Planning Commission Agenda

October 1, 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: September 10, 2015

5. Report from Staff

6. Report from Planning Commission Members

7. Public Hearings: Consent Agenda

None

8. Public Hearings: Non-Consent Agenda Items

A. Setback variances for a detached garage at 12821 Linde Lane.

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

   • Final Decision Subject to Appeal
   • Project Planner: Susan Thomas

B. Expansion permit and front yard setback variance for an addition to the house at 12117 Brenlyn Lane

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

   • Final Decision Subject to Appeal
   • Project Planner: Jeff Thomson
C. Conditional use permit for an educational institution at 5605 Green Circle Drive.

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

- Recommendation to City Council (Tentative Date: October 12, 2015)
- Project Planner: Susan Thomas
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 October 15, 2015 Planning Commission meeting:

   Project Description: United Properties is proposing redevelopment of the property at 2004 Plymouth Road. As proposed, a four-story Cherrywood Pointe senior rental building would be constructed on the site. The 99 units within the building would be a combination of assisted living and memory care units. Both underground and surface parking would be provided. The submitted plans are available on the Cherrywood Pointe.
   Project No.: 15002.15a        Staff: Susan Thomas
   Ward/Council Member:  2—Tony Wagner    Section: 10

   Project Description: The applicant is requesting a conditional use permit, with variance, for an accessory use apartment within the existing detached structure at 11816 Karen Lane.
   Project No.: 09003.15a        Staff: Susan Thomas
   Ward/Council Member:  1—Bob Ellingson    Section: 26
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 Magney, Calvert, Knight, and Kirk were present. O’Connell and Odland were absent.

Staff members present: Principal Planner Susan Thomas, Planner Jeff Thomson, Water Resources Engineer Liz Stout, and Natural Resource Manager Jo Colleran.

3. Approval of Agenda: The agenda was approved as submitted with additional comments provided in the change memo dated September 10, 2015.

4. Approval of Minutes: August 27, 2015

Knight moved, second by Magney, to approve the August 27, 2015 meeting minutes as submitted.

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

5. Report from Staff

Thomas briefed the commission the August 31, 2015 city council meeting.

There will be a joint meeting of the EDAC and planning commission September 17, 2015 at 6:30 that will include a tour of development sites. The next regular planning commission meeting will be October 1, 2015.

6. Report from Planning Commission Members: None

7. Public Hearings: Consent Agenda: None

8. Public Hearings
A. Floodplain alteration permit for a Purgatory Creek water management project located east of County Road 101 and north of Creek View Trail.

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.

Clair Blazer, administrator for the Riley/Purgatory Creek Watershed District, stated that the application came from a city-based petition. The area has severe erosion. Phosphorous is being released into the water and traveling downstream. Watershed district staff are excited to do the project. It is a partnership between the city and the watershed.

Knight asked if the erosion occurs naturally or if there is a specific cause. Ms. Blazer explained that creek banks do erode naturally, but the landscape has been changed dramatically which has caused an increased rate of flow and the amount of precipitation has increased from 100 years ago. This case deals with steep banks. Eventually, the bank shelf will collapse and increase sediment traveling to the creek. Purgatory Creek flows into the Minnesota River which is considered impaired for sediment.

In response to Calvert’s question, Thomas explained an error in the staff report. The tree ordinance allows trees to be removed for this type of activity, but also requires restoration of the area. Staff will correct the error prior to review of the city council.

Chair Kirk noted that the area is owned by the city, townhome associations, and private properties. Ms. Blazer stated that easements would need to be acquired. Restoration would be done in a way to minimize impact. The work would be done in the winter.

Calvert asked how much grading would be done and the impact to the trees. Colleran confirmed that grading would be done impacting critical root zones of various trees. The area has more of a floodplain forest characteristic. Elm, silver maples, and cottonwoods are lowland species. They will tolerate more root disturbance. Everything would be done to minimize impact to the critical root zones.

The public hearing was opened. No testimony was submitted and the hearing was closed.
Chair Kirk noted that the project would improve the conditions for trees and vegetation when completed. Colleran provided an illustration showing how the existing erosion cuts into the root systems. Erosion will kill the trees if left unchanged. The wooded character would be established again. The root wads would take hold right away and do a good job of holding the soils.

Knight asked what would be done to prevent invasive species from taking over. Colleran expected garlic mustard to grow in the upland region. In the wetter areas, the garlic mustard would die out because it cannot tolerate the wet condition. It would be made sure that the plant material would be stabilizing and functioning. There is buckthorn currently growing in the area. The project is not an invasive species restoration area.

Magney moved, second by Odland, to recommend that the city council adopt the resolution on pages A34-A37 of the staff report approving the floodplain alteration permit for a Purgatory Creek water management project.

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

This item is tentatively scheduled to be reviewed by the city council at its September 28, 2015 meeting.

B. Interim use permit for a home occupation at 25 Milbert Road.

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

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

Chair Kirk asked if all of the buildings on the property had building permits. Thomson answered affirmatively.

Steve Hemingway, 25 Milbert Road, applicant, works out of his house as an artist. He has been working with Thomson to address a complaint from a neighbor. He has been operating his business for 17 years. He works on a limited number of custom ordered pieces a year. The studio is a private place. He enjoys peace and quiet while he works. He constructed metal boxes to contain the sawdust and smell. He sent a video that shows the process. Smoke escapes through the edges for 2 minutes. He uses wet sand on the edges of the boxes to keep the smoke down. Not a lot of smoke escapes. The residual smell from the
sawdust is now contained. Some people find the smell pleasant. If the can is left uncovered, then he can smell it. The solution is containment. He would be more than happy to put a ventilation system in place. If he watches the wind and is careful, the neighbor does not notice.

The public hearing was opened.

Margaret Lund, 111 Milbert Road, stated that:

- She has talked to Mr. Hemingway since June about the smell.
- He allowed another person to use his kiln. She woke up and her house was smokey. She spoke to Mr. Hemingway and he did stop that from happening.
- She cannot hang out her laundry because of this.
- Mr. Hemingway called her and said that he did realize that there is an issue and that he would work on it. On May 29, 2015, he held a class. She told Mr. Hemingway that her house smelled. Mr. Hemingway said that he had a class all day, that she should shut the door to her house, and that if she had a problem she should talk to city staff.
- She provided pictures that show how large some of the art pieces are.
- Mr. Hemingway uses copper which is toxic. He makes these 10 feet from her garage. It gets up to 1,800 degrees. He works with sawdust is explosive. Her garage is 10 feet from where he works. Besides the smell that fills her house, it is very toxic. Kids walk by his house to the school.
- She feels sick when she smells the stuff. She told him that. He said that it is in her head.
- He has been abusive with her and told the neighbors that she has called the police to complain.
- He called her a slumlord.
- She did not want to live next to a place that has a fire that high. The vapor sticks to things.
- It is not o.k. for her to spend more on her taxes than what he does and he has a business there.
- She does not understand why it is allowed. She hates that she is in a position to have to go against him.
- She wants to be able to open her doors and not be concerned that he will start a fire that he cannot contain.
• He uses a lift and wears gloves. She is 10 feet from the fire. It is not right. She cannot deal with it.

Michael Bissonnette, 20 Milbert Road, stated that:

• He and his family have lived there since 1999.
• He supports what the applicants are doing.
• The fumes are not dangerous.
• The neighborhood is great. The applicants are part of the common good.
• He participated in the firings and helped for the fun of it. The lift is there to keep things safe.
• He loves the diversity of the neighborhood and having an artist across the street.
• Another neighbor has recreational fires quite often. He never received a complaint.
• He never smelled anything from the firing at the applicant’s property across the street.
• The applicants are considerate, wonderful people.
• Another neighbor had renters who allowed trash to pile up and it smelled.
• Another neighbor operated a vehicle repair business for 3 years.

Dale Anderson, 106 Milbert Road, stated that:

• He has lived there since 1961.
• He has no problem with anything occurring at the applicant’s property.
• He does not smell anything at his place.
• The applicants are wonderful people.

Kim Darsnick, who rented 111 Milbert Road for 6 years, stated that:

• She rarely got a smell from the kiln when the wind was right.
• She hung her clothes on the line all summer. There was no problem.

Chair Kirk asked staff to address the commission’s purview. Thomson explained that the interim use permit application is specific to the home occupation having an outside employee. Multiple site inspections have been performed by the fire marshal, environmental health staff, and planners to review the odor issue. The
use does create an odor. It is fairly brief and is similar to a campfire. Staff found that the use does not violate the odor ordinance or create an adverse impact. The conditions of approval include conditions that specifically address the odor issue. The site would be monitored to ensure compliance with the conditions.

Chair Kirk confirmed with Thomson that the impact of having an outside employee is what the planning commission is considering.

No additional testimony was submitted and the hearing was closed.

Magney confirmed with Thomson that the interim use permit would allow the city staff more control over enforcing complaints regarding smell and smoke.

Chair Kirk asked if the commission could do anything to restrict the smell. Thomson identified that the key question for commissioners to answer is whether having an outside employee would create noncompliance with the smell issue. Staff found that it would not.

Chair Kirk noted that one person firing pottery would cause a certain amount of smell. An additional person would probably increase the production and smell. That is the issue to discuss.

Calvert stated that everyone has neighbors. She encouraged the applicant and people in the neighborhood to work together. She encouraged the applicant to follow through with utilizing an air purification system. She limited her decision making to whether or not to allow one part-time employee.

Knight and Magney agreed with Calvert.

Chair Kirk believed a conditional approval and the city continuing to monitor the site for smell would be appropriate. He encouraged the applicant to mitigate as much as possible for the smell and consider times of the day and weather conditions to prevent the additional staff person from exacerbating the problem. He has a neighbor who likes to burn often and the smell travels in and out of his house.

Knight moved, second by Magney, to recommend that the city council adopt the resolution on pages A7-A10 of the staff report approving an interim use permit for a home occupation at 25 Milbert Road.

Magney, Calvert, Knight, and Kirk voted yes. O’Connell and Odland were absent. Motion carried.
This item is tentatively scheduled to be reviewed by the city council at its September 28, 2015 meeting.

C. Conditional use permit for a pet boarding and daycare facility at 14901 Minnetonka Industrial 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.

Annie Haubenhofer and Michael McKinley, applicants, introduced themselves and provided a history of Auntie Ruth’s. They stated that they need to relocate the business due to the building that currently houses the business being sold. The business provides daycare and boarding for dogs, cats, and smaller animals including those with special needs. Her relationship with the neighbors at the previous location was always positive.

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

Chair Kirk noted that the conditions would be the same as the approval for Unleashed. Thomas added that the city has not received a complaint regarding Auntie Ruth’s in the last 5 years.

Magney moved, second by Knight, to recommend that the city council adopt the resolution on pages A13-A17 of the staff report approving a conditional use permit for a pet boarding and daycare facility at 14901 Minnetonka Industrial Road.

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

This item is tentatively scheduled to be reviewed by the city council at its September 28, 2015 meeting.

D. Conditional use permit with a variance for a dental clinic at 13059 Ridgedale Drive.

Chair Kirk introduced the proposal and called for the staff report.
Thomson reported. He recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Dr. Chris Steele, applicant, stated that his practice has been looking for additional space in the Ridgedale area. This is a great opportunity. He was available for questions.

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

Chair Kirk noted that the city received letters from neighbors in support of the proposal.

Calvert acknowledged that traffic would not be an issue.

Knight moved, second by Calvert, to recommend that the city council adopt the resolution on pages A11-A16 of the staff report approving a conditional use permit with variance for a dental clinic at 13059 Ridgedale Drive.

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

This item is tentatively scheduled to be reviewed by the city council at its September 28, 2015 meeting.

9. Adjournment

Calvert moved, second by Magney, to adjourn the meeting at 8:10 p.m. Motion carried unanimously.

By:
Lois T. Mason
Planning Secretary
Minnetonka Planning Commission Meeting
October 1, 2015

Agenda Item 7

Public Hearing: Consent Agenda

(No Items)
Minnetonka Planning Commission Meeting
October 1, 2015

Agenda Item 8

Public Hearing: Non-Consent Agenda
Brief Description  Setback variances for a detached garage at 12821 Linde Lane

Recommendation  Adopt the resolution approving the request

Background  The subject property is one of eight lots located within the Madsen’s First Addition subdivision. Madsen’s was platted in 1952, prior to adoption of the city’s first zoning ordinance. Like others in the subdivision, the property does not meet current ordinance standards. It is considered non-conforming.

<table>
<thead>
<tr>
<th>REQUIRED</th>
<th>EXISTING*</th>
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<tbody>
<tr>
<td>Lot Area</td>
<td>22,000 SF</td>
</tr>
<tr>
<td>Lot Width at ROW</td>
<td>65 FT</td>
</tr>
<tr>
<td>Lot Width at Setback</td>
<td>110 FT</td>
</tr>
<tr>
<td>Lot Depth</td>
<td>125 FT</td>
</tr>
</tbody>
</table>

*rounded to nearest 5 SF, F

City records indicated the home on the property was constructed in 1953. Based on historical aerial photos, a single-stall, detached garage was constructed sometime prior to 1966. This garage was recently relocated from the north side of the home to the rear of the property.

Proposal  The property owners, Peter and Sara Minea, are proposing to construct a two-stall, 24-foot by 26-foot, detached garage on the property. As proposed, the garage would be located on the north side of the home. (See pages A1–A6.) The garage requires:

- Front yard setback from 35 feet to 32.5 feet;
- Side yard setback from 10 feet to 6 feet; and
- Rear yard setback from 18 feet to 7 feet.

Staff Analysis  Staff finds that the proposal would meet the variance standard outlined in city code:
• **Reasonableness.** The proposed garage would be reasonably located. The only location in which a two-stall garage could be constructed on the lot, and meet setback requirements, is behind the home. Such location would be unreasonable, as it would: (1) eliminate much of the lot's useful outdoor space; (2) result in tree removal; (3) result in a significantly long and cumbersome driveway. (See page A3.)

• **Unique Circumstance.** The lot's non-conforming size and configuration, while not unique to the immediate area, are not common to all similarly zoned properties in the community.

• **Neighborhood Character:** Seven of the eight homes on Linde Lane either have non-conforming setbacks or reduced setbacks approved by variances. As such, the proposed setbacks would not negatively impact the character of the surrounding neighborhood. (See page A6.)

**Staff Recommendation**

Adopt the resolution approving a setback variance for construction of a detached garage at 12821 Linde Lane. (See pages A7–A10.)

Originator: Susan Thomas, AICP, Principal Planner
Supporting Information

**Surrounding**
The subject property is surrounded by single-family homes zoned R-1

**Land Uses**
The subject property is surrounded by single-family homes zoned R-1

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

**Expansion Permit**
By city code, an expansion permit is required for any expansion of a non-conforming structure when such expansion would not increase the non-conformity. In this case, it is the lot that is non-conforming. The proposed garage would not “expand” this non-conformity; the garage would have no impact on the lot’s non-conforming status.

**Small Lot**
By city code, a property can be considered a “small lot” and subject to lesser setback requirements if: (1) the lot was platted prior to 1966; (2) the lot is less than 15,000 square feet in size; and (3) the average lot size within 400 feet of the lot is less than 15,000 square feet. While the subject property was platted in 1952 and is less than 15,000 square feet in size, the average lot size in the area is 31,650 square feet. As such, the property is not defined as a “small lot.”

**“Detached”**
By city code definition, a detached structure is one that is located at least 10 feet from a principal structure. Detached structures are subject to lesser setback requirements than principal structures. The proposed garage, though physically separate from the home, is not defined as a detached structure and so is subject to principal structure setbacks. The requested variances and staff-drafted resolution reflect principal structure setbacks.

<table>
<thead>
<tr>
<th></th>
<th>Detached Structure</th>
<th>Principal Structure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard Setback</td>
<td>Behind home</td>
<td>35 FT</td>
</tr>
<tr>
<td>Side Yard Setback</td>
<td>10 FT</td>
<td>30 FT aggregate 10 FT minimum</td>
</tr>
<tr>
<td>Rear Yard Setback</td>
<td>10 FT</td>
<td>20% of lot depth</td>
</tr>
</tbody>
</table>

**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)

<table>
<thead>
<tr>
<th>Natural Resources</th>
<th>Best management practices must be followed during the course of site preparation and construction activities. This would include installation and maintenance erosion control fencing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appeals</td>
<td>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.</td>
</tr>
<tr>
<td>Neighborhood Comments</td>
<td>The city sent notices to 42 area property owners and received not comments to date.</td>
</tr>
<tr>
<td>Deadline for Decision</td>
<td>December 21, 2015</td>
</tr>
</tbody>
</table>
Location Map

Project: Minea, Peter and Sara
Address: 12821 Linde Ln
(15026.15a)

This map is for illustrative purposes only.
Building Permit Survey

Prepared for:
Peter & Sarah Minea

Site Address:
12821 Linde La
Minneapolis, MN 55305

Lot 5, Block 1, MADSEN'S FIRST ADDITION, according to
the recorded plat thereof Hennepin County, Minnesota.
Subject to any and all easements of record.

Boundary Description (supplied by client)
Lot 5, Block 1, MADSEN'S FIRST ADDITION, according to
the recorded plat thereof Hennepin County, Minnesota.
Subject to any and all easements of record.

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

Kelly L. Brouwer

763-972-3221
www.SchoborgLand.com

Job Number: 8044
Book/Page: LL
Survey Date: 7/27/15
Drawing Name: minea.dwg
Drawn by: DMS

Peter and Sara Minea
12821 Linde Lane
**Estimate Id: 38009**

***Here are the wall configurations for your design.***

Illustration May Not Depict All Options Selected

**Gable Front View**

(2) - 9X7 MDP58-W1 EZSET WHITE WINDCODE RATED

**Gable Back View**

**Eave Front View**

(1) - 36X36 VINYL SLIDER CLEAR GLASS

**Eave Back View**

(1) - 1-4 9-LITE TRAD 2-PNL PH 36X80 LH DB

(1) - 36X36 VINYL SLIDER CLEAR GLASS

Building Size: 24 feet wide X 26 feet long X 9 feet high

Approximate Peak Height: 13 feet 4 inches (160 inches)

NOTE: Overhead doors may need to be "Wind Code Rated" depending on your building location. Confirm the door requirements with your local zoning official before construction.

Menards-provided material estimates are intended as a general construction aid and have been calculated using typical construction methods. Because of the wide variability in codes and site restrictions, all final plans and material lists must be verified with your local zoning office. Menards is a supplier of construction materials and does not assume liability for design, engineering or the completeness of any material lists provided. Underground electrical, phone and gas lines should be located and marked before your building plans are finalized. Remember to use safety equipment including dust masks and sight and hearing protection during construction to ensure a positive building experience.

Peter and Sara Minea  
12821 Linde Lane
Planning Commission Resolution No. 2015-
Resolution approving a setback variances for a detached garage at 12821 Linde Lane

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

Section 1. Background.

1.01 Peter and Sara Minea have requested setback variances for construction of a two-stall, detached garage.

1.02 The property is located at 12821 Linde Lane. It is legally described as:

Lot 5, Block 1, Madsen’s First Addition

1.03 City Code §300.10 requires, and the applicants are proposing, the following setbacks:

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard Setback</td>
<td>35 FT</td>
<td>32.5 FT</td>
</tr>
<tr>
<td>Side Yard Setback</td>
<td>10 FT</td>
<td>6 FT</td>
</tr>
<tr>
<td>Rear Yard Setback</td>
<td>18 FT</td>
<td>7 FT</td>
</tr>
</tbody>
</table>

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 intent of the setback requirements is to provide: (1) appropriate and consistent separation between streets and structures; appropriate and consistent setbacks between individual structures; (3) a consistent building line. Several of the properties along Linde Lane have nonconforming setbacks similar to the proposed garage. While the proposed setback may not be considered appropriate and consistent throughout the community, they are appropriate and consistent for the area.

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

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

a) REASONABLENESS: The proposed garage would be reasonably located. The only location in which a two-stall garage could be constructed, on the lot and meet setback requirements, is directly behind the home. Such location would unreasonable, as it would: (1) eliminate much of the lot’s useful outdoor space; (2) result in tree removal; (3) result in a significantly long and cumbersome driveway.
b) UNIQUE CIRCUMSTANCE: The lot’s non-conforming size and configuration, while not unique to the immediate area, are not common to all similarly zoned properties in the community.

c) CHARACTER OF LOCATILTY: Seven of the eight homes on Linde Lane either have non-conforming setbacks or reduced setbacks approved by variances. As such, the proposed setbacks would not negatively impact the character of the surrounding neighborhood.

Section 4. Planning Commission Action.

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

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

   • Site and building plans date-stamped August 11, 2015

2. Prior to issuance of a building permit:

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

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

3. This variance will end on December 31, 2016, 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 October 1, 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 October 1, 2015.

______________________________

Kathy Leervig, Deputy City Clerk
MINNETONKA PLANNING COMMISSION
October 1, 2015

Brief Description
Expansion permit and front yard setback variance for an addition to the house at 12117 Brenlyn Lane

Recommendation
Adopt the resolution approving the request

Project No. 15030.15a
Property 12117 Brenlyn Lane
Applicant Igor Yakovlev
Property Owner Yakov Construction & Remodeling

Background
The property owners are proposing an extensive remodeling of the existing house at 12117 Brenlyn Lane. The project includes interior remodeling, constructing a second story addition on the house, and adding a covered porch over the front entry. The proposal requires an expansion permit and variance. (See narrative and plans on pages A1–A8.)

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

The existing house does not meet the front yard setback requirements from both Brenlyn Lane and Fairview Avenue. The house was constructed in 1956, which pre-dates the city’s first zoning ordinance in 1966. Therefore, it is considered non-conforming. The home is set back 33 feet from Brenlyn Lane and 21 feet from Fairview Avenue.

The second floor addition would be built over a portion of the existing main level. Except for a portion of one of the bedrooms, the second floor addition would maintain the same setbacks from property lines as the existing house. The second story would meet the required 25-foot setback requirement from Fairview Avenue, but would maintain the 33-foot non-conforming setback from Brenlyn Lane. Therefore, an expansion permit is required for the second story addition.
A portion of the second story would be cantelivered 2-feet beyond the front of the existing house. Since the cantelivered building area would extend closer to the front property line than the current house, it would require a setback variance. City staff recommends that as a condition of approval, the plans be modified to remove the cantelivered building area so that the addition meets the expansion permit standards.

Variance

The applicant is also proposing to add a covered porch over the front entrance along Brenlyn Lane. The porch would consist of a roof overhang supported by two posts. The porch would be unenclosed. The setback requirement for an unenclosed porch is 30 feet, and the proposed porch would have a setback of 29 feet from the property line along Brenlyn Lane. The front porch requires a variance since it would extend closer to the property line than the existing house.

Staff Analysis

Staff finds that the proposed expansion permit and variance meets the ordinance requirements:

1. **Reasonableness**: It is reasonable to construct a second story addition on the house that maintains the same setbacks as the existing house, and does not extend any closer to the property lines. In addition, it is reasonable to provide a small covered porch over the main entrance. The zoning ordinance allows such features to extend five feet into a required setback. Though the proposed entry would only extend only 5 feet from the existing house, it would not meet the setback requirement due to the existing non-conforming front yard setback.

2. **Unique Circumstance**: The location of the home on the lot is a circumstance unique to the property. Given the existing non-conforming front yard setbacks, a second story addition which maintains the same setbacks, and the front porch addition could not be constructed without the need for an expansion permit.

3. **Neighborhood Character**: The proposed addition would not adversely impact the character of the neighborhood. The addition would maintain the same setbacks as the existing house, and would be set back similarly to the other homes along the south side of Brenlyn Lane.
Staff Recommendation

Adopt the resolution approving an expansion permit and front yard setback variance for an addition to the home at 12117 Brenlyn Lane. (See pages A9–A13.)

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

Surrounding Land Uses
All surrounding land uses are single-family homes zoned R-1 and guided for low density residential uses.

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

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

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

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

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

Variance
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.
Approving Body

The planning commission has final authority to approve or deny the request. (City Code §300.29 Subd.7(c)(2))

Appeals

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

Neighborhood Comments

The city sent notices to 40 area property owners and received no comments.

Deadline for Decision

October 27, 2015
Location Map

Project: Igor Yakovlev
Address: 12117 Brenlyn Lane
(15030.15a)

This map is for illustrative purposes only.

City of minnetonka

Igor Yakovlev
12117 Brenlyn Lane
CERTIFICATE OF SURVEY

SCALE N FEET

LEGEND
- DENOTES FOUND PROPERTY IRON
- DENOTES SET 1/2" X 18" REBAR WITH PLASTIC CAP "PLS 25105"
- DENOTES BOUNDARY LINE
- DENOTES SETBACK LINE
- 999 - DENOTES EXISTING CONTOUR LINE
- 999 - DENOTES CONCRETE SURFACE
- - DENOTES BITUMINOUS SURFACE
- - DENOTES DRAINAGE FLOW
- - DENOTES WOVEN WIRE FENCE
- - DENOTES OVERHEAD ELECTRIC
- - DENOTES ELECTRIC POWER POLE
- - DENOTES ELECTRIC METER
- - DENOTES GAS METER
- - DENOTES WATER VALVE
- - DENOTES FIRE HYDRANT
- - DENOTES SIGN/POST
- - DENOTES SANITARY MANHOLE
- - DENOTES DECIDUOUS TREE
- - DENOTES CONIFEROUS TREE
- - DENOTES HEDGE LINE
- - DENOTES FINISH FLOOR ELEVATION
- - DENOTES MEASURED DISTANCE
- - DENOTES PLATTED DISTANCE
- - DENOTES CONCRETE SURFACE
- - DENOTES BITUMINOUS SURFACE
- - DENOTES DRAINAGE FLOW
- - DENOTES WOVEN WIRE FENCE
- - DENOTES OVERHEAD ELECTRIC
- - DENOTES ELECTRIC POWER POLE
- - DENOTES ELECTRIC METER
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- - DENOTES WATER VALVE
- - DENOTES FIRE HYDRANT
- - DENOTES SIGN/POST
- - DENOTES SANITARY MANHOLE
- - DENOTES DECIDUOUS TREE
- - DENOTES CONIFEROUS TREE
- - DENOTES HEDGE LINE
- - DENOTES FINISH FLOOR ELEVATION
- - DENOTES MEASURED DISTANCE
- - DENOTES PLATTED DISTANCE

NOTES
1. THE BASIS OF THE BEARING SYSTEM IS ASSUMED.
2. NO SPECIFIC SOIL INVESTIGATION HAS BEEN COMPLETED.
3. CONTRACTOR SHALL VERIFY PROPOSED ELEVATIONS.
4. NO TITLE INFORMATION WAS PROVIDED FOR THIS SURVEY. THIS SURVEY DOES NOT PURPORT TO SHOW ALL EASEMENTS OF RECORD.
5. EXISTING UTILITIES AND SERVICES SHOWN HEREON OWNER LOCATED EITHER PHYSICALLY ON THE GROUND DURING THE SURVEY OR FROM EXISTING RECORDS MADE AVAILABLE TO US OR BY RESIDENT TESTIMONY. OTHER UTILITIES AND SERVICES MAY BE PRESENT. VERIFICATION AND LOCATION OF UTILITIES AND SERVICES SHOULD BE OBTAINED FROM THE OWNERS OF RESPECTIVE UTILITIES BY CONTACTING GOPHER STATE ONE CALL AT (651) 454-0002 PRIOR TO ANY DESIGN, PLANNING OR EXCAVATION.

I HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

ENGINEERING DESIGN & SURVEYING
6480 Wayzata Blvd. Minneapolis, MN 55426
OFFICE: (763) 545-2800 FAX: (763) 545-2801
EMAIL: info@edsmn.com WEBSITE: http://edsmn.com

I, VLADIMIR SIVRIVER, No. 25105
DATED: 08/27/15
JOB NAME: IGOR YAKOLEV
LOCATION: 12117 BRENNYN LANE
WINNETKA, MN 55343
FIELD WORK DATE: 08/21/15
FIELD BOOK NO.: EDS-13
DRAWN BY: EP
CHECKED BY: VS
PROJECT NO.: 15-124
SHEET NO. 1 OF 1

Gopher State One Call
Twin Cities Area 651-454-0002
MN. Toll Free 1-800-252-1166

Call 48 Hours before digging
574 SF FINISHED BASEMENT AREA
ASPHALT SHINGLES
SMARTSIDE SHALES
ALUMINUM SOFFIT AND FASCIA
SMARTSIDE SIDING
4" X 5/4 WINDOW AND DOOR TRIM
6" X 5/4 CORNER TRIM

Verify on site if window well needed

Scale: 1/8" = 1'-0"
ASPHALT SHINGLES
15# ASPHALT FELT
ICE & WATER SHIELD (FIRST 6'-0" AS PER CODE)
1/2" PLATHWS, SHYG, W/ CLIPS
ENG TRUSSES @ 24" O.C.
AIR CHUTE (PROVIDE UNOBSTRUCTED AIR FLOW)

VENT ROOF 1/300 TH. VALLEYS & ALL ROOF/WALL INTERSECTIONS

ALUMINUM VENTED SOFFIT
2X6 SUB FASCIA
8" ALUMINUM FASCIA
ALUMINUM VENTED SOFFIT

1/2" GYPSUM BD. TYP.
4 MIL. POLY/V.R.
(R-20) FGELS. BATT INSUL.
2X6 STUDS @ 16" O.C.
7/16" OSB BDHL
TYVEKE HOUSE WRAP
SIDING PER ELEVATION

PLYWOOD RM
MIN. R-25
CLOSED CELL FOAM INSULATION
DURASEAL OR SAME QLTY.

MAIN LEVEL EXISTING EXTERIOR WALLS
NEW HEADERS AS NEEDED

PLYWOOD RM
MIN. R-25
CLOSED CELL FOAM INSULATION
DURASEAL OR SAME QLTY.

EXISTING FOUNDATION WALLS TYP.

EXISTING FOOTINGS TYP.

BASEMENT ENERGY WALL:
1/2" GYP. BD. TYP. (R-10) FGELS. BATT INSUL.
2X4 STUDS @ 16" O.C.
TREATED 2X4 SILL PLATE

EXISTING CONC. SLAB

6" MIN. WOOD / EARTH SEPARATION

4" MIN. WOOD / EARTH SEPARATION

NOTE:
SEAL ALL VAPOR BARRIER PENETRATIONS

6" MIN. WOOD / EARTH SEPARATION
Detail Plan

12117 Brendlyn Lane
Minnetonka

Project number: 15056
Date: 8/17/2015
Design by: Alexander Bocharnikov
Ph: 612 532 8159
Web: avastudio.houzz.com
Address: 6641 w 18th Street St Louis Park
Minnesota 55426

Scale: 1/4" = 1'-0"

1 Garage / Family room Section
1/4" = 1'-0"

2 Staircase Detail
1/4" = 1'-0"

3 Front Porch Detail
1/4" = 1'-0"

ALL PLANS ARE TO BE REVISED BY THE GENERAL CONTRACTOR AND THE MUNICIPAL BUILDING OFFICIAL PRIOR TO CONSTRUCTION. A&A STUDIO LLC. IS NOT RESPONSIBLE FOR ANY PROBLEM AS A RESULT OF AN ERROR OR OMISSION ON THESE PLANS.

STAIRCASE NOTES:
1. Treads must be a minimum of 10" and risers must be a maximum of 7 3/4" for residential stairs.
2. Handrail must be 34" to 36" above nosed of tread and must terminate at wall or newel post.
3. Space between guards must be less than 4".
4. Guard must be at least 34" high measured vertically from nosed of tread and 36" high on open sides of landings over 30" above floor or grade below.
5. Handrail grip size must be 1 1/8" min. to 2 5/8" max. diameter.
6. Nosing on stair treads not to exceed 1 1/4", radius on edge of nosing not to exceed 9/16".

VENT ROOF 1/300 TH. VALLEYS & ALL ROOF WALL INTERSECTIONS

ASPHALT SHINGLES
15# ASPHALT FELT
ICE & WATER SHIELD (FIRST 6'-0" AND AS PER CODE)
1/2" PLYWD. SHTG. W/ CLIPS
ENG TRUSSES @ 24" O.C.
VENT ROOF 1/300 TH. VALLEYS & ALL ROOF/WALL INTERSECTIONS

ALUMINUM VENTED SOFFIT
2X6 SUB FASCIA
6" ALUMINUM FASCIA
ALUMINUM VENTED SOFFIT
1/2" CHIPS/MB. TYP.
4 MIL. POLY. V.B.
(R-25) PIGS. BATT INSUL., 2X6 STUDS @ 16" O.C.
7/16" OSB SHEAT.
TYVIAKE HOUSE WRAP
SANDING PER ELEVATION
PLYWOOD RIM
MIN. R.25
CLOSED CELL FOAM INSUL. DURASEAL OR SAME QLTY.

INLE. ROOF TRUSSES @ 24" O.C.

NOTE: SEAL ALL VAPOR BARRIER PENETRATIONS

A8

Notes:

- Garage
- Family Room
- Sections A to H
- Scale: 1/4" = 1'-0"
Planning Commission Resolution No. 2015-

Resolution approving an expansion permit and front yard setback variance for an addition to the house at 12117 Brenlyn Lane

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

Section 1. Background

1.01 Igor Yakovlev has requested an expansion permit and front yard setback variance for an addition to the house at 12117 Brenlyn Lane.

1.02 The property is legally described as follows:

Tract G, REGISTERED LAND SURVEY NO. 19, Hennepin County, Minnesota, according to the recorded plat thereof

1.03 The existing house does not meet the current setback requirements. The house has a front yard setback of 33 feet from Brenlyn Lane and 21 feet from Fairview Avenue, whereas 35 feet and 25 feet are required, respectively.

1.04 As the existing house was constructed in 1956 prior to adoption of the city’s first zoning ordinance, the existing setbacks are considered non-conforming.

1.05 The property owners are proposing to construct a second story addition to the house. The addition would maintain the non-conforming setback of 33 feet from Brenlyn Lane.

1.06 In addition, the owners are proposing to add an unenclosed front porch to the house. City Code Section 300.10.15 requires a minimum front yard
setback of 30 feet for an unenclosed porch. The unenclosed porch would have a front yard setback of 29 feet, which requires a variance.

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

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

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

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

Section 2. Standards

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

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

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

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

2.02 By City Code §300.07 Subd. 1, a variance may be granted from the requirements of the zoning ordinance when: (1) the variance is in harmony with the general purposes and intent of this ordinance; (2) when the variance is consistent with the comprehensive plan; and (3) when the applicant establishes that there are practical difficulties in complying with the ordinance.

Section 3. Findings
3.01 The application for the expansion permit is reasonable and would meet the required standards outlined in City Code §300.29 Subd. 7(c):

1. REASONABLENESS: It is reasonable to construct a second story addition on the house that maintains the same setbacks as the existing house, and does not extend any closer to the property lines.

2. UNIQUE CIRCUMSTANCE: The location of the home on the lot is a circumstance unique to the property. Given the existing non-conforming front yard setback, a second story addition which maintains the same setback could not be constructed without the need for an expansion permit.

3. NEIGHBORHOOD CHARACTER: The proposed addition would not adversely impact the character of the neighborhood. The addition would maintain the same setbacks as the existing house, and would be set back similarly to the other homes along the south side of Brenlyn Lane.

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 is in harmony with the general purposes and intent of the zoning ordinance. The intent of the front yard setback requirement is to provide appropriate separation between the street and the structures, and to provide a consistent building line. Several of the properties in the area have nonconforming front yard setbacks similar to the subject property. The addition would not extend closer to the street than the surrounding homes, and it would maintain the existing building line along Brenlyn Lane.

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

3. PRACTICAL DIFFICULTIES: There are practical difficulties in complying with the ordinance:
a) REASONABLENESS: The zoning ordinance allows such features to extend five feet into a required setback. Though the proposed entry would only extend only 5 feet from the existing house, it would not meet the setback requirement due to the existing non-conforming front yard setback.

b) UNIQUE CIRCUMSTANCE: The non-conforming front yard setback is a circumstance unique to the property. This is not common to every single-family residential property.

c) CHARACTER OF LOCATILITY: The addition would not adversely impact the character of the surrounding neighborhood. Several of the properties in the area have nonconforming front yard setback similar to the subject property. The additions would not extend closer to the street than the surrounding homes, and they would maintain the existing building line along Brenlyn Lane.

Section 4. Planning Commission Action.

4.01 The Planning Commission approves the above-described expansion permit and variance, subject to the above findings. 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, unless modified by the conditions below:

   - Survey dated August 27, 2015
   - Floor plan dated August 17, 2015
   - Building elevations dated August 17, 2015

2. Prior to issuance of a building permit:

   a) The second story addition must not extend closer to the front property line along Brenlyn Lane than the existing house. Therefore, the plans must be revised to remove the cantilevered area that extends beyond the front of the existing house.

   b) A copy of this resolution must be recorded with the County and a copy of the recorded document returned to the city.

   c) Install a temporary rock driveway, erosion control, and tree protection fencing as required by staff for inspection and
approval. These items must be maintained throughout the course of construction.

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

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on October 1, 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 October 1, 2015.

Kathy Leervig, Deputy City Clerk
A conditional use permit for an educational institution at 5605 Green Circle Drive.

Recommend the city council adopt the resolution approving the permit

Proposal

Lionsgate Academy is a charter school currently located in the city of Crystal. The school has a student population of 115 secondary grade students, many of whom have a primary diagnosis of Autism Spectrum Disorder. To allow for increased enrollment, within a larger and more efficient space, the school is proposing to relocate to the existing building at 5605 Green Circle Drive. The property is located within the general business (B-3) zoning district.

Lionsgate Academy could accommodate roughly 150 students within the building. Student transportation to and from the site would be divided between individual parent/guardian vehicles and larger group passenger vans; a small number of students may also drive to school. The school day would be 8:00 a.m. to 2:45 p.m. with extracurricular clubs and activities running until 3:45. (See pages A1–A11.)

Staff analysis

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

1. **Is the proposed use reasonable for the site?**

   Yes. Educational institutions are not specifically permitted in the B-3 zoning district. However, public buildings are conditionally-permitted, as are “other uses similar to those permitted”. Historically, the city has viewed schools as “similar” to public buildings and allowed them as conditional uses.

   As proposed, Lionsgate Academy would meet the conditional use permit standards associated with public buildings. These standards are outlined in the “Supporting Information” section of this report.

2. **Would the proposed use negatively impact the surrounding area?**

   No. Staff does not anticipate the school would negatively impact the surrounding area. In fact, the school occupancy would:
• Result in no immediate changes to the exterior of the building or the grounds.

• Generate fewer vehicle trips per day than an office or commercial use of the site and significantly less than the property is allocated within the Opus Overlay ordinance.

**Staff Recommendation**

Recommend that the city council adopt the resolution approving a conditional use permit for educational facility at 5605 Green Circle Drive. (See pages A13–A17.)

Originator: Susan Thomas, AICP, Principal Planner
Supporting Information

Surrounding Land Uses
Northerly: Multifamily housing, zoned R-5  
Easterly: Commercial properties, zoned B-2 and I-1  
Southerly: Green Circle Park, city-owned property  
Westerly: Green Circle Park, city-owned property

Planning
Guide Plan designation: Mixed Use  
Zoning: B-3, Commercial

Traffic and Parking
The city commissioned a traffic study to evaluate the proposed school’s trip generation and the potential impact on traffic operations in the area. The study concluded:

1. The existing roadway system currently operates at very high levels of service (LOS). The school would not negatively impact LOS in the area.

2. The proposed school would generate roughly 69 p.m. peak hour trips. This is well under the 109 p.m. peak hour trips allocated to the property within the Opus Overlay ordinance.

By city code, 88 parking stalls would be required to accommodate the school. There are currently 202 parking stalls on site, many of which are covered.

<table>
<thead>
<tr>
<th>Population</th>
<th>Required Stalls</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 stall per 3 students</td>
<td>150 students</td>
</tr>
<tr>
<td>1 stall per instructor</td>
<td>2 instructors per 8 to 15 students</td>
</tr>
<tr>
<td>TOTAL REQUIRED</td>
<td>87.5 stalls</td>
</tr>
</tbody>
</table>

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 Codes §300.21 Subd.5(h) and §300.21 Subd.3(m):

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

   **Finding:** The proposed school has been reviewed by the city’s building, engineering, planning, natural resources, and fire staff. Staff finds the proposal to be generally consistent with the city’s development guides.

2. Consistency with this ordinance;

   **Finding:** The proposal would meet all minimum ordinance standards.

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

   **Finding:** The proposed school would occupy an existing building on a fully developed site. At this time, no changes would be made to the exterior of the building or to the property.

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

   **Finding:** The proposed school would occupy an existing building on a fully developed site. At this time, no changes would be made to the exterior of the building or to the property.
5. Creation of a functional and harmonious design for structures and site features, with special attention to the following:

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

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

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

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

Finding: The proposed school would occupy an existing building on a fully developed site. At this time, no changes would be made to the exterior of the building or to the property.

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

Finding: Interior renovations would meet current building code requirements, including those pertaining to energy efficiency.

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

Finding: The proposed school would not negatively impact the surrounding area. In fact, the school occupancy would:

- Result in no immediate changes to the exterior of the building or the grounds.
- Generate fewer vehicle trips per day than an office use of the site and significantly less that the property is allocated in the Opus Overlay ordinance.

### Future School Uses

In recent years, the city has reviewed and approved several school proposals with the Opus area. During each review, some concern has been raised about: (1) removal of these school properties from the tax roll; and (2) the impact school occupancy may have on future redevelopment, particularly in the area surrounding the future light rail transit station.

In staff’s opinion, schools are “similar” to public buildings which are allowed as conditional uses within commercial and industrial districts. However, if in the opinion of the council no additional schools should be allowed in the Opus area, an amendment could be made to the Southwest Light Rail Transit Overlay Zoning District.

### Neighborhood Comments

The city sent notices to 565 area property owners and received one comment to date. (See page A12.)

### Deadline for Decision

December 7, 2015
Location Map

Project: Lionsgate Academy
Address: 5605 Green Circle Dr
(89011.15a)
Wellington Management, Inc. - Conditional Use Permit

Property is located at 5605 Green Circle Drive

Description of Applicant
Wellington Management, Inc. (WMI) was established in 1984 by its President and CEO, Steve Wellington. This St. Paul-based commercial real estate firm currently owns and manages a four million sf. $350 million portfolio of more than 90 properties located in 18 different Twin Cities communities. More than 600 tenants including 5 charter schools have chosen to locate in Wellington buildings.

In addition to the commercial portfolio, WMI has recently developed four residential condominium properties comprising more than 350 housing units. WMI is ranked as one of the top ten real estate developers in the Twin Cities area.

Wellington Management takes a long-term view of our development and property management work. We actively engage with leaders in the communities where our projects are located, working collaboratively to accomplish sound urban design and solid financial performance. We retain significant ownership in almost all our properties, preferring long term appreciation to short term gain. We are careful stewards, balancing cash flow demands and ongoing reinvestment needs for our 600+ commercial tenants, 325 condominium owners and 33 local investors. We strive to be the best property management company and the leading urban redevelopment firm in the Twin Cities. It is a challenge we enjoy!

Property Use
Wellington Management, Inc. would enter into a long term lease with Lionsgate Academy

The mission of Lionsgate Academy is to foster self-determination by providing a transition-focused, personalized learning program for all students, specializing in educating students with autism spectrum disorders.

Seventy three percent of students at Lionsgate Academy have a primary diagnosis of Autism Spectrum Disorder. The other 27% have primary disorders that might include Speech Language Impairment, Learning Disabled, ADHD, Fetal Alcohol Syndrome, or no disability at all.

Lionsgate Academy is currently located in the City of Crystal and shares inefficient space with Cornerstone Church. By moving into 5605 Green Circle Drive Lionsgate Academy will be able to create a more efficient space along with opening up space to allow for more students to attend. Lionsgate Academy has a current student population of approximately 115 for grades 7 through 12 with a waiting list of 160. By opening this new facility they will be able to increase the student enrollment to approximately 150 students. A typical class has 8 to 15 students with a teacher and an educational assistant.
Lionsgate Academy has a staff of approximately 90.

The School day starts at 8:00 am and ends at 2:50 pm. They offer numerous clubs for students to participate in which start at 2:55 and end at 3:45. These clubs are offered to the students Monday through Thursday during the school year. Depending on the club being offered for that day they typically have between 40 and 70 students that participate in after school clubs. Lionsgate Academy offers a summer school program which runs four weeks, four days a week for four hours a day. The 2015/2016 school year starts on August 31, 2015 and ends on June 3, 2016.

About 50 percent of all students arrive via 15 passenger vans with the others arriving via parents. There are 3 students who will drive to school during the 2015/2016 school year.
Frequently Asked Questions

1. **What is the mission of Lionsgate Academy?**

   The mission of Lionsgate Academy is to foster self-determination by providing a transition-focused, personalized learning program for all students, specializing in educating students with autism spectrum disorders.

2. **Is Lionsgate Academy a private school?**

   No, Lionsgate Academy is a public, tuition-free charter school.

3. **Can any student attend Lionsgate Academy?**

   Yes, any student may attend Lionsgate Academy? Students of all abilities are welcome at Lionsgate Academy?

4. **How many students at Lionsgate Academy are on the autism spectrum?**

   Seventy three percent of students at Lionsgate Academy this year have a primary diagnosis of Autism Spectrum Disorder. The other 27% have primary disorders that might include Speech Language Impairment, Learning Disabled, ADHD, Fetal Alcohol Syndrome, or no disability at all.

5. **Does Lionsgate Academy have more than one campus?**

   Yes, Lionsgate Academy has 2 campuses, one in North St. Paul and one in Crystal. The North Saint Paul Campus houses Lionsgate’s transition program and their setting iv, Lynx program. There are 50 students attending the North St. Paul Campus programs. The Crystal campus has 115 students in grades 7 through 12.

6. **Is there a waiting list to get into Lionsgate Academy?**

   Yes, currently there are over 160 families on the Lionsgate waiting list.
7. Why do so many families want their student to attend Lionsgate?

Lionsgate has many features that help students succeed in school. Class sizes range from 8 to 14 students and support services such as speech therapy, occupational therapy, and social work are provided on site. All staff have extensive training for serving the needs of students on the spectrum. Many of these techniques include structure, clarity, and predictability, and these features of instruction are beneficial to all.

8. How do you determine who gets in?

Lionsgate uses a blind lottery every year to determine the incoming 7th grade class. If openings become available in other grades, Lionsgate will fill those openings.

9. Is Lionsgate Academy a special education school?

No Lionsgate Academy is a public general education school. We use a general education model, and students are taught by licensed, general education teachers. Like all public schools, we provide special education services.

10. Where do Lionsgate Academy students come from?

Lionsgate Academy draws from 58 different communities school districts across the metro area.

11. What subjects are offered?

Core academics: math, science, language arts & social studies
Electives: computer technology, drama, art, pe, health/mindfulness, Spanish

12. What types of transportation does the school provide?

Van transportation, in-district bus transportation, family car pools

13. What does Lionsgate bring to the community?

Lionsgate is a unique school. There are only a handful of specialized schools like Lionsgate in the United States. Last year Lionsgate drew international attention and hosted contingents from Russia and Japan. Lionsgate draws families from many cities and towns who stop and shop nearby. Lionsgate is a draw for residents. Families have moved from other countries and states to have their student attend Lionsgate.

14. Does Lionsgate have any videos that describe their school?

These video links demonstrate how parents have described their student’s experience at Lionsgate Academy.

[YouTube video 1](https://www.youtube.com/watch?v=b0_FHRiZmUE)
[YouTube video 2](https://www.youtube.com/watch?v=NEY53o1qJbQ)
Core Values

Journey of Discovery: Balancing risk with conformity.
- **Transformation** - A commitment to view each student, family member and staff as a work in progress. LGA recognizes that individuals are always growing and moving toward a goal to improve themselves. Therefore, we recognize struggles as a learning opportunity to make better choices in the future. In short, everyone will get better.
- **Eliminate Hurdles** - To give students and staff the supports, structure, and as many opportunities as possible for them to achieve success.
- **Realizing Highest Potential** - To challenge students and staff to gain the skills and knowledge to the best of their ability.
- **Overcome obstacles** - Being resilient. Gaining perseverance with the challenges we face.
- **Leadership** - To provide opportunities for students and staff to gain confidence, experience, and skills while showcasing their talents and abilities in a leadership role.

Communication: Communication systems provide timely, unified, and accurate information.
- **Responsive** - The ability to listen attentively and provide, through dialogue, a timely, efficient and purposeful response to attain a thoughtful and positive outcome.
- **Passion** - The energy to push boundaries, to maintain vision, to not succumb to despair and complacency in the face of setbacks. To always believe that the organization serves a vital purpose to our community and work tirelessly to achieve our goals.

Trust: To engender a common purpose so that individuals assume the best of intentions in our motives and actions. To be predictable in our integrity and commitment to our students and families.
- **Transparency** - We believe that open and honest dialogue and communication is the best way to serve the needs of our students as they grow, develop, and change. This is important in gaining and maintaining trust with our families, staff, students, and community members as we all want the best for our students and to be clear about how our own behavior and self-reflection is an essential component in maintaining trust and working as a partnership.
- **Servant Leadership** - This is a shared responsibility. The school values individuals' expertise and experience that is grounded in serving our school community. Self-reflection, self-regulation, living and reflecting the values of the organization, leadership at all levels. Fosters an atmosphere of teamwork and increases the potential for success. First serve, then to lead.
- **Forgiveness** - We believe that all stakeholders must have the ability to forgive each other. Mistakes will happen and unpopular decisions will be made, and we have to have the ability to move forward quickly and collegially.

Relationships: Are the foundation of our success.
- **Respect** - The ability, self-reflection and self-control to recognize the value, skills, and uniqueness of every individual and treat them with dignity.
- **Collaboration** - To work with students, families and staff toward resolutions and outcomes that serve a common purpose and to consider the views of stakeholders in developing processes and policies and in making decisions.
- **Belonging** - Foster a safe, comfortable, inclusive learning environment that celebrates differences.
- **Balance** - The understanding that the needs of the students, the needs of the organization, the needs of one's self may not always be equal. To acknowledge that each component is important in creating and maintaining a positive learning environment for our students and a healthy work environment for our staff.
Top 10 Reasons Why I Like Lionsgate Academy

By A Lionsgate Student

1. I don't feel depressed anymore. I used to feel really sad because people were treating me poorly, including teachers, but mostly other students. I got bullied a lot, which felt horrible.

2. I'm not bullied anymore. I feel comfortable here because everyone is respectful and like me.

3. My teachers and the other students understand me. Teachers at Lionsgate know about autism. My old teachers didn't know as much about autism. They didn't listen to me. They thought I was just trying to get out of my homework.

4. I've been able to be in an art class without getting taken out for a whole class. In my old school I got taken out of art, one of my favorite classes, because they wanted me to finish my other schoolwork first.

5. I've created my first comic book in art class, which I'm really proud about!

6. I've never been in a play before coming to Lionsgate. Earlier this year I was in a Middle School play called Kancil the Mouse Deer and I was one of the storytellers. This spring I'm the Gardener and the Number 7 Card in our all school play called Alice in Wonderland. I'm so excited to be in the play!

7. I now have my own email account and I have a blog, which I learned how to do in Tech class. I blog about Pokémon and YU-GI-OH tips. My blog has had over 60 views, which I'm really proud of!

8. I've made friends with many people, which I hang out with outside of school. We play card games, go to Dreams Games, a game store, hang out at each other's houses and do many things.

9. I'm able to get my homework in on time. I get help from the teachers and my parents so I'm able to get it done on time.

10. Last year I got Straight A's and I was really proud about.
Existing Building Conditions

5605 Green Circle Drive
Minnetonka, Minnesota

Lionsgate Academy
5605 Green Circle Drive
Begin forwarded message:

From: Joseph Herman
Date: September 23, 2015 at 8:32:37 AM CDT
To: bellingson@eminnetonka.com, sthomas@eminntonka.com
Subject: Project No 89011.15a

I am writing in regard to the proposed placement of Lionsgate Academy at 5605 Green Circle Drive in Minnetonka.

I have had a chance to check out their website, and I feel that they have a great mission. However, I think this location would place a great burden on the immediate community.

The volume of traffic in the 169/Bren area is currently overwhelming. Adding further vehicles at the heavy traffic flow time of after work and school would further clog these already congested streets and highways. They indicate 150 students, all of whom would need to be transported. In addition, the teachers and support staff, which their website currently list at 73, would all be departing at the same time.

The academy's website shows that they have a mission of expanding up to 200 students. While they currently indicate 150 students, they hold a lottery and turn away students at this time.

I am also concerned with how this will effect the nearby pars, as there is not green space for students to gather other than to cross green circle drive.

I hope you will carefully consider before placing 200 children into the middle of a quiet neighborhood.

Sincerely,
Joseph Herman
Resolution No. 2015-

Resolution approving a conditional use permit for an educational institution at 5605 Green Circle Drive

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

Section 1. Background.

1.01 Wellington Management, Inc., on behalf of Lionsgate Academy, has requested a conditional use permit to operate an educational institution within the general business (B-3) district.

1.02 The property is located at 5605 Green Circle Drive. It is legally described as:

Lot 1, Block 5 Opus 2 Forth Addition, Hennepin County, Minnesota

1.03 City Code §300.19 Subd. 4(n) allows public buildings as conditional uses within the B-3 zoning district.

1.04 City Code §300.19 Subd. 4(t) allows “other uses similar to those permitted within this section, as determined by the city” as conditional uses within the B-3 zoning district.

1.05 The proposed school would be similar to a public building, as it is a place where a group of people would gather at a specified time for a specific purpose.

1.06 On October 1, 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 Codes §300.21 Subd.5(h) and §300.21 Subd.3(m) lists the following specific standards that must be met for granting a conditional use permit for a public building within the B-3 zoning district.

1. Consistency with the elements and objectives of the city's development guides, including the comprehensive plan and water resources management plan;
2. Consistency with this ordinance;
3. Preservation of the site in its natural state to the extent practicable by minimizing tree and soil removal and designing grade changes to be in keeping with the general appearance of neighboring developed or developing areas;
4. Creation of a harmonious relationship of buildings and open spaces with natural site features and with existing and future buildings having a visual relationship to the development;
5. Creation of a functional and harmonious design for structures and site features, with special attention to the following:
a) an internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors and the general community;

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

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

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

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

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

Section 4. Findings.

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

4.02 The proposal would meet the specific conditional use permit standards as outlined in City Code§300.21 Subd.5(h) and §300.21 Subd.3(m).

1. The proposed school has been reviewed by the city’s building, engineering, planning, natural resources, and fire staff. Staff finds the proposal to be generally consistent with the city’s development guides.

2. The proposed school would meet all minimum ordinance standards.
3. The proposed school would occupy an existing building on a fully developed site. At this time, no changes would be made to the exterior of the building or to the property.

4. Interior building renovations would meet current building code requirements, including those pertaining to energy efficiency.

5. The proposed school would not negatively impact the surrounding area. In fact, the school occupancy would:
   a) Result in no immediate changes to the exterior of the building or the grounds.
   b) Generate fewer vehicle trips per day than an office uses of the site and significantly less that the property is allowed under the Opus Trip Generation Ordinance.

Section 5. City 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:
   - Narrative date-stamped August 21, 2015

2. This resolution must be recorded with Hennepin County prior to issuance of a building permit.

3. The applicant must inform city staff in writing if any significant changes are made to the schools programming that would increase the p.m. peak trip generation. This includes, but is not limited to, general school programming, after-school and summer programming as this may require an updated traffic study. If an updated study indicates a negative impact on the surrounding roadway system or parking demand, staff may require the conditional use permit be brought back to the city council for further review.

4. This approval does not approve any future site improvements.

5. If food is provided by the school for the students, the kitchen must meet all food code requirements, including construction and equipment.
6. The building must be fire sprinkled or meet all minimum building and fire code requirements for schools.

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

8. 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 October 12, 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 October 12, 2015.

__________________________
David E. Maeda, City Clerk