelling;

   Finding: The property is zoned R-1, single family residential and does not currently have an accessory apartment.

2. structures in which an accessory apartment is created to be owner-occupied, with the owner residing in either unit on a
continuous basis except for temporary abscesses throughout the period during which the permit is valid;

**Finding:** This is included as a condition of approval.

3. adequate off-street parking to be provided for both units of housing with such parking to be in a garage, carport or on a paved area specifically intended for that purpose but not within a required turnaround;

**Finding:** The property would have a three-car attached garage and a driveway area that would allow for adequate on-site parking for the both the single-family home and accessory apartment.

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

**Finding:** The apartment would be located within an addition that would be constructed above a proposed three-car garage.

5. an accessory apartment must be no more than 35 percent of the gross living area of the house or 950 square feet, whichever is smaller. The gross living area includes the accessory apartment. The city council may approve a larger area where the additional size would not substantially impact the surrounding neighborhood.

**Finding:** The accessory apartment would be 1064 square feet in size, which is 26-percent of the gross living area of the house, but exceeds 950 square feet. The larger size would not have any adverse impacts on adjacent properties and would not alter the residential character of the neighborhood. Further, the addition would maintain the minimum 10-foot side yard setback and would not encroach any closer than the existing detached garage. The proposed addition is designed to appear residential in design and would not have the appearance of a separate dwelling unit. Lastly, parking would be accommodated within the proposed garage and driveway.

6. exterior changes to the house must not substantially alter the single family character of the structure;
Finding: The proposed addition would be architecturally consistent with the existing home and would not substantially alter the single family character of the structure. As such, the proposal would not have the outward appearance of a separate dwelling unit.

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

Finding: The addition would be required to comply with all building, housing, electrical, plumbing, heating and related codes of the city when constructed. This has been included as a condition of approval.

8. to be permitted only where it is demonstrated that the accessory unit will not have an undue impact on adjacent properties and where there will not be a substantial alteration of the character of the neighborhood; and

Finding: The proposed addition would not have an adverse impact on adjacent properties and would not alter the overall residential character of the neighborhood. But for an addition connecting the existing home to the garage, the proposal would be constructed within existing building footprints. The addition would not have the exterior appearance of a separate dwelling unit.

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

Finding: But for the request for an aggregate side yard setback, the property and proposal would meet all over ordinance requirements. Nonetheless, this has been included as a condition of approval.

Natural Resources

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

Neighborhood Comments

The city sent notices to 43 area property owners and received one comment to date. See neighborhood comment on page A12.
| Deadline for Decision | August 8, 2015 |
Location Map

Project: Mason, Michael & Helen
Address: 3211 Chase Dr
(15009.15a)
### Conditional Use Permit

**PROPERTY INFORMATION**

<table>
<thead>
<tr>
<th>Property Address</th>
<th>3211 CHASE DRIVE</th>
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<tr>
<td>Parcel ID Number</td>
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**OWNER INFORMATION**

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**CONDITIONAL USE PERMIT REQUEST**

SEE ATTACHED STATEMENT

**OWNER'S STATEMENT**

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

Signature: [Signature]
Date: 4/11/2015

**APPLICANT'S STATEMENT**

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

Signature: [Signature]
Date: 4/11/2015

Michael and Helen Mason
3211 Chase Drive
15009.15a
Conditional Use Permit

The scope of our project is to demolish the existing detached 50+ year old three car garage and construct a new three car garage that is attached to the existing house. We will re-side and re-roof the existing house to match the new construction. On the upper level of the garage we will build a living space with one bedroom and a small den, for us, the home owners to live. The existing house will be used by our disabled daughter and her staff. Her personal health and safety will be enhanced by the third garage stall allowing her to access a vehicle within a space without weather impacts.

Enclosed with this permit application is a survey with outline of our intended construction along with preliminary floor plans and a rendering of all exposures.

Our project will not significantly impact the street side view since we are proposing a roof line roughly eighteen inches higher than the existing house and a garage width approximately three feet wider.

We intend to make the existing home handicapped accessible thru the installation of an elevator servicing all three finished levels of construction. We are also utilizing a new stairway with a landing mid-way through its rise for safety in case of falls. We intend to excavate the new entryway down to the existing house basement level for both the elevator and to allow a new stairway to replace the steep, narrow, and headroom restricted 60 year old existing stairs that can’t be modified due to a masonry fireplace restricting the stair length of run.

The combination of new stairs, elevator, and the ability for us as parents to continue providing care and aid to our disabled daughter will enable her to have a full life as she continues to contribute to the greater community. We as parents owe her the chance to live independent from us and yet be in the safe and secure home she currently enjoys.
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**VARIANCE REQUEST**

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<td>Other</td>
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**OWNER'S STATEMENT**

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

**APPLICANT'S STATEMENT**

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

---

Signature: ___________________________  
Date: 4/11/2015

---

Michael and Helen Mason  
3211 Chase Drive  
15009.15a
Variance Request Statement

Describe why the proposed use is reasonable
We are replacing an existing 3 car garage with a slightly larger one, in fact only 3 feet wider.
We are creating a new, safe stairway entrance with elevator access to all 3 finished levels.
Our disabled daughter's staff needs to park inside the garage to provide safe access to transport our daughter.

Describe:
- Circumstances unique to the property
- Why the need for variance was not caused by the property owner; and
- Why the need is not solely based upon economic considerations

We are replacing an existing garage that was poorly constructed within the side yard setback prior to our purchasing the home.
This garage has rotting sill plates, a sagging roof with multiple layers of asphalt shingles, and broken concrete of indeterminate structural integrity.
No utilities are run in this space we are requesting the variance for; the existing power lines are on the street, existing sewer lines are on the opposite side of our property. Granting this variance will not impact access to any utility services.

Describe why the variance would not alter the essential character of the neighborhood
Our neighborhood is well established with most homes having double garages. As they have been updated or replaced, the neighborhood standard has become three stall garages. Our drive by view of the existing home has a detached garage with the walkway being obscured from view by a large maple tree, making the view appear continuous from house to garage. We are asking for an additional three feet in garage width to allow parking space for 3 vehicles inside with adequate space to open doors and access the vehicles.
We have reviewed the design attempting to move the garage closer to the house with no success. The primary problem is trying to limit the fall hazard from a long straight length of stairs. Our daughter has already fallen down the existing, much shorter length, basement stairs with thankfully only minor injuries. We also reviewed the design to see if we could “tuck inside” the first garage stall the stairs going up. While that is possible, it eliminates the possibility of replacing the basement stairs with new safer stairs being built under them.
We have attempted to limit the visual height impression of our garage second floor. We anticipate the new roof to be approximately eighteen inches higher than the roof of our existing home. We are continuing to review the visual balance between the house and the new addition.
The neighbor sharing this property line has over twenty six feet of setback from this line.
Replacing the garage will maintain both ours and our neighbor's existing property value. The homes in our area are being modernized and updated continuously.
McMansion Policy

Map prepared by: City of Minnetonka
Michael and Helen Mason
3211 Chase Drive
15009.15a
Ashley,

I live at and own 3200 Frear Dr. as and also own the home at 3200 Chase Dr. and have an interest in the Masons' project. I am writing to put my support behind the Masons' proposed project. The effort they are putting forward to create a sustainable living situation for their disabled daughter Miranda is worthy of a variance being granted by the city.

If there are any questions regarding my position, please do not hesitate to call.

--
Take Care

Scott Nagel
Resolution No. 2015-
Resolution approving an aggregate side yard setback variance for an addition and a conditional use permit for an accessory apartment at 3211 Chase Drive

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

Section 1. Background.

1.01 The property owners, Michael and Helen Mason, are proposing to remove an existing, detached three-car garage to construct a new, attached, three-car garage with second-story accessory apartment. (Project 15009.15a)

1.02 The property is located at 3211 Chase Drive. It is legally described as:

(Warranty Deed Document No. 8592661):
That part of Lot 14, west of a line drawn North at right angles from the South line thereof at a point thereon 164.9 feet East from the Southwest corner of said Lot, and lying South of a straight line drawn from the East line of said lot; to the west line of said lot parallel to and distant 100 feet North measured at right angles from the South line of said lot, Frear Acres, according to the recorded plat thereof, Hennepin County, Minnesota.

1.03 City Code §300.10 Subd. 5 requires an aggregate side yard setback of 30 feet. The proposal requires a variance to reduce the aggregate side yard setback from 30 feet to 21 feet.

1.04 City Code §300.10 Subd. 4 allows accessory apartments as a conditionally permitted use within the R-1 zoning district.

1.06 On June 25, 2015, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the planning commission. The planning commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.
Section 2. Variance Standards and Findings.

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.

2.02 Variance Findings:

1. REASONABLENESS AND NEIGHBORHOOD CHARACTER: The proposed aggregate setback is reasonable and would not negatively impact the character of the surrounding neighborhood.

   a) The proposed addition and associated variance is largely driven by the need of the property owners to provide housing which meet accessibility standards for a family member.

   b) But for an addition to connect the proposal to the existing home, the proposal would be located within the existing three-car garage’s footprint. The proposal would maintain the minimum required 10-foot side yard setback.

   c) The property owners have designed the proposed addition to be architecturally consistent with the existing home and surrounding neighborhood.

2. CIRCUMSTANCE UNIQUE TO THE PROPERTY: While both the existing garage and home currently comply with all required setbacks, an enclosed stairwell for accessibility purposes could not be constructed on the property without an aggregate side yard setback variance. Coupled with the location of the existing site improvements, the property is less than 17,000 square feet in size. These present circumstances not common to all similarly zoned residential properties.

Section 3. Conditional Use Permit Standards and Findings.

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

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

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

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

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

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

3.02 The proposal would meet the specific conditional use permit standards for accessory apartments as outlined in City Code §300.16, Subd. 3(d):

1. to be created only on property zoned for single family detached dwellings and no more than one apartment to be created in any dwelling;

   Finding: The property is zoned R-1, single family residential and does not currently have an accessory apartment.

2. structures in which an accessory apartment is created to be owner-occupied, with the owner residing in either unit on a continuous basis except for temporary absences throughout the period during which the permit is valid;

   Finding: This is included as a condition of approval.

3. adequate off-street parking to be provided for both units of housing with such parking to be in a garage, carport or on a paved area specifically intended for that purpose but not within a required turnaround;

   Finding: The property would have a 3-car attached garage and a driveway area that would allow for adequate on-site parking for both the single family home and accessory apartment.

4. may be created by the conversion of living space within the house but not by conversion of garage space unless space is available for a two-car garage on the lot without the need for a variance;
Finding: The apartment would be located within an addition that would be constructed above a proposed 3-car garage.

5. an accessory apartment must be no more than 35 percent of the gross living area of the house or 950 square feet, whichever is smaller. The gross living area includes the accessory apartment. The city council may approve a larger area where the additional size would not substantially impact the surrounding neighborhood.

Finding: The accessory apartment would be 1,064 square feet in size, which is 26 percent of the gross living area of the house, but exceeds 950 square feet. The larger size would not have any adverse impacts on adjacent properties and would not alter the residential character of the neighborhood. Further, the addition would maintain the minimum 10-foot side yard setback and would not encroach any closer than the existing detached garage. The proposed addition is designed to appear residential in design and would not have the appearance of a separate dwelling unit. Lastly, parking would be accommodated within the proposed garage and driveway.

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

Finding: The proposed addition would be architecturally consistent with the existing home and would not substantially alter the single family character of the structure. As such, the proposal would not have the outward appearance of a separate dwelling unit.

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

Finding: The addition would be required to comply with all building, housing, electrical, plumbing, heating and related codes of the city when constructed. This has been included as a condition of approval.

8. to be permitted only where it is demonstrated that the accessory unit will not have an undue impact on adjacent properties and where there will not be a substantial alteration of the character of the neighborhood; and

Finding: The proposed addition would not have an adverse impact
on adjacent properties and would not alter the overall residential character of the neighborhood. But for an addition connecting the existing home to the garage, the proposal would be constructed within the existing building footprint. The addition would not have the exterior appearance of a separate dwelling unit.

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

Finding: But for the request for an aggregate side yard setback, the property and proposal would meet all over ordinance requirements. Nonetheless, this has been included as a condition of approval.


4.01 The above-described aggregate side yard setback variance and 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:
   - Survey date-stamped June 16, 2015
   - Floor plans and elevations dated June 15, 2015

2. Prior to issuance of a building permit:
   a) This resolution must be recorded with Hennepin County.
   b) Install temporary erosion control and tree protection fencing for staff inspection. These items must be maintained throughout the course of construction.
   c) Submit a grading plan, specifically on the south side of the addition, for staff review.

3. The property owner must reside in either the primary dwelling unit or accessory apartment on a continuous basis except for temporary absences.

4. The accessory apartment must comply with all applicable building, housing, electrical, plumbing, heating and related codes of the city.

5. The city council may reasonably add or revise conditions to address any future unforeseen problems.
6. 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.

7. The variance approval will end on December 31, 2016, unless the city has issued a building permit for the project covered by this approval or approved a time extension.

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 13, 2015.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on July 13, 2015.

David E. Maeda, City Clerk
MINNETONKA PLANNING COMMISSION
June 25, 2015

**Brief Description**

Preliminary plat, with lot width at setback variances, at 12601 Ridgmount Avenue

**Recommendation**

Recommend the city council adopt the resolution denying the request

---

**Introduction**

The applicant, Ashish Aggarwal, is proposing to subdivide the subject property into two lots. The existing home and detached garage would be removed and two new homes would be constructed. The proposal requires approval of a preliminary plat with two lot width at setback variances. (See pages A1-A4.)

**Proposal summary**

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

- **Location and site features.** The subject property is located east of Plymouth Road and south of Ridgmount Avenue, which is the Minnetonka/Plymouth border. The subject property is 45,500 square feet in size and is improved with a single-family home and two detached accessory structures. While the property appears to be heavily wooded, it does not contain a woodland preservation area. By ordinance, six trees on the site are considered high priority trees. The other large existing trees are excluded from the high priority classification due to their condition and species. The applicant is proposing to remove two – or 30 percent – of the subject property’s high priority trees.

- **Proposed lots.** Both of the proposed lots would meet minimum lot area requirements as outlined in the subdivision ordinance. However, they would not meet minimum lot width at setback standards.

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Lot 1</th>
<th>Lot 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total area</strong></td>
<td>22,0000 sf</td>
<td>22,750 sf</td>
<td>22,750 sf</td>
</tr>
<tr>
<td><strong>Buildable area</strong></td>
<td>3,500 sf</td>
<td>11,000 sf</td>
<td>10,725 sf</td>
</tr>
<tr>
<td><strong>Width at ROW</strong></td>
<td>80 ft</td>
<td>88 ft</td>
<td>88 ft</td>
</tr>
<tr>
<td><strong>Width at Setback</strong></td>
<td>110 ft</td>
<td>87.5 ft *</td>
<td>87.5 *</td>
</tr>
<tr>
<td><strong>Depth</strong></td>
<td>125 ft</td>
<td>260 ft</td>
<td>260 ft</td>
</tr>
</tbody>
</table>

* requires a lot width at setback variance
Staff analysis

The city’s subdivision ordinance outlines minimum area and dimensional standards for single-family residential lots. If a subdivision does not meet these standards and requires a variance, the city has broad discretion in the approval or denial of the proposal. The subdivision ordinance states that variances “may be granted but not mandated,” when an applicant meets the burden of proof proving that:

- **Reasonable use:** The proposed variances are reasonable;

- **Unique circumstance:** The circumstances justifying the variances 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

- **Character of the neighborhood:** The variances would not adversely affect or alter the essential character of the neighborhood.

Historically, the city has approved plats which require variances only when: (1) the variance standard as outlined above is met; and (2) the applicant is able to show that such subdivision would have less impact than a “conforming plat” of the property. Staff finds that the proposed subdivision does not meet the variance standard as:

- **Reasonable use.** The proposed lot width at setbacks are not reasonable as they would be dissimilar to lots within the surrounding area. Of the 30-lots included in the surrounding neighborhood analysis only two do not meet the minimum lot width at setback requirements. Further, these lots maintain a lot width at setback of at least 95 feet. (See lot widths of surrounding neighborhood on page A5.)

- **Unique circumstance.** There are no unique circumstances on the property which justify the requested variances. Rather the request is due to the desire of the applicant to subdivide the property.

- **Character of the neighborhood.** The requested variances would alter the character of the neighborhood as they would be dissimilar from the other properties along Ridgemount Avenue, City View Drive, and Sunset Drive South. The applicant has indicated that the proposed properties would be similar to those north of Ridgemount Avenue. These properties are within the city of Plymouth. As such, they are not technically included in the analysis of the surrounding neighborhood. Nonetheless, staff reviewed the Plymouth properties and found that they are over 100 feet in width.

Staff Recommendation

Recommend the city council adopt the resolution denying a preliminary plat with lot width variances at 12601 Ridgemount Avenue. (See pages A7-A9.)

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

**Surrounding Land Uses**

Northerly: City of Plymouth  
Easterly: Single family homes, zoned R-1 and guided for low density residential  
Southerly: Single family homes, zoned R-1 and guided for low density residential  
Westerly: Single family homes and a stormwater detention pond, zoned R-1 and guided for low density residential.

**Planning**

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

**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 in the neighborhood. By policy, the floor area ratio (FAR) of the subject property cannot be greater than the largest FAR of properties 1,000 feet on the same street, and a distance of 400 feet from the subject property.

In the narrative, the applicant proposes that the properties would be improved with no more than 3,000 square foot homes and attached three-car garages. Based on the proposed grading shown on the grading plan, the applicant is proposing a walk-out basement.

The highest FAR within the neighborhood is 0.15. Assuming the lots are developed as proposed, a 3,000 square foot home with an attached garage would have a floor area ratio of 0.17. As such, the proposal would not comply with the McMansion Policy.

**R-1A zoning**

In 2014, the city adopted an ordinance establishing a new zoning district. The R-1A, residential alternative, zoning district allows opportunities for smaller lots while establishing clear development expectations.

By ordinance an R-1A zoning district can only occur when the development would be appropriately integrated into its surroundings and would meet one of the following conditions:

1. Be located in an area where at least 60 percent of the lots within 400 feet of the development, and along 1,000 feet of the same street, have lot areas less than the R-1 standards outlined in city code; or
2. When all lots within the development would be served by a new street.

While the proposed lots themselves would meet the design standards outlined by code, the proposal would not be eligible for an R-1A rezoning as:

1. Ninety percent of the properties in the neighborhood comply with all minimum R-1 lot standards;

2. The newly created properties would not be served by a new street.

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 deny 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 council approve the request. The motion should include findings for approval.

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

Neighborhood Comments The city sent notices to 24 area property owners and has received one comment to date. This comment is on page A6.

Deadline for Decision August 13, 2015
Location Map

Project: Aggarwal, Ashish
Address: 12601 Ridgemount Ave W
(15013.15a)

This map is for illustrative purposes only.
High Priority Tree

High Priority Tree Removed

Constrution Notes:

High Priority Tree

High Priority Tree Removed
Ashley Cauley

From: [redacted]  
Sent: Tuesday, June 16, 2015 8:59 PM  
To: Ashley Cauley  
Subject: Proposed redevelopment on Ridgemount Ave

Ashley-

I am writing to voice my opposition to the proposed redevelopment on Ridgemount Avenue.

It is my understanding that the proposal is to divide the lot into two lots. I believe the large, spacious lots in our neighborhood make it desirable for living and add value to our properties. I am not in favor of increasing the density of homes in our neighborhood.

Please reply to this email to confirm that you received this email.

Thank you.

Patty Carlson  
12016 Glendale Lane  
Minnetonka, MN 55305
Resolution No. 2015-

Resolution denying the preliminary plat with lot width at setback variances at 12601 Ridgemount Avenue West

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

Section 1. Background.

1.01 Ashish Aggarwal has requested preliminary plat approval for a two-lot subdivision with lot width at setback variances. (Project 15013.15a).

1.02 The property is located at 12601 Ridgemount Avenue West. It is legally described as follows:

(Per Torrens Certificate No. 1394444)
The East 175 feet of the West 340 feet of Lots 1 and 2, Block 4, Sunset Hill, Hennepin County, Minnesota.

1.03 On June 25, 2015, 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 deny the preliminary plat with width at setback variances.

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.
1. One design standard requires that a lot have a lot width at setback of at least 110 feet.

2.02 By City Code §400.055, a variance from the subdivision requirements may be granted but not mandated, when the applicant meets a burden of proving that: (1) the proposed variance is a reasonable use of the property, considering things such 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 The proposed preliminary plat does not meet the standards for residential subdivisions as outlined in City Code §400.030. The plat requires a lot width at building setback variance.

3.02 The applicant has not met the burden of proof for approval of a variance as outlined in City Code §400.055.

1. Reasonableness: The proposed lot width at setbacks are not reasonable as they would be dissimilar from lots within the surrounding area. But for two lots which have lot widths of 95 and 98 feet respectively, all lots within the surrounding neighborhood meet the lot width at setback requirement.

2. Unique Circumstance. There are no unique circumstances justifying the lot width at setback variance. Rather the request is the result of the applicant’s desire to subdivide the property into two lots.

3. Character of the neighborhood. The requested variances would alter the existing neighborhood’s character. The proposed properties would be dissimilar from the other properties along Ridgemount Avenue, City View Drive and Sunset Drive South.


4.01 The above-described preliminary plat, with lot width at setback variances, is hereby denied based on the findings outlined in Section 3 of this resolution.
Adopted by the City Council of the City of Minnetonka, Minnesota, on July 13, 2015.

________________________
Terry Schneider, Mayor

Attest:

________________________
David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on July 13, 2015.

________________________
David E. Maeda, City Clerk
Brief Description: Items concerning Oakhaven Acres 2nd Addition, a two lot subdivision at 13929 Spring Lake Road.

Recommendation: Recommend the city council approve the proposal.

Proposal:
The applicant, Lakewest Development, is proposing to subdivide the existing property into two single-family residential lots. The existing house would be demolished, and two new homes would be constructed. The proposal requires preliminary plat review with variances from the minimum lot width at front yard setback requirement. (See pages A1-A4.)

Site Features:
The site is 2.6 acres in total size and contains a single-family home that was constructed in 1947. The site has a sanitary sewer easement that crosses through the middle of the property. The easement is 15 feet wide and has a city-owned sanitary sewer main located within it. (See page A2.) The site also contains the following natural features:

- **Wetland and Floodplain:** The back of the property is encumbered by a manage one wetland that is also classified as 100-year floodplain in the city’s water resources management plan. This area occupies approximately 0.7 acres of the property. Given these water resources, the property has just under two acres of upland area. (See pages A2-A3.)

- **Trees:** Approximately 0.8 acres of the property site is encumbered by a mesic oak forest. The oak forest, which extends off the property to both the east and west, is regulated as woodland preservation area under the city’s tree preservation ordinance. The woodland preservation area does not extend all the way to the wetland edge. In fact, there is approximately 10,000 square feet of land area adjacent to the wetland and floodplain that is outside of the woodland preservation area. There are 21 trees on the property located outside of the woodland preservation area that are classified as high priority – 19 are located north of the woodland preservation area, and 2 are located to the south. (See pages A2-A4.)

Proposed Lots:
The applicant is proposing to subdivide the lot into two separate lots. The following table outlines the lot requirements:
Table:

<table>
<thead>
<tr>
<th>Lot</th>
<th>Area</th>
<th>Lot Width at Right-of-Way</th>
<th>Lot Width at Setback</th>
<th>Lot Depth</th>
<th>Buildable Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>22,000 sq.ft.</td>
<td>80 ft</td>
<td>110 ft</td>
<td>125 ft</td>
<td>3,500 sq.ft.</td>
</tr>
<tr>
<td>Lot 1</td>
<td>61,777 sq. ft.</td>
<td>114 ft.</td>
<td>102 ft.*</td>
<td>600+ ft.</td>
<td>28,000+ sq. ft.</td>
</tr>
<tr>
<td>Lot 2</td>
<td>57,819 sq. ft.</td>
<td>114 ft.</td>
<td>102 ft.*</td>
<td>570+ ft.</td>
<td>22,000+ sq. ft.</td>
</tr>
</tbody>
</table>

* variance requested

Lot Width Requirements
The city’s subdivision ordinance establishes two separate lot width requirements. The first lot width requirement is a minimum of 80 feet of frontage on a public right-of-way. The second is a minimum lot width of 110 feet at the front yard setback requirement. Based on the ordinance definitions, the two lot width requirements are not consistently measured. The lot width at right-of-way is measured along the length of the front lot line, regardless of the lot line’s orientation to the side lot lines. The lot width at setback, however, is measured at the front yard setback line perpendicular to the side lot lines regardless of the configuration of the actual front yard setback requirement. In the case of the applicant’s proposal, this technically results in the proposed lots having different lot widths at the right-of-way and the front yard setback, even though the effective widths at both of these locations are the exact same, 114 feet. If the lot width at setback was measured along the actual setback requirement, the proposed lots would meet both lot width requirements, and no variances would be required. (See page A5.)

New Homes
The existing house on the lot would be demolished, and two new homes would be constructed. The new home on Lot 1 would be located near the front of the lot in the general location of the existing house. The home on Lot 2 would be located on the far south side of the lot, adjacent to the wetland. The reason the home would be located there is because of the sanitary sewer main and easement location. Although there is buildable area on the front of the lot, the feasibility of locating a home there is limited due to the shape and configuration of the area outside of the easement. The proposed home would therefore be located on the larger buildable area that is located between the wetland and tree preservation area. The proposed home would be located entirely outside of the tree preservation area. However, the driveway would need to cross through the oak forest in order to provide access to the house. (See page A3.)

Tree Preservation
The proposed plans include preliminary locations for the houses, driveways, and utility services. The final location would be determined based on the house design, and would be reviewed at the time the building permits are submitted to the city for review. Under the city’s tree preservation ordinance, the subdivision cannot remove more than 25 percent of the woodland preservation area and more than 35 percent of the site’s high priority trees. The proposed plans would remove 9 high priority trees based on the preliminary house, driveway, and utility locations, which exceeds the maximum tree removal allowed. In addition, the proposed plan would remove approximately 23 percent
of the woodland preservation area. The tree removal can be reduced by relocating the driveway on Lot 2, and by relocating the utility services on both of the lots:

- Lot 1: The proposed water and sewer utility services cut through two large oak trees that are located on the front of the lot. These trees could be preserved by locating both utility services further to the west, and underneath the proposed driveway.

- Lot 2: The proposed driveway on Lot 2 cuts directly through four of the high priority trees located on the north side of the lot. There is adequate space on the lot to shift the driveway further to the west to avoid removing or impacting these trees. The water and sewer services could also be shifted to the west, and under the proposed driveway, to preserve additional trees. The revised driveway and utility locations would also preserve additional tree preservation area.

These items have been included as conditions of approval, and would be reviewed with the final house designs in order to minimize tree impacts and ensure compliance with the city’s tree preservation ordinance.

Stormwater
Stormwater management would be required for each of the new homes to provide infiltration, water quality, and rate control for all impervious surfaces. Each of the homes would provide individual stormwater management, which would be reviewed with the building permit applications. This is included as a condition of approval.

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

- Aside from the lot width at setback requirement, the proposed lots would meet all of the city’s zoning and subdivision requirements.

- The variance for the reduced lot width at setback for each of the lots is reasonable because the effective width of the lots would meet the lot width requirements. The lot width at the front yard setback is 102 feet as defined by the ordinance. However, the effective width, as measured along the setback requirement, is 114 feet. This would meet the lot width at setback requirement of 110 feet. The need for the variance is a result of an inconsistency in how lot width is measured by the ordinance. The variance is not a result of the lots actually having a reduced lot width.

- The subdivision would minimize impacts to the natural resources on the site. The proposed homes would meet all floodplain and wetland setback requirements, and the proposed homes have been located to minimize impacts to the mesic oak forest. Additional tree preservation would be possible based on the final design of the homes, driveway, and utilities. The additional tree preservation is included as conditions of approval.
Staff Recommendation

Recommend the city council adopt the resolution on pages A7–A14 which grants preliminary plat approval to Oakhaven Acres 2nd Addition, a two lot subdivision at 13929 Spring Lake Road.

Originator: Jeff Thomson, Planner
Through: Susan Thomas, AICP, Principal Planner
### Supporting Information

<table>
<thead>
<tr>
<th><strong>Project No.</strong></th>
<th>15018.15a</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Property</strong></td>
<td>13929 Spring Lake Road</td>
</tr>
<tr>
<td><strong>Applicant</strong></td>
<td>Lakewest Development</td>
</tr>
<tr>
<td><strong>Property Owner</strong></td>
<td>Tim Thompkins</td>
</tr>
<tr>
<td><strong>Approving Body</strong></td>
<td>The planning commission makes a recommendation to the city council, which has final authority to approve or deny the request.</td>
</tr>
<tr>
<td><strong>Surrounding Land Uses</strong></td>
<td>All surrounding land uses are single-family homes, zoned R-1 and guided for low density residential uses.</td>
</tr>
</tbody>
</table>
| **Planning** | Guide Plan designation: Low density residential  
Zoning: R-1/Low density residential |
| **McMansion Policy** | Since the proposed subdivision requires a variance, the city's McMansion policy would apply to each of the homes constructed on the proposed lots. The McMansion policy sets a maximum floor area ratio (FAR) of the homes, which is based on the highest FAR of other single-family homes within 400 feet of the property, and 1,000 feet along the same street. The maximum FAR in the surrounding area is 0.24. Given the large size of the proposed lots, the homes could have a total floor area of over 13,000 square feet, which includes the above-grade area, half the area of a walk-out or look-out basement, and the attached garage. (See page A6.) |
| **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 38 area property owners and received no comments. |
| **Deadline for Decision** | August 29, 2015 |
Location Map

Project: Oakhaven Acres 2nd Addition
Applicant: Lakewest Development Co
Address: 13929 Spring Lake Rd
(15018.15a)
New Homes
Sanitary Sewer Easement
Lot width at right-of-way
Woodland Preservation Area
Sanitary Sewer Easement
New Homes
High Priority Trees
Lot Width Exhibit
Resolution No. 2015-

Resolution approving the preliminary plat of
Oakhaven Acres 2nd Addition at 13929 Spring Lake Road

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

Section 1. Background.

1.01 Tim Thompkins and Lakewest Development have requested preliminary plat approval for Oakhaven Acres 2nd Addition. The plat includes lot width at setback variance from 110 feet to 102 feet. (Project 15018.15a)

1.02 The property is located at 13929 Spring Lake Road. It is legally described as follows:

Lot 4, Oakhaven Acres, Hennepin County, Minnesota

1.03 On June 25, 2015, the Planning Commission held a hearing on the proposed plat. The applicant was provided the opportunity to present information to the Planning Commission. The Planning Commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The Commission recommended that the City Council grant preliminary plat approval.

Section 2. Standards.

2.01 City Code §400.025 outlines general design requirements for residential subdivisions. These standards are incorporated by reference into this resolution.

2.02 City Code §400.055 states that a variance 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:

   a) functional and aesthetic justifications for the variance; and

   b) 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 The proposed preliminary plat meets the design requirements as outlined in City Code §400.025.

3.02 The proposed preliminary plat meets the design requirements as outlined in City Code §400.055:

   1. The effective width of the lots would meet the lot width requirements outlined in the ordinance. The lot width at the front yard setback is 102 feet as defined by the ordinance. However, the effective width, as measured along the setback requirement, is 114 feet. This would meet the lot width at setback requirement of 110 feet. The need for the variance is a result of an inconsistency in how lot width is measured by the ordinance. The variance is not a result of the lots actually having a reduced lot width.

   2. While not necessarily unique to all residential properties in the community, the large size and width the existing lot is unique to the immediate Spring Lake Road area. In fact, the proposed lot division would result in lots more typical of the area.

   3. The proposed variance would not adversely impact the character of the neighborhood. The effective width of the lots would meet the city's lot width requirement.

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:

         a. A minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way and minimum 7-foot wide drainage and utility easements along all other lot lines.

         b. Utility easements over existing or proposed public utilities, as determined by the city engineer.

         c. Drainage and utility easements over wetlands, floodplains, and stormwater management facilities, as determined by the city engineer.

      2) Documents for the city attorney’s review and approval. These documents must be prepared by an attorney knowledgeable in the area of real estate.

         a. Title evidence that current within thirty days before release of the final plat.

         b. Conservation easements over the 25-foot wetland buffer on both lots, and a drawing of the easements. The easement may allow removal of hazard, diseased, or invasive species.

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 $5,000.00
   b) The existing house must be demolished.

4. Subject to staff approval, Oakhaven Acres 2nd Addition must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:
   • Preliminary plat dated April 17, 2015

5. 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) Final grading and tree preservation plan for the lot. The plan must:
         b. The floodplain elevation of 958.6 must be indicated on the plans, and the house must meet all floodplain setback requirements. No grading is allowed below the floodplain elevation.
         c. Comply with the city’s tree preservation ordinance. Final house, driveway, utilities, and stormwater management must be located to maximize tree preservation on both lots. No more than 5 high priority trees may be removed from Lot 1, and no more than 2 high priority trees may be removed from Lot 2. City staff can
administratively approve adjustment in the tree removal for each lot so long as the total tree removal does not exceed 7 high priority trees.

d. Show sewer and water services to minimize impact to any significant or high-priority trees. Utilities must be located within driveway areas where possible to minimize tree loss. No additional trees may be removed for installation of utility services.

e. No grading is permitted within the wetland buffer area, unless determined to be necessary by city staff.

2) Final utility plan must meet the following:

a. The existing services shall be removed to their respective mains, the sewer wye is to be cut out and sleeved and the water service pipe removed to the main and the corporation stop turned off.

b. The existing sewer main invert elevations need to be confirmed, the proposed house to the east may not be able to be served via gravity sewer service.

c. The proposed sewer services need to connect to the main with a wye. A direct connection to the manhole will not be allowed.

3) A tree mitigation plan. The plan must meet minimum mitigation requirements as outlined in ordinance. However, at the sole discretion of staff, mitigation may be decreased.

4) Stormwater management plan that meets the requirements of the city's water resources management plan.

5) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
6) 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.

7) 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.

8) 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) The driveway to Lot 2 shall be roughed in with gravel prior to construction to avoid construction traffic over the sanitary sewer main.

c) 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.

d) Install heavy duty fencing, which may include chain-link fencing, at the conservation easement. This fencing must be maintained throughout the course of construction.

e) Submit all required hook-up fees.
6. All lots and structures within the development are subject to the all R-1 zoning standards. In addition:

   a) Minimum floor elevation is 960.6.

   b) 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.

   c) Each of the homes must meet the requirements of the city's McMansion Policy. The floor area ratio (FAR) of each of the homes may not exceed the maximum FAR of properties within 400 feet, and 1,000 feet along Spring Lake Road. The maximum FAR within the surrounding area is 0.24 as of the date of this resolution.

7. Permits may be required from other outside agencies including, Hennepin County, the Minnehaha Creek Watershed District, and the MPCA. It is the applicant's and/or property owner's responsibility to obtain any necessary permits.

8. The city may require installation and maintenance of signs which delineate the edge of any required conservation easement. This signage is subject to the review and approval of city staff.

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

10. The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 13, 2015.

______________________________
Terry Schneider, Mayor

Attest:
David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on July 13, 2015.

__________________________
David E. Maeda, City Clerk
Brief Description  Preliminary plat, with lot width variances, for BUCKMAN ADDITION at 15700 Highwood Drive

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

Introduction

The subject property is located on the north side of Highwood Drive, east of Wilson Street. The 1.06-acre property is improved with a 1,600 square foot home. The home is located on a small knoll in the northeast corner of the lot. The lot slopes downward in all directions from this knoll; the grade change over the lot is roughly 26 feet. But for the area immediately surrounding the home, the property is wooded. It contains 26 high-priority trees, including several large oaks and maples. (See pages A1–A2.)

Proposal

The property owner is proposing to divide the property into two, single-family residential lots. The existing home would remain on the proposed easterly lot, with a new lot created to the west. The proposal requires approval of a preliminary plat with lot width at frontage and lot width at setback variances for the easterly lot. (See page A3.)

Primary Questions and Analysis

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

• Is subdivision of the property generally appropriate?

  Yes. The proposed subdivision would result in two properties meeting and exceeding the R-1 minimum lot size of 22,000 square feet.

• Are the requested variances reasonable?

  Yes. The requested lot width variances are reasonable for several reasons:

    1. The proposed easterly lot requires a lot width at frontage variance from 80 feet to 59 feet. This variance could be eliminated where the proposed property line angled. However, this would result in a “gerrymandered”
property line. Staff finds the benefit of a more intuitive property line – particular the benefit for future property owners – far outweighs eliminating the variance. (See page A4.)

2. The proposed easterly lot technically requires a lot width setback variance from 110 feet to 60 feet. By city code this measurement is taken at the required 35 foot setback from the front property line. However, at the actual location – or the functional setback – of the existing home, the proposed lot would be 120 feet in width. (See page A3.)

3. The Highwood Drive area – specifically the residential area north of the roadway – does not have a clear and consistent development pattern. Rather, the area contains properties of varied configurations and widths. This includes several “flag lots” and “lots without frontage.” Given this existing variety, the requested variances would not impact the essential character of the area. (See pages A5–A7.)

• Would the proposal meet the tree ordinance?

Yes. Typically the city requires that preliminary plat applications include a general grading plan based on possible home and driveway locations. With this plan city staff can evaluate whether the proposed plat is likely to comply with the tree ordinance. In the case of BUCKMAN ADDITION, staff did not require such a plan finding that it would be easier and more expeditious for both the property owners and the city if staff established the grading limits, and home and drive locations to ensure compliance with the tree ordinance. To that end, the staff-drafted resolution includes conditions establishing a significant front yard setback and including a maximum grading limit. Specifically:

“Minimum front yard setback for principal structures is 130 feet. All grading associated with the principal structures is limited to within 20 feet of the foundation of the principal structures. Based on house design, staff may administratively reduce this setback and increase the grading limit so long as the reduction and associated grading would not result in removal, or significant damage to the critical root zones, of more than 35 percent of the site’s existing high priority trees.”

It should be noted that staff used this approach because the proposal would result only one additional lot. Staff would not use this approach for larger subdivision requests.
Staff Recommendation

Recommend that the city council adopt the resolution approving the preliminary plat, with lot width variances, of BUCKMAN ADDITION. (See page A10–A16.)

Originator: Susan Thomas, AICP, Principal Planner
Supporting Information

Surrounding Land Uses

Northerly: Single-family homes
Easterly: Single-family homes
Southerly: Single-family homes
Westerly: Single-family homes

Planning

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

Lot Standards

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<th>EAST LOT</th>
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<tr>
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Trees

The property contains 26 high priority trees and 29 significant trees. The staff drafted resolution includes a required 130 foot front yard setback and limits grading for home construction to within 20 feet of the foundation of the home. Compliance with this setback and grading area would result in removal or significant impact to three high-priority trees, or 11 percent, which is within the tree ordinance allowance. (See pages A8–A9.) It is important to note that the tree protection aspects of the tree ordinance would apply to the properties from the date of the subdivision approval until two years after issuance of a certificate of occupancy. As with any subdivision, unless wooded areas are covered by conservation easements, once a home has been occupied and unaltered for two years, a homeowner may choose to remove trees on their property without mitigation.

Stormwater

Stormwater management will be required in compliance with the city’s stormwater resources management plan. This stormwater practice would be reviewed in conjunction with the new home building permit application.

Other Request

The planning commission will review four separate subdivision proposals at its June 25 meeting. Three of the four are similar in
that they are two-lot proposals that include lot width variance requests. However, understanding that variance requests must be considered individually and uniquely, it is important to note the significant differences in each proposal:

<table>
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<th>Description</th>
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<tr>
<td>Highwood Drive</td>
<td>Existing lots in the area vary in configuration and size, with several “flag lots” and “lots without frontage.” The area does not have a clear and consistent development pattern. As such, the variance request would not negatively impact the essential character of the area.</td>
</tr>
<tr>
<td>Ridgemount Avenue</td>
<td>The vast majority of existing lots in the area meet the city’s minimum lot width requirements; this includes lots on the north side of Ridgemount Avenue which are located in the city of Plymouth. The area has a relatively clear and consistent development pattern. The variance request would result in lots dissimilar from the surrounding area.</td>
</tr>
<tr>
<td>Spring Lake Road</td>
<td>The requested variance is technical in nature and based solely on what staff believes to be an inconsistency in city code.</td>
</tr>
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</table>

**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 approving the preliminary plat, with lot width variances.

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

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

<table>
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<th>Neighborhood Comments</th>
<th>The city notified 71 property owners of the proposed subdivision and has received no comments to date.</th>
</tr>
</thead>
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<tr>
<td>Deadline for Action</td>
<td>August 31, 2015</td>
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</table>
Location Map

Project: Buckman Addition
Applicant: Linda Buckman
Address: 15700 Highwood Dr
(15019.15a)
PRELIMINARY PLAT OF BUCKMAN ADDITION

2,960 SQ FT

HIGH PRIORITY TREE
POSSIBLE HOME FOOTPRINT
20-FT PERIMETER GRADING LIMIT
Resolution No. 2015-
Resolution approving the preliminary plat, with lot width variances, of BUCKMAN ADDITION at 15700 Highwood Drive

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

Section 1. Background.

1.01 Linda Buckman has requested preliminary plat approval for BUCKMAN ADDITION. The plat includes lot width at right-of-way variance from 80 feet to 59 feet and lot width at setback variance from 110 feet to 60 feet.

1.02 The property is located at 15700 Highwood Drive. It is legally described on Exhibit A of this resolution.

1.03 On June 25, 2015, 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 §400.025 outlines general design requirements for residential subdivisions. These standards are incorporated by reference into this resolution.

2.02 By City Code §400.055, a variance to subdivision design requirements may be granted, but is not mandated, when the applicant meets the burden of proving that: (1) the proposed variance is reasonable use of the property; (2) the circumstances justifying the variance 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 variance would not alter the essential character of the neighborhood.

Section 3. Findings.

3.01 But for lot widths of the proposed easterly lot, the preliminary plat would meet the design standards as outlined in City Code §400.025.

3.02 The proposed preliminary plat would meet the variance standards as outlined in City code §400.055:

1. Reasonable Use: The requested variances are reasonable:

   a) The proposed easterly lot requires a lot width at frontage variance from 80 feet to 59 feet. The lot width at frontage variance would be eliminated through an angle in the proposed property line. However, this would result in a “gerrymandered” property line, similar to the existing lot immediately to the east. The benefit of a more intuitive property line – particular the benefit for future property owners – far outweighs eliminating a variance.

   b) The proposed easterly lot requires a lot width a setback variance, which by city code is technically measured 35 feet from the front property line. However, the proposed lot would exceed the lot width at setback required at the actual location – or the functional setback – of the existing home.

2. Unique Circumstance: There are several circumstances unique to the existing property and the proposed plat:

   a) The existing lot is both large and wide relative to other lots in the immediate area;

   b) The width of the existing lot and the location of the existing home combine to given the appearance of a vacant lot west of the home;

   c) Though lot width variances are necessary for the proposed east lot – containing the existing home, the west lot would meet all minimum standards; and

   d) Though lot width variances are necessary for the proposed
east lot – containing the existing home – the east lot would exceed minimum lot area and buildable area requirements and the west lot would meet all requirements.

3. Neighborhood Character: The Highwood Drive area – specifically the residential area north of the roadway – does not have a clear and consistent development pattern. Rather, the area contains properties of varied configurations and widths. This includes several “flag lots” and “lots without frontage.” Given this existing variety, the requested variances would not impact the essential character of the area.


4.01 The above-described preliminary plat, with lot width variances, 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 utility exhibit illustrating existing and proposed utility connections to each lot.

      2) A final plat drawing that clearly illustrates the following:

         1. A minimum 10-foot wide drainage and utility easement adjacent to the public right-of-way and minimum 7-foot wide drainage and utility easements along all other lot lines.

         2. Utility easements over existing or proposed public utilities, as determined by the city engineer.

         3. Private utility easements over any existing service lines that cross the shared property line.

      3) Title evidence that is current within thirty days before release of the final plat for the city attorney’s review and approval.

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)(3) above must be approved by the city attorney.

3. Prior to release of the final plat for recording, submit the following:

a) Two sets of mylars for city signatures.

b) An electronic CAD file of the plat in microstation or DXF.

c) Park dedication fee of $5000.

4. Prior to issuance of a building permit for a new house within the development, submit a letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.

5. All lots and structures within the development are subject to the all R-1 zoning standards. In addition:

a) Minimum front yard setback for principal structures is 130 feet. All grading associated with the principal structures is limited to within 20 feet of the foundation of the principal structures. Based on house design, staff may administratively reduce this setback and increase the grading limit so long as the reduction and associated grading would not result in removal, or significant damage to the critical root zones, of more than 35 percent of the site’s existing high priority trees, as denoted on EXHIBIT B of this resolution.

b) All lots 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.

6. The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 13, 2015.
Resolution No. 2015-                                                                                           Page 5

_____________________________________________________________________

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 July 13, 2015.

_____________________________________________________________________

David E. Maeda, City Clerk
EXHIBIT A

ALL THAT PART OF LOT 6, BLOCK 4, "TONGAWOOD FARMS", DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING AT A POINT ON THE WESTERLY LINE OF SAID LOT A DISTANCE OF 201.08 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT;
THENCE EAST A DISTANCE OF 443.5 FEET TO THE EASTERLY LINE OF SAID LOT; THENCE SOUTHWESTERLY ALONG THE EASTERLY LINE OF SAID LOT A DISTANCE OF 289.08 FEET TO THE SOUTHEAST CORNER OF SAID LOT; THENCE NORTHEASTERLY ALONG THE SOUTHERLY LINE OF SAID LOT A DISTANCE OF 403.35 FEET TO THE SOUTHWEST CORNER OF SAID LOT; THENCE NORTH ALONG THE WESTERLY LINE OF SAID LOT A DISTANCE OF 175.64 FEET TO THE POINT OF BEGINNING, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY THEREOF EXCEPT THE WEST 134.83 FEET THEREOF, LINING WEST OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTH LINE OF SAID LOT 6 AND THE WEST LINE OF THE EAST 110.00 FEET OF SAID LOT;
THENCE NORTHERLY ALONG SAID WEST LINE A DISTANCE OF 73.30 FEET; THENCE NORTHEASTERLY DEFLECTING TO THE RIGHT 57 DEGREES 49 MINUTES 16 SECONDS TO THE WEST LINE OF THE EAST 10.00 FEET; THENCE NORTHERLY ALONG SAID WEST LINE TO THE NORTH LINE OF THE ABOVE DESCRIBED PARCEL.
Brief Description

Preliminary plat of SAVILLE WEST, a twelve lot subdivision generally located at the southeast quadrant of the County Road 101/Excelsior Boulevard intersection

Recommendation

Recommend the city council adopt the resolution approving the preliminary plat

Background

In September 2014, the city adopted the residential alternative (R-1A) ordinance. Unlike planned unit development (PUD) zoning – which is considered a flexible zoning classification – R-1A is a traditional zoning classification that provides for a smaller-lot, single-family development option.

In March 2015, Lakewest Development requested that portions of the properties commonly referred to as the Saville site be rezoned from R-1 to R-1A. The city council’s decision to rezone the area, informed by a conceptual plat submitted with the rezoning request, was based on the following findings:

- The R-1A area would be located at the intersection of two major roadways.
- The R-1A area would not detract from the existing surrounding development, as it would be located at the edge of an existing neighborhood rather than within the middle of an existing neighborhood.
- As presented on the conceptual plat, the R-1A area would be served by a new street (cul-de-sac), resulting in creation of a new neighborhood.

By ordinance, the rezoning is effective only upon approval of a final plat. (See pages A1–A9.)

Proposal Summary

Lakewest Development is now requesting approval of the SAVILLE WEST preliminary plat. As was presented in the conceptual plat, SAVILLE WEST would include seven new R-1A lots accessed via a new cul-de-sac and five R-1 lots accessed via Spring Lane. (See pages A11–A25.) The following is intended to summarize the applicant’s proposal. Additional information associated with the proposal can be found in the “Supporting Information” section of this report.
• **Existing Site Conditions.**

The existing site is generally located at the southeast quadrant of the County Road 101/Excelsior Boulevard intersection. It is comprised of seven single-family residential lots and is just over six acres in area. The high points of the site are situated adjacent to County Road 101 and Spring Lane. From these points, the topography slopes downward in all directions; the maximum change in grade is 22 feet. A manage 1 wetland is located in the northeast corner of the site and mature trees are located throughout. The site’s primary trees species include elm, boxelder, ash, cedar and spruce. (See page A14.)

• **Proposed Lots.**

The proposed R-1 lots would be between 22,000 to 36,000 square feet, while the R-1A lots would range in size from 15,000 to 27,000 square feet. (See page A15.)

• **Site impacts.**

Grading and tree removal would be necessary to accommodate the required public infrastructure, including the new cul-de-sac, water and sewer utilities, and stormwater management facilities. Generally, soil would be added to the area of the proposed cul-de-sac, home pads to its east, and berming areas adjacent to County Road 101. Excavation would occur to create home pads west of the cul-de-sac, a stormwater pond, and rain gardens. (See pages A17.) As currently proposed, this work would likely result in removal or significant impact to several high-priority and significant trees.

**Primary Questions and Analysis**

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

• **Is the proposed plat appropriate?**

Yes. The proposed plat is relatively unique to the community in that it would result in creation of three different “types” of lots: (1) R-1 zoned lots on which existing homes would be maintained; (2) R-1 zoned lots on which new homes could be constructed; and (3) R-1A lots, on which maximum floor area ratio and impervious surface would be regulated. (See page A16.) All of the lots, would meet the lot standards for their respective zoning districts. The specific standards are outlined in chart form in the “Supporting Information” section of this report.
- **Are the anticipated site impacts acceptable?**

  Yes. The redevelopment of the areas would likely result in significant grading and tree removal. While the anticipated site impacts are generally acceptable, some minor modifications will be required to ensure compliance with the tree ordinance. By city code, with few exceptions, no more than 35 percent of a site’s high-priority trees may be removed or significantly damaged during the subdivision process. Based on staff review of the submitted plans, the combined development site contains 233 high priority trees; of these trees 92 – or 39.5 percent – would be removed or significantly impacted. Were this removal reduced to 82 trees, the tree ordinance standard of 35 percent would be met.

  The proposed grading plan illustrates earthwork adjacent to County Road 101 for creation of a drainage area and landscape berming. Staff believes that the alterations to the grading plan in this area could reduce the removal to 82. To that end, the staff-drafted resolution requires such alterations.

**Summary Comments**

Staff acknowledges that the proposed SAVILLE WEST development would visually alter the southeast quadrant of the County Road 101/Excelsior Boulevard intersection. However, in the opinion of planning staff, this alteration is reasonable; it is the outgrowth of much recent discussion regarding “smaller lots” and the contribution such lots can make to the variety of new housing options in the community.

**Staff Recommendation**

Recommend that the city council adopt the resolution approving the preliminary plat of SAVILLE WEST. (See pages A27–A40.)

Originator: Susan Thomas, AICP, Principal Planner
Through: Julie Wischnack, AICP, Community Development Director
Supporting Information

**Surrounding Land Uses**
- **Northerly:** Excelsior Boulevard and public library beyond
- **Easterly:** Single-family residences and public property beyond
- **Southerly:** Single-family residences
- **Westerly:** County Road 101 and single-family residences beyond.

**Planning**
- **Existing Zoning:** R-1 and R-1A
- **Guide Plan designation:** low-density residential
- **Proposed Density:**

**Proposed Lots**
- The proposed lots would be meet the R-1 and R-1A development standards:

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**Lot Width**
- During review of SAVILLE WEST, staff noted an error in the R-1A development standards. As written, the ordinance requires a minimum lot width of 75 feet. However, there is no designation of
where this measurement is to be taken, whether at building setback or at right-of-way. The R-1 lot width standard requires a greater width at setback than at the right-of-way. It was staff’s intention that the same ratios be applied in the R-1A district, as follows:

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<td>AT ROW</td>
<td>80 FT</td>
<td>55 FT</td>
</tr>
<tr>
<td>AT CUL-DE-SAC ROW</td>
<td>65 FT</td>
<td>45 FT</td>
</tr>
</tbody>
</table>

Because SAVILLE WEST represents the first “trial” of the R-1A ordinance, staff did not have an opportunity to submit an ordinance amendment to address this ordinance error, but will do so in the near future. Staff reviewed SAVILLE WEST based on the intended requirement.

**FAR and Impervious Surface**

Based on code-definition and the city’s McMansion policy, floor area is the sum of the above ground horizontal area of a home, as measured from exterior walls and including attached garage space and enclosed porch areas, and one-half the horizontal area of any partially exposed level such as a walkout or lookout level. Floor area ratio (FAR) is the floor area divided by lot area.

The R-1A ordinance establishes maximum FAR and impervious surface percentage for lots with the zoning district. The maximums for the seven proposed R-1A lots in SAVILLE WEST would be as follows:

<table>
<thead>
<tr>
<th>LOT</th>
<th>LOT AREA</th>
<th>MAXIMUM FAR</th>
<th>IMPERVIOUS</th>
</tr>
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<tbody>
<tr>
<td>CODE</td>
<td>15,000 SF</td>
<td>.22 if &lt; 17,500 SF</td>
<td>50%</td>
</tr>
<tr>
<td>4</td>
<td>15,000 SF</td>
<td>.24 if ≤ 17,500 SF</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>15,105 SF</td>
<td>3,600 SF</td>
<td>7,500 SF</td>
</tr>
<tr>
<td>6</td>
<td>27,085 SF</td>
<td>3,625 SF</td>
<td>7,550 SF</td>
</tr>
<tr>
<td>7</td>
<td>23,940 SF</td>
<td>5,955 SF</td>
<td>13,540 SF</td>
</tr>
<tr>
<td>8</td>
<td>15,060 SF</td>
<td>5,265 SF</td>
<td>11,970 SF</td>
</tr>
<tr>
<td>9</td>
<td>15,010 SF</td>
<td>3,610 SF</td>
<td>7,530 SF</td>
</tr>
<tr>
<td>10</td>
<td>15,075 SF</td>
<td>3,615 SF</td>
<td>7,535 SF</td>
</tr>
</tbody>
</table>
The SAVILLE WEST site contains a variety of natural resources.

- **Topography.** Though several areas of the site are visually steep, they are not considered “steep” by city code definition. By city code, a steep slope is one that: (1) has an average grade of 20% or greater; (2) covers an area at least 100 feet in width; and (3) rises at least 25 feet. If a slope does not meet all three of these standards it is not considered “steep” for the purposes of development and construction regulation. There is no portion of the property that rises over 25 feet. As such, no area of the property is defined as a “steep slope.”

- **Trees.** The site does not include a woodland preservation area. However, it contains many mature deciduous and coniferous trees including elm, boxelder, ash, cedar and spruce. Of the 434 regulated trees on the property, 233 are defined as high-priority and 201 as significant.

- **Wetland.** There is a roughly 22,000 square foot, manageable wetland on the site.

To accommodate the proposed plat, significant site changes will be necessary.

- **Topography and Grading.** The grading proposed within SAVILLE WEST would generally raise the areas of the new cul-de-sac, house pads to the east, and berming area adjacent to the county road. Up to six feet of fill would occur. Excavation would occur for house pads west of the cul-de-sac areas and for required public utilities. Up to 14 feet of cut, or excavation, to accommodate stormwater treatment. The city’s project engineer has reviewed the proposed grading plan and finds it to be generally acceptable. (See page A17.)

- **Trees.** Based on the proposed grading plan, several high-priority and significant trees would be removed from the site. (See page A20–A21.)

<table>
<thead>
<tr>
<th>Natural Resources: Impact</th>
<th>Existing</th>
<th>Removal</th>
<th>% Removed</th>
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</thead>
<tbody>
<tr>
<td>High Priority</td>
<td>233</td>
<td>92</td>
<td>39.5%</td>
</tr>
</tbody>
</table>
As previously noted, staff believe the number of high priority trees removed/significantly impacted can be reduced to 35%.

- **Wetland.** No alterations are proposed.

**Stormwater**

The city’s water resources engineer has reviewed the plans associated with SAVILLE WEST and finds them to be generally acceptable. The plans would meet the standards of the city’s Water Resources Management Plan, incorporating rate control, volume control, and water quality treatment.

Under current conditions, runoff from the site is directed to the wetland in the northeast quadrant of the site and to the adjacent public roads. Under proposed conditions, stormwater runoff would be directed to either a new filtration pond near the center of the development or to two rain gardens near Tracy Lynn Terrace. (See page A19.)

**Infrastructure**

The cul-de-sac accessing seven of the proposed single-family lots would be a public street. The sanitary sewer and water mains, as well as the large ponding area would also be public. Two rain gardens proposed at the entry to the development would be private and covered by a stormwater maintenance agreement.

**Spring Lane**

The city has received comments and questions about Spring Lane and the need to upgrade the road in conjunction with the proposed Saville development. The city engineer has reviewed the plans and notes that the development would not necessitate a roadway improvement nor is Spring Lane is currently on the city’s capital improvement plan for upgrade.

**Outside Agencies**

The applicant’s proposal has been submitted to various outside agencies for review, including Hennepin County and Riley-Purgatory-Bluff Creek Watershed District.

**Neighborhood Comments**

The city sent notices to 96 area property owners and received no project specific comments to date.

**Deadline for Decision**

August 17, 2015
LOCATION MAP
SAVILLE SUBDIVISION
TRACY LYNN TERRACE/SPRING LANE
#14002.15a

This map is for illustrative purposes only.
Proposed Development Summary
- 12 number of residential lots
- Gross density 1.95 units/acre
- Net density 2.07 units/acre
- 0.49 acre average lot size

Proposed Lot Summary
- Lot 1 = 22,060 SF
- Lot 2 = 22,056 SF
- Lot 3 = 24,175 SF
- Lot 4 = 15,001 SF
- Lot 5 = 15,001 SF
- Lot 6 = 27,001 SF
- Lot 7 = 25,256 SF
- Lot 8 = 15,534 SF
- Lot 9 = 15,000 SF
- Lot 10 = 15,128 SF
- Lot 11 = 22,008 SF
- Lot 12 = 36,408 SF
Ordinance No. 2015-08

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

The City Of Minnetonka Ordains:

Section 1.

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

Section 2.

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

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

Section 3.

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

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

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

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

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

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

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

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this ordinance:

Date of introduction: February 9, 2015
Date of adoption: March 2, 2015
Motion for adoption: Bergstedt
Seconded by: Wiersum
Voted in favor of: Acomb, Wiersum, Bergstedt, Wagner, Ellingson, Allendorf, Schneider

Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication:

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

David E. Maeda, City Clerk
EXHIBIT A

Commencing at the Northwest corner of Tract IV, Registered Land Survey No. 566; thence South 66 degrees 14 minutes 47 seconds East, on an assumed bearing, 17.33 feet to the point of beginning; thence continuing South 66 degrees 14 minutes 47 seconds East 79.71 feet; thence South 22 degrees 51 minutes 36 seconds West 391.10 feet; thence South 89 degrees 33 minutes 26 seconds West 112.03 feet; thence westerly 103.99 feet along a non-tangential curve, concave to the south, having a radius of 50.00 feet, a central angle of 119 degrees 09 minutes 51 seconds, a chord of 86.24 feet, and a chord bearing North 71 degrees 04 minutes 06 seconds West; thence continue westerly 22.36 feet along a reverse curve, having a radius of 20.00 feet and a central angle of 64 degrees 03 minutes 14 seconds; thence North 66 degrees 35 minutes 47 seconds East, tangent to said curve, 155.97 feet; thence northwesterly 36.59 feet along a tangential curve, concave to the northeast, having a radius of 24.05 feet and a central angle of 87 degrees 10 minutes 00 seconds; thence North 20 degrees 34 minutes 13 seconds West, tangent to said curve, 228.27 feet; thence South 83 degrees 29 minutes 17 seconds East 24.98 feet; thence northeast 130.96 feet along a non-tangential curve, concave to the southeast, having a radius of 1167.64 feet, a central angle of 06 degrees 25 minutes 34 seconds, a chord of 130.89 feet, and a chord bearing North 27 degrees 13 minutes 34 seconds East; thence South 55 degrees 43 minutes 32 seconds East 245.19 feet; thence North 43 degrees 23 minutes 05 seconds East 119.57 feet to the point of beginning.
CURRENT PRELIMINARY PLAT REQUEST
INTRODUCTION

On behalf of Lake West Development Co., LLC, Landform is pleased to submit this application for a preliminary plat to create twelve residential lots from seven residential lots at County Road No. 101 and Excelsior Boulevard (PID #s 29-117-22-33-0026, 30-117-22-44-0044, 30-117-22-44-0043, 30-117-22-44-0062, 30-117-22-44-0015, 30-117-22-44-0005, 30-117-22-44-0052). We are excited about this environmentally sensitive design and anticipate that it will be a great addition to the neighborhood.

PRELIMINARY PLAT

Lake West Development is requesting approval of a preliminary plat to create twelve residential lots from seven residential lots in the R-1 and R-1A Districts. The City Council reviewed a concept plan and approved rezoning five of the twelve properties from R-1 to R-1A on March 2, 2015. The subject properties are located in the R-1 and R-1A zoning districts and are guided low density residential in the Comprehensive Plan. There are four homes on the existing parcels. Lake West intends to retain two of the homes which are located at the corner of Excelsior Boulevard and County Road No. 101, and construct new single-family detached residential dwelling units on the remaining lots. All of the lots comply with the zoning district standards.

The siting of the proposed lots responds to the conditions on site with careful consideration to slopes, tree preservation and the stated concerns of the neighborhood. The design team has worked to ensure that the preliminary plat is consistent with all of the City's zoning standards. The creation of the lots will help the City achieve its goals of preserving existing neighborhoods while broadening housing choices and increasing the diversity of housing options.

Neighborhood Support:

The applicant met with area residents on December 17, 2014 to discuss plans for the subject properties. Residents were generally supportive of the proposed lot layout and concept. Residents said that they preferred the road extension from Tracy Lynn Terrace as shown in the plans over a road extending from Spring Lane. They appreciated the context sensitive design, the preservation of buffers and screening. As evidence of this support for the current plan, there were no residents present to speak at the Planning Commission and City Council meeting where the rezoning and concept plan were considered.

Tree preservation:

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

**Steep Slopes**
The site was analyzed to determine if there were any slopes that meet the code’s definition of steep slopes. Section 300.02 defines a steep slope as a “slope that has an average grade of 20% or more, that covers an area at least 100 feet in width...and that rises at least 25 feet above the toe of the slope”. While the site has some slopes over 20%, they do not meet the definition of the code. The plans were developed to minimize impact on the site’s slopes with a grade over 20%. Placement of lots, building areas, and the proposed road avoids slopes and integrates new residential properties into the landscape.

**Civil Defense Siren**
We are also requesting that the City initiate relocation of the civil defense siren located on the northeast corner of proposed Block 1, Lot 1 to Purgatory Park just east of the subject property. We look forward to working with City staff to coordinate relocation of the siren in a timely manner.

**SUMMARY**
We respectfully request approval of a preliminary plat at Excelsior Boulevard and County Road 101. We look forward to presenting plans to the Planning Commission on May 7, 2015 and City Council on June 1, 2015.

**CONTACT INFORMATION**
This document was prepared by:
Mary Matze, Planner
Landform
105 South Fifth Street, Suite 513
Minneapolis, MN 55330

Any additional questions regarding this application can be directed to Reid Schulz at rschulz@landform.net or 612.638.0245.
## Tree Preservation Table

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<td>27</td>
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</tbody>
</table>

### Legend
- **EES**: Colorado Spruce
- **WEP**: White Pine
- **WBP**: White Birch
- **GIB**: Sugar Maple
- **NLP**: Norway Pine
- **CRC**: Silver Maple
- **SLR**: Red Maple
- **PRV**: chokecherry
- **BCH**: Buttonbush
- **WHP**: White Pine
- **TIL**: Basswood
- **HLP**: Hickory
- **ABF**: Ash
- **MAP**: Maple
- **NRP**: Norway Pine
- **MPX**: Box Elder

### Project Details
- **City of Minnetonka, MN 55345**
- **Saville West**
- **Sheet No**: L1.3
- **Developer**
- **Municipality**
- **Project**
- **Taxesheet**: 1
- **Landsform**
- **File Name**: L1.3
- **REVISION HISTORY**
- **PROJECT MANAGER REVIEW**
- **ENGINEERING CERTIFICATION**

### Preliminary
- **NOT FOR CONSTRUCTION**

### CAD Units
- **Units**: ft
- **Conversion**: 1 ft = 0.3048 m

### Diagrams
- **TREE PRESERVATION PLAN**
- **CIVIL CONSTRUCTION DETAILS**
- **EXISTING CONDITIONS**
- **TREE PRESERVATION TABLE**
- **TITLESHEET**
- **LANDSCAPE PLAN**

### Date
- **06-29-15**

### Notes
- **PROJECT MANAGER REVIEW**
- **ENGINEERING CERTIFICATION**
- **PRELIMINARY NOT FOR CONSTRUCTION**
- **CORRECTIONS TO CIVIL DRAWINGS**
- **TITLESHEET**
- **L1.3**

### Certification
- **CIVIL CONSTRUCTION DETAILS**
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- **ENGINEERING CERTIFICATION**
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*Note: The table above represents a sample of tree preservation data. Additional columns and rows may be present in the actual document.*
RESOLUTION
Resolution No. 2015-

Resolution approving the preliminary plat of Saville West, generally located at the southeast corner of the County Road 101/Excelsior Boulevard intersection

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

Section 1. Background.

1.01 Lake West Development has requested preliminary plat approval for SAVILLE WEST, a twelve-lot subdivision.

1.02 The proposed development site is comprised of 5290 and 5300 Spring Lane, 5325 Co Rd 101, 5301 and 5311 Tracy Lynn Terrace, and two properties with unassigned addresses. The site is legally described on EXHIBIT A of this resolution:

1.03 On June 25, 2015, 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 §400.025 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 standard 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 Codes §400.025 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:

      a. A minimum 10-foot wide drainage and utility easements adjacent to the public rights-of-way and minimum 7-foot wide drainage and utility easements along all other lot lines.

      b. Utility easements over existing and proposed public utilities, as determined by the city engineer. This includes over vacated Tracy Lynn Terrace cul-de-sac and sanitary main extending east from County Road 101 to 5290 Spring Lane.

      c. Drainage and utility easements over vacated Tracy Lynn cul-de-sac, wetland, floodplain elevation, and all stormwater management facilities, as determined by the city engineer.

   2) Application for vacation of existing TONKA COURT drainage and utility easements located within the proposed SAVILLE WEST.

   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.
a. Title evidence that is current within thirty days before release of the final plat.

b. Conservation easements over wetland and required wetland buffer and a drawing of the easements. The conservation easement may allow: (1) removal of hazard, diseased, or invasive species; and (2) location and maintenance of stormwater management facilities and other utilities.

2. Prior to final plat approval:
   a) This resolution must be recorded with Hennepin County.
   b) Existing Tracy Lynn Court cul-de-sac right-of-way and TONKA COURT drainage and utility easements within SAVILLE WEST must be vacated.
   c) The documents outlined in section 4.01(a)(3) 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 $25,000.
   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, SAVILLE WEST must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:
   - Site plan dated June 9, 2015
   - Grading plan dated June 9, 2015
   - Utility plan dated June 9, 2015
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)(3) of this resolution.

      3) A rain garden and retaining wall maintenance agreement for review and approval of the city attorney. The agreement must delineate maintenance responsibilities for rain gardens located at the entrance to the development and the retaining wall located north of the stormwater pond. This agreement must be filed against all properties located adjacent to the new cul-de-sac.

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

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

      6) Final site, grading, drainage, utility, landscape, and tree mitigation plans, and a stormwater pollution prevention plan (SWPPP) for staff approval.

         a. Final site plan must:

            • Illustrate removal of existing Tracy Lynn Terrace cul-de-sac and extension of 5321 Tracy Lynn Terrace driveway.

         b. Final grading plan must:
• Be modified to result in no more than 35% removal of high priority trees.

• Illustrate no grading within the wetland.

• Illustrate no grading within the required wetland buffer unless field approved by city staff. In that event, the disturbed area must be revegetated with native species plantings.

• Rip rap within the required wetland buffer must be replaced by a turf reinforcement mat.

• Locate rain gardens outside of the right-of-way.

• Illustrate decompaction of subsoil and Tracy Lynn Terrace removal.

• Note that Spring Lane lots will be custom graded.

c. Final stormwater management plan must meet the requirements of the city’s Water Resources Management Plan, Appendix A. Design.

d. Final utility plan must include:

• Water and sewer profiles for Spring Lane lots.

• Storm sewer and profile for the entire development.

• A looped water line to Spring Lane in a location determined appropriate by city staff. The location must take natural resources into consideration and may not be open cut through the wetland. Location of the loop in preferred order is:
(1) Between proposed lots 5 and 6 to Spring Lane
(2) Between proposed lots 7 and 8 to County Road 101
(3) Directionally drilled under wetland, between lots 6 and 7, to Spring Lane.

- Extension of sanity sewer main from property lot 2 to the north to serve proposed lot 3.
- Removal of existing sewer service from manhole in front of proposed lot 2.
- Removal of existing sewer and water services to 5295 and 5325 County Road 101 and 5301 and 5311 Tracy Lynn Terrace back to their respective mains. The sewer wyes must be removed and the water services removed with the corporation stop turned off.
- Clearly labelled public utilities. Rain gardens at the entrance to the development must be clearly labelled “private.”
- Copper pipe water services.
- Installation of isolation valves.
- Polywrapped DIP watermain.
- Correction of discrepancy in contour/rim elevations.
- No utilities under driveways.

e. 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. In addition:

- No trees are allowed within right-of-way. In addition, no deciduous trees are allowed within 15 feet of the paved surface of the roadway and no coniferous trees within 20 feet.

- Replace white pine along south property line with a different conifer species.

- White cedar cannot be substituted for non-native plants.

- Include only native plantings within the required wetland buffer.

- Topsoil and seeding of removed Tracy Lynn cul-de-sac.

7) 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.

8) A copy of the approved Minnesota Pollution Control Agency and Department of Health permits.

9) Evidence of closure/capping of any existing wells, septic systems, and removal of any existing fuel oil tanks.

10) 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, 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.

11) 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 an amount to be determined by natural resources staff, to contract with an erosion control inspector to monitor the site throughout the course of construction.

12) All required administration and engineering fees.

13) 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) Unused utility services must be removed in conjunction with the County Road 101 reconstruction project, as a moratorium will be placed on all non-emergency excavations of the roadway after completion. In the event that removal does not occur, the city will require an escrow from the developer to cover the cost of removing the services in the future.
d) Permits may be required from other outside agencies including, Hennepin County, the Riley Purgatory Bluff Creek Watershed District, and the Pollution Control Agency. It is the applicant’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-built drawings for public infrastructure in microstation 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) 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.

   2) 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.

   3) 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
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) Minimum floor elevation is 924.0.

b) Driveways are not allowed in drainage and utility easements.

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

9. The retaining wall located north of the stormwater pond must be fully engineered.

10. The city may require installation and maintenance of signs which delineate the edge of any required conservation easement. This signage is subject to the review and approval of city staff.

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

12. The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 13, 2015.

__________________________
Terry Schneider, Mayor

Attest:

__________________________
David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on July 13, 2015.

David E. Maeda, City Clerk
EXHIBIT A

Parcel 1:
Tract M, Registered Land Survey No. 566, County of Hennepin, Minnesota.
Torrens Property
Torrens Certificate No. 1147046.

Parcel 2:
Parcel 1: The West 175 feet of the following described tract:
That part of the Southeast Quarter of the Southeast Quarter of Section 30, Township 117, Range 22, lying between the East line of said Section 30 and the Okanawana Road, now known as State Highway 101, said land being a 100 foot strip of land which was formerly the right of way of The Minneapolis & St. Paul Suburban Railroad Company which is accordingly bounded by the Northerly and Southerly lines of said right of way, Hennepin County, Minnesota.

Parcel 2: That part of the Southeast Quarter of Section 30, Township 117, Range 22 described as follows: Commencing at a point on East line of said Section 30, 714.43 feet North of Southeast corner of said Section, thence North along said line 72.89 feet to Southwesterly line of Excelsior Boulevard, thence North 53 degrees 29 minutes West along said Southwesterly line of Excelsior Boulevard 415.86, thence South 57 degrees 20 minutes West along the Southeasterly line of Okanawana Road 139.00 feet to North line of Minneapolis and St. Paul Suburban Railroad Company's right of way; thence Southwesterly along the North line of said right of way 259.65 feet to place of beginning, Hennepin County, Minnesota.

Torrens Property
Torrens Certificate No. 1125341.

Parcel 3:
That part of the Southeast Quarter of the Southeast Quarter of Section 30, Township 117, Range 22, lying between the East line of said Section 30 and the Okanawana Road, now known as State Highway No. 101, said land being a 100 foot strip of land which was formerly the right of way of The Minneapolis & St. Paul Suburban Railroad Company which is accordingly bounded by the Northerly and Southerly lines of said right of way, except the West 175 feet thereof, Hennepin County, Minnesota.

Torrens Property
Torrens Certificate No. 1125343.

Parcel 4:
Tract A, Registered Land Survey No. 747, Hennepin County, Minnesota.
Torrens Property
Torrens Certificate No. 1147046.

Parcel 5:
Tract B, Registered Land Survey No. 747, Hennepin County, Minnesota.

That part of Tract C, Registered Land Survey No. 747, lying North of a line drawn parallel with and distant 5 feet South measured at right angles from the North line thereof, Hennepin County, Minnesota.

Torrens Property
Torrens Certificate No. 1374629.

Parcel 6:
Lot 1, Block 2, Tanka Court, Hennepin County, Minnesota.
Torrens Property
Torrens Certificate No. 1125342.

Parcel 7:
Lot 2, Block 2, Tanka Court, Hennepin County, Minnesota.
Torrens Property
Torrens Certificate No. 1125343.
## EXHIBIT B

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<td>2</td>
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<td>12</td>
<td>Spring Lane -35 FT</td>
<td>Min. Aggregate = 30 FT</td>
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<td></td>
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<td>Excelsior Blvd – 50 FT</td>
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* Required rear setback is whichever is less.

** Floor area is the sum of the above ground horizontal area of a home, as measured from exterior walls and including attached garage space and enclosed porch areas, and one-half the horizontal area of any partially exposed level such as a walkout or lookout level. Floor area ratio (FAR) is the floor area divided by lot area.

^ On properties zoned R-1, maximum principal structure height is 35 feet. On properties zoned R-1A, maximum principal structure height is 35 feet, except if the building includes a walkout or lookout elevation, in which case the maximum height is 25 feet.