Planning Commission Agenda

September 10, 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: August 27, 2015

5. Report from Staff

6. Report from Planning Commission Members

7. Public Hearings: Consent Agenda

8. Public Hearings: Non-Consent Agenda Items

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

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

   • Recommendation to City Council (Tentative Date: September 28, 2015)
   • Project Planner: Susan Thomas

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

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

   • Recommendation to City Council (Tentative Date: September 28, 2015)
   • Project Planner: Jeff Thomson
C. Conditional use permit for a pet boarding and daycare facility at 14901 Minnetonka Industrial Road

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

- Recommendation to City Council (Tentative Date: September 28, 2015)
- Project Planner: Susan Thomas

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

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

- Recommendation to City Council (Tentative Date: September 28, 2015)
- Project Planner: Jeff Thomson
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 1, 2015 Planning Commission meeting:

   Project Description: Benson-Orth Associates has submitted a concept plan for a 42 unit memory care facility at 5500 Rowland Road.
   Project No.: TBD                       Staff: Susan Thomas
   Ward/Council Member: 1-Bob Ellingson   Section: 34

   Project Description: Lionsgate Academy has submitted an application to operate a school for seventh through twelfth grade at 5605 Green Circle Drive. The proposal requires a conditional use permit.
   Project No.: 89011.15a                   Staff: Susan Thomas
   Ward/Council Member: 1-Bob Ellingson    Section: 36
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 Knight, Magney, O’Connell, Odland, Calvert, and Kirk were present.

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

3. **Approval of Agenda:** The agenda was approved as submitted with additional information and a modification provided in the change memo dated August 27, 2015.

4. **Approval of Minutes:** July 20, 2015

   *Odland moved, second by Magney, to approve the July 20, 2015 meeting minutes as submitted.*

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

5. **Report from Staff**

   Wischnack briefed the commission on land use applications considered by the city council on August 17, 2015:

   - Adopted a resolution approving a conditional use permit for a French immersion school at St. Paul’s Lutheran Church on Lake Street.
   - Adopted a resolution approving a conditional use permit for an outdoor patio for Salsa Ala Salsa.
   - A liquor permit was denied for the Target on County Road 101 and Highway 7.
No action was taken on the Cartway Lane and Ridgedale Drive project.

There will be a joint EDAC and planning commission tour of projects in the city at 6 p.m. on September 17, 2015.

6. Report from Planning Commission Members

Calvert attended water-quality training which was very informative. There is another workshop on September 15, 2015 on green infrastructure she is looking forward to attending since it will cover groundwater issues.

Calvert attended the Glen Lake neighborhood meeting. It was fairly well attended. There were multiple presentations including work on the parks and considerations for the home school. It was good to meet the neighbors in that area.

7. Public Hearings: Consent Agenda

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

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

**A. Horizontal projection variance for a new antenna array on an existing telecommunications tower at 10500 Bren Road.**

Adopt the resolution approving the variance request on pages A7-A11 of the staff report.

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

8. Public Hearings

**A. Preliminary and final plat for Marshes of Meadowwoods 2nd Addition.**

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 how outlots work. Thomson said that all outlots are owned by
the homeowner’s association. There is a stewardship plan for outlots that is
overseen by the city’s natural resources personnel.

Anjali Dahiya, 4271 Lindsey Lane owner and applicant, stated that:

• The subdivision is necessary to build a decent house on the lot.
• The association is fine with the proposal.
• All of the properties in the association should pay the same amount
  for the stewardship fund.
• She hoped commissioners will accept the proposal.

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

Thomson clarified that the city council will consider the stewardship fund
contribution issues.

Odland moved, second by O’Connell, to recommend that the city council
adopt the resolution approving the preliminary and final plats of the
Marshes of Meadowwoods 2nd Addition, a two-lot subdivision at 4247, 4259,
and 4271 Lindsey Lane on pages A7-A9 of the staff report.

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

The city council is tentatively scheduled to review this item at its meeting on
September 14, 2015.

B. Preliminary and final plats for Meeting Ridge, a two-lot subdivision at 2360
Meeting Street.

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.

Tom Gonyea, of Estate Development Corporation, applicant, stated that the
proposal is straight forward. He worked with Colleran to save as many trees as
possible. It is a good plan. He was happy to answer questions.
The public hearing was opened. No testimony was submitted and the hearing was closed.

*Odland moved, second by Knight, to recommend that the city council adopt the resolution approving the preliminary and final plats of Meeting Ridge on pages A12-A15 of the staff report.*

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

The city council is tentatively scheduled to review this item at its meeting on September 14, 2015.

**C. Items concerning a licensed daycare facility at 14730 Excelsior Boulevard.**

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.

John Fletcher, of Lakewest Development, applicant, thanked staff for their help and assistance with the ongoing project. He stated that the proposal is for a first-class childcare center. It would take over the entire facility. There would be an exterior playground added. A new roof, mechanicals, and parking would be completed. The site has 40 parking stalls which would allow up to 240 students. Realigning the driveway with the road across the street is being considered. A sidewalk would be constructed on Williston Road. He is available for questions. He agrees with the conditions.

Calvert asked how the parking requirement is calculated. Thomas explained that one stall per six students is required by code. The number of staff for the school is built into that calculation.

Odland confirmed with Mr. Fletcher that some children may only attend two or three days a week. It is intended to be a full-time daycare.

Chair Kirk confirmed with Mr. Fletcher that the proposed building would be similar to the company’s other buildings in Brooklyn Park and Apple Valley. The footprint of this building is a little larger than their usual buildings. There is a loading dock.

Chair Kirk asked if there would be events that would house all of the students and their parents at the same time. Mr. Fletcher was not aware of any. There is
no space in the building to accommodate a large event. The average room size would be 700 square feet. The state license that determines the number of students allowed is tied to the number of parking stalls.

Knight asked if young children would be able to exit the building without using stairs during an emergency. Mr. Fletcher said that would be looked at during the building-permit process. The basement is looked at as an amenity.

Calvert asked what would happen with the two lots to the north. Mr. Fletcher explained that a separate application has been submitted for the two lots on the north to be redeveloped into two single-family houses. There will be a concept plan review.

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

Calvert favored the improvements to the building and area. Children are a great addition to any neighborhood. It is a great idea. She supports the proposal.

Odland asked if the bus would remain. Wischnack replied that the bus would be moved.

Calvert was excited that there would be green space on the side of the building instead of all pavement.

Chair Kirk stated that the proposal would be a good use and a good fit. He struggled with the architecture. He did not know if it fits with Glen Lake. The EFIS, siding, and false gable roof may not fit very well. He just wanted to mention it. Calvert had the same reaction about the materials and appearance, but it would still be an improvement over what is there now.

Chair Kirk is ready for the rundown building to go and he would not deny the application on its architecture, but it would be nice to see if there are elements in Glen Lake that could be incorporated.

Calvert would prefer a classic color. It is nice to see a building recycled instead of torn down. She noted that the concept of mixed use for the site has been pursued by the city for some time and it is unfortunate that may not work out.

Magney noted that the final material and color board would be submitted to staff. He asked what would happen at that time. Thomas said that staff would provide suggestions to the applicant.
Magney moved, second by Odland, to recommend that the city council adopt the resolution on pages A18-A24 of the staff report approving a conditional use permit and final site and building plans for a licensed daycare facility at 14730 Excelsior Boulevard.

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

The city council is tentatively scheduled to review this item at its meeting on September 14, 2015.

9. Other Business

A. Concept plan review for redevelopment of the property located at 10101 Bren Road East.

Staff recommends that commissioners provide feedback to assist the applicant with direction that may lead to the preparation of more detailed development plans.

Durbin reported.

David Higgins, vice president of development with Roers Investments, co-applicant with CPM Companies of Minneapolis, stated that:

- He appreciated the opportunity to address the commission and receive feedback.
- The project would consist of rental, market-rate apartments.
- This location has a high number of jobs in the area. The infrastructure improvements in the area would be validated by this type of use. There is a demand for new housing opportunities in the suburban market place in the west metro.
- The goal for the area is to diversify the uses and become a mixed-use park.
- The applicant would like to start construction in the spring. It would last approximately 14 to 18 months and open at the end of 2017.
- He was available for questions.

Calvert asked for the size of the 274 units. Mr. Higgins said it would be a mix of 10 percent studio, 50 percent one-bedroom plus a den, and 35 percent two-bedroom apartments.
In response to O’Connell’s question, Mr. Higgins stated that the applicant also owns the adjacent site that is being considered for a hotel use.

O’Connell asked if the applicant has a similar project already completed. Mr. Higgins stated that the CPM Group is well known for its work around uptown and the university. Roers Investment Group has done work in North Dakota. It has completed $140 million worth of projects over 20 projects to date. In 2015, there will be $150 million worth of projects in 4 states. He did not have visuals of the projects. The proposal is envisioned to be similar quality to an Uptown rental unit. There continues to be a significant number of renters who do not want to live downtown, but would like that quality of housing opportunity. There are a lot of empty nesters or early retirees who have had enough of mowing the lawn and would rather have a full-service experience. Lots of people who would buy a house 10 years ago would never qualify today.

Chair Kirk asked how much of the project has been driven by the location of the light rail station. Mr. Higgins stated that the project would be done without it, unquestionably, but that the opportunity for light rail would be a significant benefit to the proposal. It would be a walkable distance from the site to light rail.

Chair Kirk visited the site because he was concerned with traffic congestion. He asked how traffic would flow in and out of the site. Mr. Higgins anticipated the traffic would access Highway 169. More unique drivers would travel the Shady Oak Road route. A driver can get anywhere from this location.

Chair Kirk noted the amenities including the pool and outdoor patio that would be built on the site. Mr. Higgins said that the building would be configured to create a sense of place and an enveloped landscaped amenity area in the back to provide a level of privacy.

Chair Kirk asked about guest parking. Mr. Higgins stated that visitor parking on the surface level is a work in progress. The original number was 8 and has been updated to 14 stalls. There would be landscaped areas that could be made into parking areas if there would be a need. Balancing adequate parking to prevent poaching from surrounding uses with reducing surface runoff is the challenge. There is a shared maintenance and parking agreement with the surface area to the east. The area is predominantly a business-hour-type operation. Visitors to the apartments would happen on nights and weekends. In a downtown setting, not less than 2 percent of the units must have guest parking. That would be more than doubled with 14 stalls. He is committed to working with the neighbors and city staff to get the right number.
Chair Kirk invited Stout to address surface runoff. Stout stated that the city’s and the Nine Mile Creek Watershed District’s stormwater management requirements would apply. The surrounding infrastructure would be looked at to make sure that the discharge rate would not be increased.

Chair Kirk asked if Opus was developed prior to the adoption of stormwater management practices. Stout said that there are a number of regional ponds throughout the Opus area, however, they do not meet the current water quality treatment requirements. A specific amount of phosphorous removal would now be required.

Calvert noted that a forest on the north would be removed. She wondered why development had to go so far north. Mr. Higgins stated that the path does not get interrupted by the layout. The goal is to retain as much of the existing growth as possible. Looking at the entire site, the greatest concentration would be located where the existing improvements are located. The vegetation on the north has been determined more unfavorable. The area that buffers the trail would continue to be green space. The east-west trail would be untouched.

Calvert asked how the pending year-long closure of Highway 169 would impact the proposal. Mr. Higgins said that the proposal is planned for the long term. Calvert noted that it could impact marketability. Mr. Higgins explained that the quality of the project is not available in this area. He suggested driving down Blue Circle Drive on a Friday afternoon when everyone is commuting. It is completely silent. It is an unusually enclosed place near infrastructure that would get a driver to another place quickly. Defining when the improvements to Highway 169 would be done is a little uncertain. The applicant feels that it would not cause a major problem.

Calvert asked for the average rent. Mr. Higgins estimated $2 a foot. An average 2-bedroom is 1,200 square feet. The proposal would provide a unique experience.

Chair Kirk noted that the proposal would be 5 stories. The adjacent hotel is 10 stories. The land use, access, and site design are focal points.

Chair Kirk invited residents to provide comments.

Jack Schuth, employee of Annex Medical which is part of the Opus II Condominium Association, 6018 Blue Circle Drive, stated that:
• Construction vehicles would travel on the shared driveway and create a serious concern for the business owners.
• The water table is 6 inches below the ground. Underground parking would be a concern or the building would be increased one story.
• The parking lot of the condominium business association would become the sneak through to get to Blue Circle Drive.
• Trespassing has been an issue with UHG employees coming over to smoke.
• The residents of the proposed apartment building would be living right up against the road.
• A promise was verbally made at the last meeting that there would be 8 visitor parking stalls and that there would be more in the future. It is a month later and he would like to see more serious proposals about where parking would be located.

Jim Burns, 10201 Bren Road East, asked if the change in use status or increase in the number of trips would cause an additional fee that would need to be paid by the landowner to help pay for the project. The bridge in front of his building to get to County Road 101 is going to be under construction in 2016 and 2017. It will be closed and cause massive rerouting of traffic. Interstate 169 would be shut down for one year. Traffic goes the wrong way all of the time over the bridge and around the corner. There needs to be some thought to make drivers aware that there is no left turn. He is concerned a little that the building would be five stories. He asked if it would require approval to exceed the number of people per square footage of space allowed by the city. UHG was proposed as a two-stage project, but phase two started right after phase one was completed. The guest parking is a big question mark. Downtown parking is not relevant. There is no street parking in Opus. It seems like a precarious space for an apartment building to be located in the middle of Opus. He thought something on the Shady Oak side or Smetana at the entrance would be easier to find.

Wischnack said that Mr. Burns was correct regarding trip generation. That would be studied once plans have been submitted. There is an allowance of the number of trips a site may generate without cost, but there may be a payment required to help fund the improvements to Highway 169.

Chair Kirk stated that more details would be provided at the next public hearing once plans and an application have been submitted.

Calvert did not see building up as a bad thing, necessarily. It would be a large building, but it would leave less of a footprint than the current building.
Odland was concerned with the water table level and what potential negative changes would occur to provide underground parking. A location closer to light rail might make more sense. There are issues that need to be looked at.

Magney felt multi-family housing would be a good choice for the location. A little smaller scale of three or four stories may be preferable. He was not concerned with the groundwater issue. The engineers would work out those details. It might impact the whole project, but the engineers would determine that. There should be more guest parking. In the big picture, multi-family housing would be just fine.

O’Connell concurred that the density of housing would be a good fit for the area with an office park so close to jobs. It fits the long-term vision of using existing infrastructure. The issues raised would have to be addressed. He supports the proposal.

Knight agrees with Magney and O’Connell. The proposal would be an appropriate use of the property. The area has a lot of employment. Right now, employees are driving in from outside the area. If some of the workers lived in the apartment building, then that would be a good thing. The area is not residential where neighbors are concerned what can be seen out the window. It would not bother him if a five-story building was constructed next to the building he works in. The size of the building does not bother him at all.

Chair Kirk recapped that more than five stories would be an issue for the commission. Transportation issues need to be addressed because of current problems, but the proposal is not being rejected. He would appreciate more of a clear, long-range vision in the comprehensive guide plan for the Opus area. He did not object to the proposal, but he was worried how the greater Opus area associations and trip counts fit in with each other. Wischnack stated that the city council will look at comprehensive guide plan studies done on the Opus area.

B. Concept plan review for Villa West on State Highway 7.

Staff recommends that commissioners provide feedback to assist the applicant with direction that may lead to the preparation of more detailed development plans.

Bob Schmidt, president of RTS Development, applicant, stated that:

- Thomson did a good job explaining the proposal.
- The property owner of the site used to fix his boat props. It was a unique piece of property located off a gravel road on Highway 7.
• The plan is wonderful. It would create housing for the aging population.
• An association would maintain the grounds.
• He developed townhouses on Covington Road in Minnetonka years ago. He built villa-style townhomes in Golden Valley which is a primary example of the proposed development.
• This property lends itself to a community development master plan.
• He found a way to access the property that MNDot agrees with.
• He was available for questions.

Scott Dahlke, civil engineer of site design, stated that:

• The site is a long, rectangle shape. The plan proposed an access road to run down the center of the property and be constructed on both sides of the road.
• There are currently no sewer or water utilities. The utilities would be extended from the northwest corner down the center of the road.
• He has met with MNDot and reviewed many concept plans. MNDot prefers a single access point on the east end. There would be a private drive 20 feet in width with a turn lane on Highway 7 for the entrance. Traffic would enter on the east side, travel west through the site, and then exit on the west end. The reason MNDot prefers this configuration is because of the existing exit from the adjacent townhomes on the west. The nearest city street is Clear Spring Road. A connection to Clear Spring Road would not be beneficial.
• Topography and drainage details will be provided as the plan moves forward. He described the drainage pattern, location of wetlands, stormwater management plans, and importance of tree preservation and screening.

Rob Eldrich, of Ridge Creek Custom Homes, stated that he is one of the preferred builders for the project. He is looking to do the detached villa concept, rambler houses, and two-story houses. The targeted market would be looking to downsize or get rid of large yards. There would be main-floor master suites and elevators for some. Minnetonka’s median age is 60 years. These would be nice, new homes for local residents. He is available for questions.

Chair Kirk invited residents to provide input.

David Devins, 17100 Sandy Lane, stated that:
• The project is too dense. The homes would be substantial in size and be priced around $500,000.
• The property is zoned R-1 and guided R-3. He asked for the comprehensive guide plan to be changed to R-1, single-family residential.
• He has concerns about tree preservation and keeping the existing berm. It works as natural drainage control.
• The area has terrible drainage and is full of springs. The whole area is wet.
• There is mixed topography.
• The density seems too big. Houses with 2,800 square feet would be too large to still have room for trees, streets, and driveways.

Lisa Brown, 4926 Clear Spring Road, stated that:

• The small area cannot handle going from 5 houses to 30 houses.
• The issues include loss of trees, wetlands, and springs.
• She has seen a lot of change in 26 years. She remembers Snuffy’s and Lilliput.
• The proposal would be too big and cause the removal of mature trees that are significant.
• Removing buckthorn would eliminate a lot of screening.
• She understood something would be constructed, but this would be too big.
• She encouraged commissioners to visit the site. There is a bike trail along Highway 7.

Beth Frost, 4914 Clear Spring Road, stated that:

• The proposal seems massive.
• Her lot and those in the area are huge, but they would abut 40-foot lots if the proposal would be done. The proposal would be out of character with the neighborhood. She feels strongly about that.
• The elevation would be higher, so the proposed houses would be looking down on the existing surrounding houses and create a privacy issue.
• Access to Highway 7 would be crucial for the neighborhood, because it would create too much traffic for Clear Spring Road.
• She wants more history on Mr. Schmidt and his developments. The judgements against him are extensive, so she hopes those are looked at.
John Eiden, 16821 Highway 7, stated that:

- He declined selling. He does not think the proposal is a good idea. It would create a dead end. It would not be the best use of the property.
- The 2030 comprehensive guide plan is dedicated to preserving Minnetonka’s natural beauty. This proposal would impact the drainage. He explained the drainage pattern.
- This corridor is a gateway to a section of Minnetonka. The property owners have took care of the land for decades. Trees help preserve the ozone, reduce emissions, and prevent global warming.
- He supports extending the Purgatory Creek area to the site. All 7 properties drain into Purgatory Creek.
- He does not want to live next to all of the construction.
- His living room faces Highway 7. It does not look pretty and is not quiet. He cannot see people paying $700,000 for property that is not quiet. The builder did not say anything about sound barriers. The project would be a “slow seller.” Neighbors would have to watch the construction unless barriers are provided.
- He understood that the property owners want to sell, but that does not mean that the neighborhood should be turned into a senior living center.
- He reviewed the traffic pattern. He did not think it made sense.
- The best use of the property would be to turn it into open space. It would look good as a corridor and bring up the value of surrounding properties.
- The proposal would be a mistake.

Pam Scherling, 4925 West End Lane, stated that:

- She had the same concerns as the previous speakers.
- There is a heavily used trail located in the front of the property. There are many near misses. Construction equipment would create a lot of traffic.
- Resident surveys show that parks and trails are a main priority. Residents do not want neighborhoods leveled or trees removed.
- The development should be much lower density. There is no walkability to shopping.
- The price point would be too high for a high-traffic area.
Ms. Frost added that the wetlands on the northwest side are connected by a tunnel that travels under Highway 7 and the bike path connects to Purgatory Creek.

Knight asked how the proposal compares to the development on the west in terms of density. Thomson said that the proposal would be 6.5 to 7 units per acre. Medium density zoning allows 4 to 12 units per acre. Thomas calculated that the Carlysle Townhomes next door are 9 units per acre.

Calvert asked what the price point would be. Mr. Eldrich did not know the lot cost yet, so the price has not been determined. The estimate would be $500,000 for one story with 1,400 to 1,700 square feet on the main level and $600,000 for two stories with 1,000 square feet on the main level and 1,500 square feet above. A market study was completed. There is a project in Minnetonka off of County Road 101 and Highway 5 that starts in the upper $700,000 and goes into the $1 million range.

Odland remembered conversations that Groveland Pond would be too big. The proposal looks like 15 lbs. of potatoes would be put into a 5 lb. bag. It would be too large. She thought the price point would be too high for a resident downsizing and considering that the units would be on a highway.

Chair Kirk was concerned the access on Highway 7 would not be safe. The development would be too dense. The Carlysle development looks fairly dense. Once the driveways and garages were added to the Groveland Pond proposal, commissioners determined it would be too dense. The houses would have been within 15 feet of each other. There must be a market, because developers are proposing the density. Determining whether the residences would sell is up to the developer. The size, density, and safety of the accesses is within the purview of commissioners.

Knight has been on the trail biking. He did not like the steep hills to the Carlysle Townhomes. He stops for stop signs and he will hit a cyclist that does not stop at that intersection. He crosses the path on his way to work. Motorists stop in the middle of the road because bicyclists do not stop.

Calvert noted that it seems that the Carlysle is protected by the old trees that provide a buffer. The proposal would have to reduce the number of trees by an enormous amount. That would not be right.

Chair Kirk asked if commissioners would prefer an extension of Carlysle Place. Calvert said that the proposal is hard to visualize. A neighborhood would be
significantly changed and commissioners have it in their purview to encourage responsible development that includes meeting demographic need by attracting young people and helping seniors have housing options. She was not convinced if the proposal would achieve either goal. It is hard to see the impact without a tree survey and the actual plans. Minnetonka does not have a lot of the type of housing that Carlysle provides. There is not a lot of space to build new single-family housing stock. It is a conundrum.

Chair Kirk said that it is nice to have some amenities when adding single-family houses. This is not a great spot. It would not be an easy place to get in and out of. It is not walkable to the store. Chair Kirk pointed out that Carlysle is full, but has the same traffic issues.

Thomson requested direction on potential future development of the area as a whole. Chair Kirk asked if waiting for other parcels to be included in the development site would be an option. Thomson stated that the comprehensive guide plan guides the area to be considered as a whole for redevelopment. Planning for future connections would be a reasonable approach.

Chair Kirk thought that the two additional lots on the east would be an easy extension of the proposal.

Thomson clarified that the comprehensive guide plan calls for an understanding that redeveloping the area in part would have some impact on future redevelopment of the other two properties on the east and what would ultimately happen to them.

Chair Kirk stated that the commission could request the developer to create an extension of the proposal that would incorporate those two additional lots.

Chair Kirk wants tree preservation and a buffer to the Clear Spring Road neighborhood taken into account. To go from low density to high density suggests that there needs to be an area of buffer. Commissioners agree that the proposal is too dense and a buffer is needed between the proposal and Highway 7.

Calvert took to heart the comments regarding the wetlands.

Chair Kirk was interested to see how acceleration and deceleration would work with the access points.
Odland requested statistics on the number of accidents at Carlyle for motor vehicles, bicyclists, and pedestrians. Thomson will request that information from the police department.

O’Connell deferred the access issues to MNDot. He was not so certain that it would not be too dense based on the comprehensive guide plan. The same arguments could be made for Carlyle, but residents like living there.

Magney agreed that the proposal would not be too dense. The site is awkward. Safety is a big concern, but he would defer to MNDot on that.

10. Adjournment

*Odland moved, second by O’Connell, to adjourn the meeting at 9:20 p.m. Motion carried unanimously.*

By: ____________________________

Lois T. Mason
Planning Secretary
Minnetonka Planning Commission Meeting
September 10, 2015

Agenda Item 7

Public Hearing: Consent Agenda
Minnetonka Planning Commission Meeting
September 10, 2015

Agenda Item 8

Public Hearing: Non-Consent Agenda
Brief Description  
Floodplain alteration permit for a Purgatory Creek water management project, generally located east of County Road 101 and north of Creek View Trail.

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

Proposal

In 2008, the city council adopted a resolution petitioning the Riley Purgatory Bluff Creek Watershed District (RPBCWD) to do a water management project. The purpose of the project was to address significant erosion problems along a channelized area of Purgatory Creek, just east of County Road 101. (See pages A1–A6.)

RPBCWD is now proposing to undertake the project. As planned, thirteen areas along a roughly 1,100 foot stretch of the creek will be stabilized through a variety of techniques, including re-grading of the creek banks, installation of vegetated reinforced slopes, and installation of natural materials to deflect and dissipate water flow. The project will result in both fill and excavation of floodplain in excess of 1,000 square feet and 20 cubic yards. As such, a floodplain alteration permit is required. (See pages A7–A32.)

Staff Analysis

Staff finds that the proposed floodplain alteration is reasonable for several reasons:

- The existing erosion problem has had a “detrimental effect on water quality and stream habitat.” (See page A7.) The project, including floodplain alteration, will improve this situation.

- The alteration is the direct result of a city petition to improve the existing condition.

- The project includes fill of 355 cubic yards of floodplain and creation of 896 cubic yards of floodplain area, resulting in a significant increase in floodplain storage.

Staff Recommendation

Recommend the city council adopt the resolution approving the floodplain alteration permit for a Purgatory Creek water management project. (See page A34–A37.)

Originator: Susan Thomas, AICP, Principal Planner
**Supporting Information**

**Surrounding Land Uses**
- Northerly: Multi-family homes; zoned R-1
- Easterly: Multi-family homes; zoned PUD
- Southerly: Two-family homes; zoned R-2
- Westerly: County Road 101

**Planning**
- Guide Plan designation: open space
- Zoning: R-2

**Ordinances and Compliance**

The stretch of Purgatory Creek that is within the project area is located within the shoreland overlay zoning district, the floodplain overlay zoning district, and contains a floodplain forest woodland preservation area. The area and project are, therefore, regulated by several ordinances.

<table>
<thead>
<tr>
<th>Area</th>
<th>City Code</th>
<th>Requirement</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>SHORELAND</td>
<td>300.25 Subd. 11(c)</td>
<td>Any change to the course or cross section of a public water must be approved by the Minnesota department of natural resources (DNR).</td>
<td>DNR permit required</td>
</tr>
<tr>
<td></td>
<td>300.25 Subd.4(l)</td>
<td>Shoreland soil stabilization techniques permitted by the Minnesota department of natural resources are considered permitted uses.</td>
<td>DNR permit required</td>
</tr>
<tr>
<td>FLOODPLAIN</td>
<td>300.24 Subd.9(a)</td>
<td>Floodplain alteration or disturbance of over 1,000 square feet or 20 cubic yard requires a floodplain alteration permit</td>
<td>See “Floodplain Alteration” section below</td>
</tr>
<tr>
<td>TREES</td>
<td>300.28 Subd.19(b)1(d)</td>
<td>Trees may be removed without mitigation if done in conjunction with a city-approved ecological restoration plan.</td>
<td>See “Revegetation” section below</td>
</tr>
</tbody>
</table>
Interestingly, the project area does not include any wetland that is regulated by city ordinance.

**Floodplain Alteration** The proposed stabilization project will meet the general and specific standards pertaining to floodplain alteration as outlined in city code:

**General Standards – City Code 300.24 Subd.9(c)**

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

   **Finding:** The proposed floodplain alteration will impact just 1,100 linear feet of the entirety of Purgatory Creek.

2) The amount of any increase in buildable area is appropriate in comparison to the amount of buildable area before alteration.

   **Finding:** The alteration will not increase buildable area.

3) The alteration would not negatively impact the hydrology of the floodplain.

   **Finding:** The alteration will improve the functionality and aesthetic of the floodplain.

4) Floodplain mitigation areas would not negatively impact adjacent properties.

   **Finding:** The alteration will improve existing erosion conditions; thereby, positively impacting adjacent properties.

5) The alteration would meet the intent of the city’s water resources management plan and the subdivision and zoning ordinances;

   **Finding:** The alteration has been reviewed by the city’s water resources engineer and found to be consistent with the water resources management plan and city ordinances.

6) The alteration would not adversely impact governmental facilities, utilities, services or existing or proposed public improvements; and

   **Finding:** The alteration proposed is the direct result of a city request.
7) The alteration would not have an undue adverse impact on the public health, safety or welfare.

**Finding:** The purpose of the alteration is to improve existing erosion conditions. The alteration is proposed as the direct result of a city request.

**Specific Standards – City Code 300.24 Subd.9(d)**

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

**Finding:** The proposal will result in a net increase in floodplain storage area.

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

**Finding:** No existing building would be impacted or new building constructed.

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

**Finding:** No driveway construction is proposed.

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

**Finding:** The proposal will result in removal of trees within a floodplain forest. However, under the tree ordinance, such removal is allowed if done in conjunction with a city approved ecological restoration plan.

**Revegetation**

Though not required by the tree ordinance, it is the city’s expectation and RPBCWD’s plan to revegetate areas of tree
removal through the planting of trees, shrubs, and herbaceous ground cover.

**Root Wads**

In addition to re-grading the creek banks and revegetating the slopes, the RPBCWD proposal includes installation of “root wads” and “rock vanes.” Essentially, these are natural forms of erosion control. “Root wads” are trees with roots exposed placed on the outside bend of a creek to deflect water flow. “Rock vanes” are rocks placed along the creek bank or with the creek bed to dissipate water flow. (See page A33.)

**Rock Vanes**

**Neighborhood Comments**

The city sent notices to 18 area property owners. No comments have been received. These owners have also previously been invited by RPBCWD to various public meetings regarding the project.

**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 floodplain alteration permit.

2. Disagree with staff’s recommendation. In this case, a motion should be made recommending the city council deny the floodplain alteration permit. 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.

**Deadline for Decision**

November 23, 2015
Location Map

Project: Riley Purgatory Bluff Creek Watershed District
PIN: 31-117-22-34--054
(15027.15a)
RESOLUTION NO. 2008-115

RESOLUTION AUTHORIZING THE MAYOR AND CITY MANAGER TO PETITION THE RILEY-PURGATORY-BLUFF CREEK WATERSHED DISTRICT FOR THE PURGATORY CREEK IMPROVEMENTS.

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

Section 1. Background.

1.01. The Riley-Purgatory-Bluff Creek Watershed District completed a Use Attainability Analysis for Purgatory Creek.

1.02. The analysis identified various water quality improvements that could be performed to help maintain or improve the water quality in Purgatory Creek and downstream water bodies.

1.03. State statute allows the city to petition the Riley-Purgatory-Bluff Creek Watershed District to study, complete, and substantially fund the improvements.

1.04. Hennepin County has planned to upgrade County Road 101 along a portion of Purgatory Creek between County Road 62 and County Road 3 in 2012-2013.

Section 2. Council Action.

2.01. The City Council hereby authorizes the Mayor and City Manager to petition the Riley-Purgatory-Bluff Creek Watershed District to undertake a basic water management improvement in accordance with State statutes and district policies.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 29, 2008.

Jen A. Callison, Mayor

ATTEST:

David E. Maeda, City Clerk
ACTION ON THIS RESOLUTION:

Motion for adoption: Allendorf
Seconded by: Schneider
Voted in favor of: Allendorf, Wiersum, Hiller, Schneider, Ellingson, Callison
Voted against: 
Abstained: Wagner
Absent: Wagner
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on September 29, 2008.

______________________________
David E. Maeda, City Clerk
PETITION OF THE CITY OF MINNETONKA TO
RILEY PURGATORY BLUFF CREEK WATERSHED DISTRICT
FOR THE PURGATORY CREEK IMPROVEMENT PROJECT

I. AUTHORITY

The City of Minnetonka petitions the Riley Purgatory Bluff Creek Watershed District, pursuant to the provisions of the Minnesota Statutes Sections 103D.201, 103D.605, 103D.705, and 103D.905, to undertake a basic water management project for Purgatory Creek.

II. PURPOSE

The purpose of the project is to reestablish, improve, enhance and protect Purgatory Creek, which has deteriorated due to urbanization of the watershed. Implementing the recommendations from the 2004 Purgatory Creek Use Attainability Analysis (UAA) will improve the physical characteristics of Purgatory Creek by providing the stream with the ability to continue to meander naturally without excessive bank erosion and improve the ability of the stream to convey flood flows effectively without degradation. Improving the stream bank and riparian vegetation will improve the resistance of the stream to erosion and prevent excessive siltation of downstream water bodies. The Purgatory Creek UAA is incorporated by reference.

The project’s goals, objectives, and benefits include the following:

- Correct severe erosion conditions and undertake side slope stabilization along the degraded reaches of the creek to reduce future erosion and sedimentation.
- Enhance habitat along most reaches of the channel to make it more suitable for aquatic and waterfowl habitat.
- Improve the safety of pedestrians, bicyclists and motorists using roads and trails adjacent to the creek.
- Enhance the scenic and recreational value of the creek.
- Improve the water quality flowing through and discharging from this reach of Purgatory Creek.
- Protect public infrastructure and adjacent private property from impacts resulting from continued erosion and sedimentation.
- Establish a partnership between the district, the City of Minnetonka, and Hennepin County during the corridor reconstruction of County Road 101 to improve water quality and recreational value that would not otherwise be available.

III. GENERAL DESCRIPTION OF WORK PROPOSED AND PURPOSES

The project includes several improvements to meet the goals, benefits and objectives outlined in Section II.

The project includes stabilizing the Purgatory Creek embankments by shaping them to desired slopes and reinforcing them with rip rap or gabions, wood fiber blanket and native landscaping. This improvement will reduce and mitigate severe creek bank erosion; improve water clarity and associated aquatic ecosystem habitat; preserve the flow capacity of the creek; reduce future maintenance costs; and protect property and infrastructure, including a significant sanitary sewer line, adjacent to the creek.
The project includes construction of a pond or bioretention basin along Purgatory Creek west of County Road 101. This improvement will provide treatment for the County Road 101 stormwater prior to directly discharging into Purgatory Creek, which currently occurs, and will directly contribute to meeting the district’s water management goals for all downstream water bodies.

Native landscape establishment including native grasses, shrubs and trees will be provided as part of the improvements throughout the project area. Landscaping improvements serve many purposes including native habitat enhancement; improved erosion control through vegetative cover and deep root structure; and increased scenic value of the creek corridor.

Improvements include replacement of the existing creek crossing under County Road 101 with a new creek and recreational trail underpass, which will improve pedestrian safety in this area. A missing trail segment and/or boardwalk will be constructed along Purgatory Creek from Covington Park to County Road 101. This trail will provide access to the regional trails and provide extended recreational use of the creek corridor.

While this project is primarily located within public easement and/or public right-of-way, easement acquisition will be a necessary element of this project to accommodate the proposed improvements. This project is planned to be constructed in cooperation with the City and Hennepin County and coordinated with the reconstruction of County Road 101, scheduled for 2012-13.

IV. DESCRIPTION OF THE LANDS OVER WHICH THE PROPOSED IMPROVEMENTS ARE LOCATED

The land involved with the proposed project area is wholly within the City of Minnetonka and is directly tributary to Purgatory Creek.

V. GENERAL DESCRIPTION OF THE PART OF THE DISTRICT AFFECTED

The affected lands include the riparian areas of Purgatory Creek. Generally, the affected areas are east of Covington Park, south of Red Cherry Lane and north of Clearview Drive. This stretch of Purgatory Creek is approximately 2,000 feet long and includes the crossing of County Road 101.

VI. NEED AND NECESSITY FOR THE PROPOSED IMPROVEMENT

Past development and the proposed expansion of County Road 101 within the Purgatory Creek watershed has and will cause increased amounts of surface water runoff into the water system. The City of Minnetonka recognizes the need for the Purgatory Creek Improvement Project to increase water quality, protect property and infrastructure, and reduce future maintenance costs associated with the creek. The city recognizes the necessity of recreational assets within the District and the scenic value of Purgatory Creek. The project is necessary to address erosion control problems, enhance downstream water quality, enhance the ecology of the creek system, and provide better recreational opportunities and aesthetics.

VII. THE PROPOSED IMPROVEMENT WILL BE CONDUCITIVE TO THE PUBLIC HEALTH, CONVENIENCE AND WELFARE

The City of Minnetonka petitions for the project because it will be conducive to the public health, convenience and welfare of the District and the City. Completion of the project and associated recreational improvements will preserve and enhance the public use and enjoyment of Purgatory Creek and the adjacent parks and trails, all of which are significant natural resources of the District and region.
VIII. FINANCING OF THE PROPOSED IMPROVEMENT

The project is of common benefit to the District and is subject to Minnesota Statutes Section 103D.905, Subdivision 3, providing for the project financing of the basic water management features of the project.

IX. PROJECT ABANDONMENT

The City of Minnetonka hereby states and acknowledges that it will pay all costs and expenses that may be incurred by the activities described in this petition in the event the project is dismissed, no construction contract is let, or the City withdraws its project petition.

CITY OF MINNETONKA

__________________________
Mayor of City of Minnetonka

CITY OF MINNETONKA

__________________________
City Manager
Project Description
The proposed project, Purgatory Creek Stabilization at Highway 101, includes stabilization of portions of an approximately 1,100-foot long reach of Purgatory Creek beginning approximately 1,000 feet downstream of Highway 101 in Minnetonka, Minnesota and progressing downstream. Erosion has been documented on much of this reach, with detrimental effects on water quality and stream habitat. Within this reach, Purgatory Creek is highly incised and disconnected from its floodplain (see attached site photos) This project would provide stabilization at 13 targeted sites of high erosion susceptibility within the reach using a variety of methods, including rood wads, rock vanes, bank grading, and vegetated reinforced soil slopes (VRSS) (see attached plan sheets). All soil material excavated from the project would be hauled off-site for appropriate disposal.

Additional Submittal Materials
Property legal description, wetland documentation, grading plan, erosion control, tree protection plan, and landscape plan are included as attachments to this permit application. Please note that the tree protection plan and landscape plan are included with the project plan sheets.

Storage Capacity Calculations
Construction activities at east of the 13 erosion sites will result in changes to the channel’s storage capacity. As shown in the table below, net storage capacity of the channel is planned to increase.

<table>
<thead>
<tr>
<th>Site</th>
<th>Total Fill at Site (yd³)</th>
<th>Total Cut at Site (yd³)</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>48</td>
<td>109</td>
</tr>
<tr>
<td>13</td>
<td>27</td>
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<td>90</td>
</tr>
<tr>
<td>24</td>
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<tr>
<td><strong>Project Total</strong></td>
<td><strong>355</strong></td>
<td><strong>896</strong></td>
</tr>
</tbody>
</table>
Additional Permits
The following permit applications for the proposed project and are currently pending approval. Copies of these permit applications are attached to this information package.

- U.S. Army Corps of Engineers Section 404 Permit
- Minnesota Department of Natural Resources Work in Public Waters Permit
- Riley Purgatory Bluff Creek Watershed District Permit
- City of Minnetonka Grading, Filling, and Excavation Permit

Written Statement of Intended Use
Upon construction completion, the project area will be returned to its pre-project use as an undeveloped, urban stream corridor and riparian area.

Easement Status
Barr Engineering is currently in the process of obtaining permanent easements of private properties and an access agreement of public property for project work. A general project agreement with the City of Minnetonka to complete a project on City-owned property is also under development. These documents will be forwarded once finalized.
Temporary Construction Easement Legal Description:

A temporary construction easement over, under, and across Outlot A, DONNAY’S CREEK VIEW HILLS, Hennepin County, Minnesota, lying south of the following described line:

That part of Outlot A lying south of a line 425.00 feet south of and parallel with the north line of the Southeast Quarter of the Southwest Quarter of said Section 31, Township 117, Range 22.

Not a boundary survey. Subdivision lines are approximate based on record plats and do not reflect a field survey or subdivision.
Memorandum

To: Ms. Jo Colleran
From: Shanna Braun
Subject: Wetland Determination for Stabilization of Purgatory Creek at Highway 101
Date: July 29, 0215

Ms. Colleran,

This wetland determination memorandum has been prepared by Barr Engineering Co. (Barr) on behalf of the Riley Purgatory Bluff Creek Watershed District (District) in support of a stream stabilization project on Purgatory Creek near Highway 101 (Figure 1). The proposed project is located within Hennepin County, Minnesota in the City of Minnetonka, within Township 117 North, Range 22 West, Section 31. The project area is located in an urban setting and is located on property owned by the City of Minnetonka.

The proposed project includes stabilizing portions of an approximately 1,100-foot long reach of Purgatory Creek beginning approximately 1,000 feet downstream of Highway 101. Erosion has been documented on much of this reach, with detrimental effects on water quality and stream habitat. Within this reach, Purgatory Creek is highly incised and disconnected from its floodplain (see attached site photos). This project would provide stabilization at 13 targeted sites of high erosion susceptibility within the reach (Figure 1) using a variety of methods, including root wads, rock vanes, bank grading, and vegetated reinforced soil slopes (VRSS). All soil material excavated from the proposed project would be hauled off-site for appropriate disposal.

Construction is planned to begin in fall 2015, with the majority of grading, excavation, and stabilization measures constructed during this time. Revegetation efforts are planned to take place in spring 2016, once conditions are suitable.

The project area is defined as the creek channel, its banks, and construction access corridors. The results of field reviews conducted on June 18 and November 4, 2014 determined that no wetlands are located in the project area. These findings were discussed at a meeting on February 6, 2015, attended by City of Minnetonka, District, and Barr staff.

Methods
Prior to conducting the field visits, existing data were reviewed. These data include the United States Fish and Wildlife Service National Wetlands Inventory (NWI), United States Department of Agriculture –
Natural Resources Conservation Service Statewide SSURGO soil data, and the Minnesota Department of Natural Resources Public Waters (PWI) inventory (see Figure 1).

The NWI mapped a large wetland complex to the east of the project area, with no other mapped wetlands within the project area. As shown on the attached figure, this wetland has a Cowardin classification of PEM1Ad (palustrine, emergent, persistent, temporarily flooded, partially drained/ditched). Soils in the project area are primarily non-hydric, with some hydric soils present towards the eastern portion of the project area. Purgatory Creek is included on the PWI.

Results

Through the project area, Purgatory Creek is deeply incised, with steep banks 3 to 12 feet tall and is disconnected from its floodplain (see attached site photos). Vegetation in the immediately adjacent riparian area is dominated by glossy buckthorn (*Rhamnus cathartica*) and Tatarian honeysuckle (*Lonicera tatarica*). The creek channel contained no submergent or emergent vegetation, and the banks were sparsely vegetated, primarily with buckthorn saplings and Kentucky bluegrass (*Poa pratensis*). Reed canary grass (*Phalaris arundinacea*) becomes dominant vegetation further downstream of the project area. The PEM1Ad wetland mapped by the NWI is located at the eastern end of the project area; however, it is separated from erosion control sites 23 and 24 by a constructed berm. NWI mapping in vicinity of erosion control sites 23 and 24 does not accurately reflect the berm alignment (i.e. the mapping shows the berm crossing the Purgatory Creek channel, but the berm actually does not). This wetland is outside the project area and would not be impacted by construction activities.

Based on the lack of dominant hydrophytic vegetation and hydrology indicators aside from the creek channel itself, it was determined that the project area is non-wetland.
Figure 1
NATIONAL WETLAND INVENTORY
AND HYDRIC SOILS MAP
Purgatory Creek at Highway 101 Survey
Riley Purgatory Bluff Creek Watershed District
Minnetonka, Minnesota

Observed Areas of Erosion
National Wetland Inventory (MN Update, 2013)
Soil Hydric Rating by Map Unit (SSURGO, 2015)

- Hydric Soils (100%)
- Mostly Hydric Soils (66 - 99%)
- Partially Hydric Soils (33 - 66%)
- Mostly Non-Hydric Soils (1 - 32%)

Soil Map Unit Name label example:
Lester-Metea complex
Area 12, photo 1 – approx. 50 feet long, 8 feet tall

Area 12, photo 2 – approx. 50 feet long, 8 feet tall

Area 12, photo 3 – approx. 50 feet long, 8 feet tall

Area 13 - approx. 40 feet long, 8 feet tall
Area 14 – approx. 40 feet long, 8 feet tall

Area 15 – approx. 35 feet long, 6-8 feet tall

Area 16 – approx. 25 feet long, 8-10 feet tall

Area 17 – approx. 40 feet long, 3 feet tall
Area 18 – approx. 50 feet long, 3-6 feet tall

Area 19 - approx. 40 feet long, 6 feet tall

Area 20, photo 1 – approx. 40 feet long, 6-12 feet tall

Area 20, photo 2 – approx. 40 feet long, 6-12 feet tall
Area 21 – approx. 15 feet long, 7 feet tall

Area 22 – approx. 30 feet long, 6-8 feet tall

Area 23 – approx. 30 feet long, 6 feet tall

Area 24 – approx. 35 feet long, 6 feet tall
PURGATORY CREEK AT HWY 101 RESTORATION

RILEY PURGATORY BLUFF CREEK WATERSHED DISTRICT

PROJECT LOCATION LAT: N44.8835
LON: W123.5133

CONTACTS:

RPBCWD
LINDA JANOSCH
253-946-4600
ljanosch@co.washington.wa.us

SYMBOLS AND ABBREVIATIONS:

SECTION IDENTIFIER (TOP)
SECTION IDENTIFIER (BOTTOM)

SECTION VIEW CALL OUT

SECTION VIEW TITLE

DETAIL VIEW CALL OUT

DETAIL VIEW TITLE

ISSUED FOR PERMITTING

RILEY PURGATORY BLUFF CREEK WATERSHED DISTRICT

PURGATORY CREEK AT HWY 101 STABILIZATION

SHEET INDEX AND LOCATION MAP

Water Management Project

2027-0003.14

D-01
### Site Table

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<tr>
<th>Site</th>
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<th>End Station</th>
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### Cross Vane Table

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### Root Wad Table

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<td>10+70</td>
<td>870</td>
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**NOTES**

1. PROJECT'S START AND END LOCATED AS SHOWN IS NOT PART OF THIS PROJECT.
2. TRY TO BE IN UNSTOPPABLE STREAMS WILL BE WET IN THE FIELD OF VIEW.
3. SEE SHEET 2-3 TO 2-5 FOR SPECIFIED ROOT ZONES OF MAINTAINED TREES.
4. TRASH AND WOOD IS MAINTENANCE OF PROTECTION AGAINST ROOT CONSTRUCTION.
5. MATERIALS AND EQUIPMENT SHALL BE STORED IN A MANNER AS TO ACCORD WITH THE PROJECTION OF LOW PERIMETER SHALL BE MAINTAINED.
6. PLACE DUST ON DIRT AND DIRT AS DIRECTED BY OCCUPANCY.
7. INSTALL CONSTRUCTION CROSSING AT END OF CONSTRUCTION WITH FIRM E.Q. INSTALL.
8. EROSIVE EROSION CROSSING MUST BE MAINTENANCE AND MAINTENANCE PERMANENT.
9. FOB'S TO BE MARKED BY PERMANENT CROSSING AMONG POINTS AND TERMINATION CONSTRUCTION.
10. INSTALL CONSTRUCTION CROSSING AT END OF CONSTRUCTION WITH FIRM E.Q. INSTALL.
11. INSTALL CONSTRUCTION CROSSING AT END OF CONSTRUCTION WITH FIRM E.Q. INSTALL.
12. INSTALL CONSTRUCTION CROSSING AT END OF CONSTRUCTION WITH FIRM E.Q. INSTALL.
13. INSTALL CONSTRUCTION CROSSING AT END OF CONSTRUCTION WITH FIRM E.Q. INSTALL.
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19. INSTALL CONSTRUCTION CROSSING AT END OF CONSTRUCTION WITH FIRM E.Q. INSTALL.
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**Sections:** 12 through 17

**Legend:**
- **WOG:** Water Over Gravel
- **DPM:** Dry Pile Mat
- **WTR:** Water
- **VSW:** Vehicular Support Wall
- **TSC:** Trench Support Column
- **WFD:** Water Flow Divert
- **PM:** Pipeline

**Note:** All shaded slopes and ramps by slope unless otherwise noted.

**RPBCWD Water Management Project**

**Purgatory Creek at Hwy. 101 Site:**
- **Bluff Creek Site:**
  - **Water Management Project:**
    - **Sections:** Sites 12 through 17

** Issued for Permitting **

**Project No.:** 23/77-0053.14

**Date:** 04/14

**Water Management Project**
STORM WATER POLLUTION PREVENTION PLAN (SWPPP)
PURGATORY CREEK AT HWY 101 CREEK STABILIZATION, RILEY PURGATORY BLUFF CREEK WATERSHED DISTRICT


drainage areas such as bridges and culverts require additional consideration. The addition of these areas may be necessary due to the complexity of the project and the need for additional drainage and stormwater management solutions.

The project will also include the construction of a series of overflow channels and levees to reduce the risk of flooding. These structures will be designed to accommodate future development and provide a reliable solution for stormwater management.

Adjacent wetlands and riparian areas will be protected and preserved as much as possible to maintain ecological functions and provide habitat for wildlife. Special attention will be given to the protection of sensitive species and habitats, and appropriate mitigation measures will be implemented to minimize any impacts.

The project will be designed to comply with all relevant environmental regulations and guidelines, and all necessary permits and approvals will be obtained before construction begins. The project will be closely monitored throughout its implementation to ensure compliance with environmental standards and best management practices.

Overall, the proposed SWPPP plan integrates various techniques and strategies to effectively address stormwater runoff, reduce erosion, and protect the surrounding ecosystem. The project will be executed with a focus on minimizing environmental impacts and ensuring the long-term sustainability of the project area.

Issued for Permitting:
RILEY PURGATORY BLUFF CREEK WATERSHED DISTRICT
PURGATORY CREEK AT HWY 101 CREEK STABILIZATION
STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

23/27-00551.14
RPBCWD
RPBCWD

25-06
EXAMPLE: “BEFORE” CONDITIONS

EXAMPLE: “AFTER” CONDITIONS

- BIOLOG
- ROCK VANE
- ROOT WAD
- EROSION CONTROL BLANKET
Resolution No. 2015-

Floodplain alteration permit for a Purgatory Creek water management project, generally located east of County Road 101 and north of Creek View Trail

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

Section 1. Background.

1.01 In 2008, the city council adopted resolution 2008-115 petitioning the Riley Purgatory Bluff Creek Watershed District (RPBCWD) to undertake a basic water management project along Purgatory Creek. The primary goal of the requested project was to correct existing erosion issues.

1.02 RPBCWD is now proposing to undertake the project. As planned, thirteen areas along a roughly 1,100 foot stretch of the creek will be stabilized through a variety of techniques, including re-grading of the creek banks, installation of vegetated reinforced slopes, and installation of natural materials to deflect and dissipate water flow.

1.03 The project will result in both fill and excavation of floodplain in excess of 1,000 square feet and 20 cubic yards. As such, a floodplain alteration permit is required.

1.04 On September 10, 2015, the planning commission held a hearing on the project. 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 floodplain alteration permit.

Section 2. General Standards.

2.01 City Code §300.24 Subd. 9(c), states that in reviewing alteration permits, the city will consider whether general standards are met. These standards are incorporated by reference into this resolution.
2.02 City Code §300.24 Subd. 9(d), states that an alteration permit will not be granted unless certain specific standards are met. These standards are incorporated by reference into this resolution.

Section 3. Findings.

3.01 The proposal is the direct result of a city request.

3.02 The proposal will meet the general standards outlined City Code §300.24 Subd. 9(c):

1. The proposed floodplain alteration will impact just 1,100 linear feet of the entirety of Purgatory Creek.

2. The alteration will not increase buildable area.

3. The alteration will not negatively impact the hydrology of the floodplain. Rather, the alteration will improve the functionality and the aesthetic of the floodplain.

4. The alteration will improve existing erosion conditions; thereby, positively impacting adjacent properties.

5. The alteration will meet the intent of the city’s water resources management plan and the subdivision and zoning ordinances.

6. The alteration will not adversely impact governmental facilities, utilities, services or existing or proposed public improvements. In fact, the proposed alteration is the direct result of a city request.

7. The alteration will not have an undue adverse impact on the public health, safety or welfare. The purpose of the alteration is to improve an existing erosion conditions.

3.03 The proposal will meet the specific standards outlined in City Code §300.24 Subd. 9(d):

1. The alteration will result in a net increase in floodplain storage area.

2. The alteration will not result in construction of any building or driveway.

3. The proposal will result in removal of trees within a floodplain forest.
However, under the tree ordinance, such removal is allowed if done in conjunction with a city approved ecological restoration plan.

Section 4. City Council Action.

4.01 The above-described floodplain alteration permit is hereby approved based on the findings outlined in section 3 of this resolution.

4.02 Approval is subject to the following conditions:

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

   - Purgatory Creek at HWY 101 Restoration Project permitting plan set, dated June 22, 2015

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

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

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

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

      3) 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.

   b) Prior to issuance of a grading permit:

      1) Install 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.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 28, 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:
Abscnt:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on September 28, 2015.

David E. Maeda, City Clerk
MINNETONKA PLANNING COMMISSION  
September 10, 2015

Brief Description  Interim use permit for a home occupation at 25 Milbert Road

Recommendation  Recommend the city council adopt the resolution approving the interim use permit

Proposal

Amy and Steven Hemingway own the property at 25 Milbert Road. For the past 17 years the owners have operated a ceramic business from the property as an accessory use to the existing single-family home. The owners are now requesting an interim use permit, which would allow them to have one outside employee. (See narrative and plans on pages A1-A5.)

Home Occupation Ordinance

The city has a home occupation ordinance that addresses businesses operated on residential properties. The intent of the ordinance is to ensure the character and integrity of residential areas is maintained. The current ordinance was adopted in 2012. It provides standards regulating home occupations and also distinguishes between home occupations that have minimal impact and those that have the potential to adversely impact neighboring properties. In general, the ordinance defines an adverse impact as an impact that is beyond what would be characteristic of a typical residential use.

Home occupations are regulated three different ways by the ordinance, or can be divided into three categories. In all cases, home-based business are allowed only as accessory uses to residential properties. That is, the business use of the property must be secondary to the residential use.

(1) The first category of home occupations are permitted occupations. These are permitted as accessory uses provided specific standards are met; there are no approvals or permits required from the city as long as the standards are met. The specific standards are included in the “Supporting Information” section of this report. The majority of home occupations in the city fall under this category.

(2) The second category of home occupations are prohibited uses. These occupations are those that are known to adversely impact surrounding properties due to the nature of the businesses. For instance, landscaping companies, automobile or equipment sales, and automobile repair businesses frequently have outside storage of vehicles or associated
equipment. Additionally, these business result in regular traffic due to customer visits, deliveries, etc. This creates increased traffic and parking on the property that directly impacts neighbors.

(3) The third category of home occupations are those that fall between permitted and prohibited. These are the types of businesses that do not necessarily have operations that impact surrounding properties, but have the potential to impact surrounding properties depending on the actual operation of the businesses. These businesses require an interim use permit. The interim use permit allows the city to review the business operations, provide an opportunity for public input, and place conditions on the operation. City staff has determined that the proposed ceramics business requires an interim use permit.

Proposed – Permitted Home Occupation

The owners’ longstanding ceramics business consists of an office within the home, and an art studio that is located in a detached structure behind the garage. The majority of the equipment for the business is located in the detached structure, including several smaller kilns. The art studio also includes one kiln that is located outside of the detached structure, between the detached structure and the attached garage. The kiln is covered by a permanent, open-sided canopy structure. The property owners create ceramic pieces within the art studio, and some of the pieces are fired in the outside kiln. The majority of the ceramic pieces are sold off-site at the owners’ gallery in Minneapolis or through other galleries and vendors in the region. The property owners state that it is not common for customers to visit the property to order or purchase their ceramic products. There is no gallery space located within the home or art studio. The property owners’ open the art studio to the public for visits and tours one time per year as part of the Lake Minnetonka studio tour. The applicants’ narrative provides details on the type of ceramics that are created, and the process that is used to create the pieces. (See pages A2–A4.)

In general, the business has operated within the specific standards of the home occupation ordinance, and has been allowed as a permitted home occupation. However, earlier this year, the city received a complaint about the business. This is the first complaint that the city has received about this business. The complaint specifically noted concerns about a smoke smell when the outdoor kiln is in use.

City staff has had multiple conversations with the property owners about the business. City staff has also visited the property on multiple occasions to inspect the site and observe the operations, including the use of the outdoor kiln. Staff was represented by a planner, the fire marshal, and environmental health specialist. The outdoor kiln itself does not create a noticeable odor when it is in use. The only odor that was observed by city staff was when the ceramic pieces were removed from the kiln. The process that the owners use for their pieces include placing the ceramic pieces in sawdust or newspaper when the pieces are removed from the kiln. The pieces are then quickly
covered with a can or steel box which creates the desired finish on the ceramic pieces. The process produces smoke from the time it is placed in the sawdust and when it is covered, and this smoke does have a noticeable odor.

However, city staff has determined that the outdoor kiln use complies with the city’s ordinances. The only odor that is created by the business is when the pieces are removed from the kiln and placed in sawdust or newspaper, which creates a small, contained fire. The smoke creates an odor which is very short in duration (less than a minute) and has the same smell as a wood burning fire. The applicants’ narrative states that the outdoor kiln is not used on a daily or even weekly basis. The owners use the outdoor kiln approximately once a month for two to six hours. The odor complies with the city’s noxious odor ordinance, is limited in duration, and is similar to the odor that would be created by outdoor wood fires, which are allowed on single-family residential properties. City staff finds that the odor does not impact surrounding properties in a manner atypical of a residential use. Therefore, city staff finds that the outdoor kiln use complies with the city’s home occupation ordinance.

**Proposed – Interim Use Home Occupation**

In discussing the business operations with the owners, city staff learned that a Hopkins High School student works part-time at the art studio. The student is interested in a career in art. City staff has determined that the student is considered an employee of the business since he helps the owners with the operation of the business and assists in the production of the ceramic pieces. The city’s home occupation ordinance provides that a home occupation that includes an outside employee requires an interim use permit. Therefore, city staff determined that the current business requires an interim use permit.

**Staff Analysis**

Staff finds that the applicants’ proposal is reasonable.

- The home-based business complies with all of the city’s standards for home occupations, except for having an employee that does not live on the property. The specific standards and staff’s findings are outlined in the “Supporting Information” section of this report.

- The outside employee does not create any adverse impacts on surrounding properties. The outside employee creates minimal additional traffic and parking demands, and the business would continue to comply with all of the home occupation standards with the outside employee.

- The home-based business does not increase negative impacts to surrounding properties than would otherwise be allowed by the city’s ordinances for residential properties. Staff recognizes that the business sometimes creates a noticeable odor. However, the odor complies with the city’s noxious odor
ordinance, is limited in duration, and is similar to the odor that would be created by outdoor wood fires, which are allowed on single-family residential properties. In addition, the interim use permit to allow for an outside employee would not increase the amount of smoke or odor created by the ceramics business.

**Staff Recommendation**

Recommend that the city council adopt the resolution approving an interim use permit for a home occupation at 25 Milbert Road. (See pages A7–A10.)

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

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<td>Approving Body</td>
<td>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)</td>
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| Surrounding Land Uses | Northerly: Sunset Hills Elementary School, located in the city of Plymouth  
Easterly: Single-family home zoned R-1 and guided for low density residential uses  
Southerly: Single-family home zoned R-1 and guided for low density residential uses  
Westerly: Single-family home zoned R-1 and guided for low density residential uses |
| Planning        | Guide Plan designation: Low density residential  
Zoning: R-1/Low density residential |

Home Occupation Standards

The proposal would meet the specific standards for home occupations as outlined in City Code §300.15 Subd.14:

1) The home occupation must be clearly secondary to the residential use and not change the nature of the residential use;

   Finding: The property is primarily used as the residence for the owners. The owners reside and live in the property on a permanent basis. The ceramics business is a secondary use and does not change the nature of the residential use.

2) No more than 25% of the habitable area of the dwelling may be devoted to a home occupation. A home occupation is not permitted to conduct any of the business in an attached garage or a detached accessory building or outside of any building.

   Finding: The ceramics business office only occupies a small portion of the house, less than 25% of the total area. The ceramics is located in a detached
accessory building. However, this prohibition from being located in a detached building was added as part of a 2012 ordinance update. Prior to that, the city’s home occupation ordinance allowed home occupations to be located in detached structures.

The operation from the detached building and kiln structure predates the ordinance restriction. The applicant has operated the business out of the detached structure since 1998, and out of the covered kiln structure since 2009. This has been verified through city building permit records for each of these structures. Use of the detached and covered kiln structures are allowed under the city’s non-conforming use ordinance. The non-conforming use ordinance states that a use which was conforming at the time it was started, but becomes non-conforming due to a change to city’s ordinance can continue as long as there is no expansion, enlargement, or intensification of the use. The use of these structures has not changed or expanded since 2012, and city staff finds that the home business is in compliance with the non-conforming use ordinance for this standard.

3) There must be no exterior evidence of the occupation, including no exterior storage or signs.

**Finding:** There is no exterior evidence of the home occupation. All of the materials and products associated with the ceramics business are stored inside of the detached structure. In addition, there are no signs on the property identifying the business. There is no visual evidence of the business as viewed from the public street or surrounding properties.

4) There must be no exterior alterations to the dwelling that involve construction features not customarily found in dwellings, except where required to comply with fire and building code requirements.

**Finding:** The detached accessory building and the open-sided kiln structure are the only structures on the property that are used solely for the business. Both of these structures are allowed in the single family residential zoning district, comply with all zoning requirements, and can be found on other single-family residential properties.

5) A home occupation must be in compliance with all applicable fire and building codes.

**Finding:** The city issued building permits for the two structures that are used for the ceramics business, and they comply with all building code requirements. In addition, the fire marshal has inspected the property and observed the operations of the business and did not find any violations of the fire code.
6) A home occupation must be in compliance with the provisions of the city's nuisance regulations.

**Finding:** The city's environmental staff has inspected the property and observed the business operations and did not find any violations of the city's nuisance regulations.

7) No retail or wholesale sales activity may be conducted on the premises, except by telephone, mail, Internet or other electronic medium. This provision is not intended to exclude garage sales, estate sales, yard sales, rummage sales, and other sales of personal property that have similar parking and traffic patterns.

**Finding:** The business does not have any retail or wholesale sales activity. The sale of the ceramic pieces that are created by the owners are custom ordered by clients or displayed at showrooms or art galleries that are not located on the property.

8) A home occupation must not create additional vehicle trips in excess of 10 trips per day averaged over a period of five days per week. One trip is counted for each vehicle that arrives at the property, and an additional trip is counted for each vehicle that leaves the property.

**Finding:** The property does not have any regular traffic coming to site as part of the business operation. All sales occur at off-site locations. The applicant states that clients would visit the site very rarely, approximately 10 to 12 times per year. The client visits and outside employee would result in less than 10 trips per day.

9) All parking demands generated by the home occupation must be accommodated within a garage and the existing driveway area. Vehicle parking generated by employees, customers, visitors and invitees of the home occupation may not exceed four vehicles parked outside on the property. No vehicles used in connection with the home occupation and no vehicles of employees, customers, visitors and invitees of the home occupation may be parked on public or private streets. Parking for a home occupation in multi-family residential buildings is limited to two parking spaces in external parking areas.

**Finding:** The only parking demand that is generated by the home business would be for one outside employee, and occasional client visits. The limited amount of parking that is needed can be accommodated within the existing driveway.

10) A vehicle used in connection with a home occupation that has exterior ladders, pipes, tools, buckets, tanks, snow plow, vehicle towing equipment, trailers, or any other attachment and a vehicle licensed as a cab or limousine must be parked in a garage when at the site of the home occupation. All vehicle attachments must be stored in an accessory building or screened from public view.
Finding: The property owners do not have any vehicles that are used for the ceramics business.

11) There must be no significant increase in pollution levels of noise, light, air, or other types of pollution outlined in city code section 300.28.

Finding: The ceramics business does not result in any significant increase in noise, light, air or other types of pollution. The operations do not create a significant amount of noise or light. The firing process that is used for the business does create a limited amount of smoke. However, the odor it creates complies with the city’s noxious odor ordinance, is limited in duration, and is similar to the odor that would be created by an outdoor wood fire, which are allowed on single-family residential properties. The odor does not create any impact on surrounding properties that are atypical of a residential use.

12) The following types of uses have a tendency to increase in size or intensity beyond the conditions imposed for home occupations and may adversely affect nearby residential properties. Therefore, the following types of businesses are prohibited as home occupations:

   a. mortuaries;
   b. automobile or equipment sales;
   c. landscaping and lawn maintenance;
   d. massage therapy;
   e. repair, service, and painting of motor vehicles, appliances, and small engines; and
   f. other uses similar to those prohibited by this section, as reasonably determined by the city.

Finding: The ceramics business is not similar to any of these outright prohibited types of business.

IUP Standards

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

1. The general performance standards in section 300.16, subd. 2 will be met;

2. The use will not delay anticipated development or redevelopment of the site;

3. The use will not be in conflict with any provisions of the city code on an ongoing basis;
4. The use will not adversely affect the adjacent property, the surrounding neighborhood, or other uses on the property where the use will be located;

5. The property on which the use will be located is currently in compliance with all applicable city code standards;

6. The use is allowed as an interim use in the applicable zoning district;

7. The date or event that will terminate the use can be identified with certainty;

8. The use will not impose additional unreasonable costs on the public; and

9. The applicant agrees in writing to any conditions that the city council deems appropriate for the use, including a requirement for a financial security to ensure removal of all evidence of the use upon termination.

**Neighborhood Comments**

The city sent notices to 25 area property owners and received comments provided on page A6.

**Deadline for Decision**

November 27, 2015
From the moment we moved into the above address I have been creating artwork from the home I share with my wife Amy. I love to draw and design. Most of the salable work is ceramic. We purchased the home in July of 1996.

When we first moved here I was still teaching art classes at the Minnetonka Center for the Arts. I used part of the home as office space. The 10 by 12 breezeway was where I had two potter's wheels with a kiln in the basement. I also had a Raku kiln in the shed that I would pull out and fire in the backyard.

In September 1998 we built a 20 by 20 foot detached garage in the backyard to use as studio space. There is a 10 by 20 brick patio located in front of the studio. I had two raku kilns located on the patio. In 2009 we built a metal roof over the kilns. There is now one raku kiln located under the roof.

In the year 2000 I was an Artist in Residence at Minnetonka Middle School East. We created a large raku fired celestial wall map to mark the first day of spring in the new millennia. For this project we moved the raku kiln into the interior courtyard of the middle school. We did multi firings over the course of a week to complete the piece. This piece hangs there to this day. I only bring this up to illustrate that if performed carefully this can be a safe procedure.

Raku firing is a modified 16 century Japanese firing technique where the ceramic is removed from the kiln red hot and reduced in any combustible material. I use oak sawdust. The glazes used mature or melt at 1850 degrees Fahrenheit. Depending on the results I wish to obtain I remove the pieces from the kiln anywhere from 1200 to 1650 degrees and bury them in sawdust or if tile set them on newspaper with wood excelsior (see video) then cover with a can for reduction. Reduction is the act of reducing the air to the hot material to extinguish or smother the fire. Vessel forms are reduced by being buried in sawdust in double walled steel boxes I had constructed for this purpose. These boxes are on the patio with the bases
buried in sand. This does create small amounts of smoke. The less the smoke the better the reduction. This process can produce metallic surfaces and distresses the glaze with a crackled surface. Any surfaces left unglazed turns black from the carbon. When pieces have cooled they are hand washed with water. This can be done days after the firing if necessary. Firings are done about every 5 weeks. Many times there is only one piece in the kiln. The kiln fires with propane for about 2.5 hours. Three firings in one day is considered a long day. I have been firing on days with southerly winds on account of the one neighbor who has had a problem with the process. If she has zero tolerance for the smoke my goal is to have zero emissions towards her house.

Not all the work created is raku fired some of the work is fired in oxidation. This is done in an electric kiln located in the studio. These kilns are fired with the same principles as a toaster oven using red hot wire elements to create heat.

The studio is open to the public one weekend a year in early May for the Lake Minnetonka Studio Tour. This is the one time a year we gather finished pieces at our home. Otherwise finished pieces go to our showroom, galleries or to the clients who commission them. We have a showroom in the Arts District in the Nortrup King Building in North East Minneapolis. Being on the tour allows our patrons to see where the work is created. Otherwise our Home and Studio are private.

I have Artist Representatives who market the work as well. Sometimes we will meet at our home. I do a small number of commissions a year for private collections. These clients may also meet at our home if they need to see the work in process. These visits are rare, maybe 10 or 12 a year.

We have friends and neighbors who will occasionally pay a visit and sit and talk while I work in the studio. The people who are closest to me know that work time is not teaching time. This is not a teaching studio. Preferred conversations are outside of the work being executed and account for many fond memories.

Although we see the Midwest as our target audience the work created out of this home studio has been distributed across 4 continents. We do not mass produce table ware. We market the work as Fine Art Raku. Pieces can be viewed throughout the cities in many public and private collections. I feel most proud of the feedback we have had regarding the Pieces located in the areas hospitals. Mayo Clinic in Rochester who has three of our pieces in their collection recently included our work in their publication Art & Healing which was published in association with the Mayo Clinic.
Sesquicentennial 2014.

On the whole creating fine art has never been a very good career choice. Many hear the calling few are chosen. I have been fortunate. I contribute this in a large part to the support I have been given over the years from family, friends, neighbors and the community at large. I feel creating art is part of who I am. I have created art my whole life. I see the pieces as being autobiographical, they tell my story. My attempt is to visually document our existence in time and place. I hope my best work is yet to come.... at this time, in this place.
Steve Hemingway
July 27 2015
August 28, 2015,

To Whom It May Concern,

I have learned that there has been a complaint about an outdoor raku ceramics firing event that took place at Steve Hemingway’s home located at 25 Milbert St., Minnetonka, MN on May 29, 2015.

My name is Terry Chamberlin. At that time, I was the ceramics teacher at Hopkins High School. About 10 of my Advanced Placement students were given special permission from their parents to partake in a firing at Steve’s home. This is a once a year firing demonstration has taken place at Steve’s home for the past few years. The Advanced Placement students from the high school learn about the outdoor firing process called “raku” from me and a special 3 day workshop that Steve co-teaches with me at Hopkins High School. The outdoor firing is the culmination of that workshop. This is the final year that the firing will be held at Steve’s home.

It has been an invaluable and unique opportunity for these few students to watch a ceramic artist at work. The students learn about raku firing first hand at an actual artist’s studio. It is important for the students to watch art being created right here in their own community of Minnetonka. The Advanced Placement students take AP Ceramics their entire senior year. The students who attend the firing tell me it was the highlight of their year in ceramics. It is one thing to study about a process, but a special experience to participate.

I am writing this letter in support of Steve and all that he has done for the Hopkins High School students who have been fortunate to watch him at work. Steve has volunteered countless hours at the high school in many ceramics classes and sparked an interest in ceramics in many students. He also participates each year in our annual fundraiser for the ICA food shelf by coming to the high school to make over 100 bowls for Empty Bowls. Steve is an exceptional asset for the city of Minnetonka and for Hopkins High School.

Please contact me if further clarification is needed.

Sincerely,

Terry Chamberlin

Art Instructor (retired)

Hopkins High School
Resolution No. 2015-
Resolution approving an interim use permit for a home occupation at 25 Milbert Road

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

Section 1. Background.

1.01 Amy and Steve Hemingway have requested an interim use permit for a home business. (Project 15024.15a)

1.02 The property is located at 25 Milbert Road. It is legally described as:

   The North 130 Feet of the South 650 Feet of the West 148.5 Feet of the East 297 Feet of the Northwest Quarter of the Northeast Quarter of the Northeast Quarter, Section 3, Township 117, Range 22, Hennepin County, Minnesota

1.03 On September 10, 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 interim use permit.

Section 2. Standards.

2.01 City Code §300.05 Subd. 5 lists the following standards that must be met for granting an interim use permit:

   1. The general performance standards in section 300.16, subd. 2 will be met;

   2. The use will not delay anticipated development or redevelopment of the site;
3. The use will not be in conflict with any provisions of the city code on an ongoing basis;

4. The use will not adversely affect the adjacent property, the surrounding neighborhood, or other uses on the property where the use will be located;

5. The property on which the use will be located is currently in compliance with all applicable city code standards;

6. The use is allowed as an interim use in the applicable zoning district;

7. The date or event that will terminate the use can be identified with certainty;

8. The use will not impose additional unreasonable costs on the public; and

9. The applicant agrees in writing to any conditions that the city council deems appropriate for the use, including a requirement for a financial security to ensure removal of all evidence of the use upon termination.

2.02 City Code §300.15 Subd.14 lists the following standards that must be met for home occupations:

1. The home occupation must be clearly secondary to the residential use and not change the nature of the residential use.

2. No more than 25% of the habitable area of the dwelling may be devoted to a home occupation. A home occupation is not permitted to conduct any of the business in an attached garage or a detached accessory building or outside of any building.

3. There must be no exterior evidence of the occupation, including no exterior storage or signs.

4. There must be no exterior alterations to the dwelling that involve construction features not customarily found in dwellings, except where required to comply with fire and building code requirements.

5. A home occupation must be in compliance with all applicable fire and building codes.
6. A home occupation must be in compliance with the provisions of the city's nuisance regulations.

7. No retail or wholesale sales activity may be conducted on the premises, except by telephone, mail, Internet or other electronic medium. This provision is not intended to exclude garage sales, estate sales, yard sales, rummage sales, and other sales of personal property that have similar parking and traffic patterns.

8. A home occupation must not create additional vehicle trips in excess of 10 trips per day averaged over a period of five days per week. One trip is counted for each vehicle that arrives at the property, and an additional trip is counted for each vehicle that leaves the property.

9. All parking demands generated by the home occupation must be accommodated within a garage and the existing driveway area. Vehicle parking generated by employees, customers, visitors and invitees of the home occupation may not exceed four vehicles parked outside on the property. No vehicles used in connection with the home occupation and no vehicles of employees, customers, visitors and invitees of the home occupation may be parked on public or private streets. Parking for a home occupation in multi-family residential buildings is limited to two parking spaces in external parking areas.

10. A vehicle used in connection with a home occupation that has exterior ladders, pipes, tools, buckets, tanks, snow plow, vehicle towing equipment, trailers, or any other attachment and a vehicle licensed as a cab or limousine must be parked in a garage when at the site of the home occupation. All vehicle attachments must be stored in an accessory building or screened from public view.

11. There must be no significant increase in pollution levels of noise, light, air, or other types of pollution outlined in city code section 300.28.

12. The following types of uses have a tendency to increase in size or intensity beyond the conditions imposed for home occupations and may adversely affect nearby residential properties. Therefore, the following types of businesses are prohibited as home occupations:
   a) mortuaries;
   b) automobile or equipment sales;
   c) landscaping and lawn maintenance;
   d) massage therapy;
e) repair, service, and painting of motor vehicles, appliances, and small engines; and
f) other uses similar to those prohibited by this section, as reasonably determined by the city.

Section 3. Findings.

3.01 The proposal meets the interim use permit standards as outlined in City Code §300.05 Subd. 5.

3.02 The proposal meets the home occupation standards as outlined in City Code §300.15 Subd.14.

1. The property is primarily used as the residence for the owners. The owners reside and live in the property on a permanent basis. The ceramics business is a secondary use and does not change the nature of this residential use.

2. The operation from the detached building and kiln structure predates the ordinance restriction on use of detached buildings for home occupations and, therefore, is allowed under the city’s non-conforming use ordinance.

3. There is no exterior evidence of the home occupation. All of the materials and products associated with the ceramics business are stored inside of the detached structure. In addition, there are no signs on the property identifying the business. There is no visual evidence of the business as viewed from the public street or surrounding properties.

4. The detached accessory building and the open-sided kiln structure are the only structures on the property that are used solely for the business. Both of these structures are allowed in the single family residential zoning district, comply with all zoning requirements, and can be found on other single-family residential properties.

5. The city issued building permits for the two structures that are used for the ceramics business, and they comply with all building code requirements. In addition, the fire marshal has inspected the property and observed the operations of the business and did not find any violations of the fire code.
6. The city’s environmental staff has inspected the property and observed the business operations and did not find any violations of the city’s nuisance regulations.

7. The business does not have any retail or wholesale sales activity. The sale of the ceramic pieces that are created by the owners are custom ordered by clients or displayed at showrooms or art galleries that are not located on the property.

8. The property does not have any regular traffic coming to site as part of the business operation. All sales occur at off-site locations. The applicants state that clients would visit the site very rarely, approximately 10 to 12 times per year. The client visits and outside employee would result in less than 10 trips per day.

9. The only parking demand that is generated by the home business would be for one outside employee, and occasional client visits. The limited amount of parking that is needed can be accommodated within the existing driveway.

10. The property owners do not have any vehicles that are used for the ceramics business.

11. The ceramics business does not result in any significant increase in noise, light, air or other types of pollution. The operations do not create a significant amount of noise or light. The firing process that is used for the business does sometime create a limited amount of smoke. However, the odor it creates complies with the city’s noxious odor ordinance, is limited in duration, and is similar to the odor that would be created by an outdoor wood fire, which are allowed on single-family residential properties. The odor does not create any impact on surrounding properties that are atypical of a residential use.

12. The ceramics business is not similar to any of business that are outright prohibited


4.01 The above-described interim 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 written statement dated July 27, 2015.
2. This resolution must be recorded with Hennepin County.

3. There may be no exterior business activity, including the use of the outdoor kiln between the hours of 10:00 p.m. and 7:00 a.m.

4. The owners must control for odors associated with the business to the greatest extent practical. This may include limiting the usage of the outdoor kiln and modifying outdoor operations based on wind and weather patterns that may create greater odor impacts to surrounding properties.

5. The business must not increase odors such that it does not comply with the city’s noxious odor ordinances. The city council may impose additional conditions or revoke the interim use permit if the business operations create any non-compliance with city’s odor or other nuisance regulations.

6. The business must comply with the non-conforming use ordinance for its operations within the detached structures. There may be no enlargement, expansion, or intensification of the use.

7. The business must not have more than one outside employee. Otherwise, the business must comply with all requirements of the city’s home occupation ordinance.

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

9. 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.

10. This interim use permit is valid until such time that the property is sold, the business is no longer operated from the property, or there is any significant change in use or operations of the business.

11. Violation of any of the interim use standards outlined in City Code §300.15 Subd. 14 or any condition placed upon the interim use permit will result in immediate revocation of the permit.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 28, 2015.
Resolution No. 2015-                                                                                   Page 7

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

**Action on this resolution:**

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on September 28, 2015.

David E. Maeda, City Clerk

A13
Heminway Ceramics
25 Milbert Road
MINNETONKA PLANNING COMMISSION
September 10, 2015

Brief Description
Conditional use permit for a pet boarding and daycare facility at 14901 Minnetonka Industrial Road

Recommendation
Recommend the city council adopt the resolution approving the conditional use permit

Background
In 2014, the city reviewed and approved a conditional use permit for a pet boarding and daycare facility at 14901 Minnetonka Industrial Road. The facility – Unleashed – would have occupied roughly three-fourths of the existing building, as well as some new outdoor space. Unleashed would have provided boarding/daycare service to up to 180 dogs. Unleashed was unable to execute a lease agreement with the property owner and the building has remained vacant.

Proposal
For many years, Auntie Ruth’s Furry Friends has operated a pet boarding and daycare facility at 12201 Minnetonka Boulevard. As this site will soon be undergoing a major redevelopment, Auntie Ruth’s is proposing to relocate to the 14901 Minnetonka Industrial Road property. The business would occupy the entirety of the building, as well as some new outdoor areas. In addition to providing boarding/daycare for up to 170 pets, Auntie Ruth’s would include a small retail space, grooming services, agility training, and would host occasional indoor agility competitions. The proposed business would be different than the previously approved business, and so requires a new/different conditional use permit. (See pages A1–A8.)

<table>
<thead>
<tr>
<th></th>
<th>Unleashed</th>
<th>Auntie Ruth’s</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indoor Space</td>
<td>17,500 sq.ft.</td>
<td>25,000 sq.ft.</td>
</tr>
<tr>
<td>Outdoor Space</td>
<td>8,000 sq.ft.</td>
<td>2,700 sq.ft.</td>
</tr>
<tr>
<td>Number of Animals</td>
<td>180 dogs</td>
<td>170 animals</td>
</tr>
<tr>
<td>Hours of Operation</td>
<td>6:30 a.m. to 7:00 p.m. M-F</td>
<td>6:00 a.m. to 8:00 p.m.</td>
</tr>
<tr>
<td></td>
<td>7:00 a.m. to 11:00 a.m. and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3:00 p.m. to 7:00 p.m. S-S</td>
<td></td>
</tr>
<tr>
<td>Services</td>
<td>Boarding, daycare, grooming</td>
<td>Boarding, daycare, grooming, retail, agility training, weekend agility competitions</td>
</tr>
</tbody>
</table>
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 boarding/daycare facility and staff’s findings.

- **Is the proposed use reasonable?**

  Yes. The subject property is zoned I-1, industrial. Within the industrial zoning district a variety of land uses are permitted and conditionally-permitted that are not obviously compatible with residential, office, or commercial uses. For instance, warehousing, manufacturing, processing, and outside storage are permitted in the industrial district; vehicle towing businesses, auto body repair and painting businesses, and waste transfer facilities are conditionally-permitted uses.

  The variety of permitted and conditionally-permitted uses in the industrial district may have both real and perceived conditions associated with noise, odor, light, and storage not typical of uses in residential, office, and commercial districts. The proposed pet boarding/daycare facility may have conditions similar to permitted and conditionally-permitted industrial uses. As such, the proposed facility would be a reasonable use within the industrial district.

- **Is proposed parking adequate?**

  Yes. City code does not contain specific parking requirements for animal boarding or daycare facilities in non-residential districts. In the past, staff has calculated requirements using the parking standard associated with “dog kennels,” which are conditionally-permitted in residential zoning districts. Based on this standard, Auntie Ruth’s would require 27 parking stalls. The available 113 parking stalls on site would exceed this requirement. Interestingly, the proposed use would require less parking than an office user of the building.

<table>
<thead>
<tr>
<th></th>
<th>Required Rate</th>
<th>Required Parking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Auntie Ruth’s</td>
<td>1/employee and 1/10 animals</td>
<td>27</td>
</tr>
<tr>
<td>General Office User</td>
<td>1/250 sq. ft.</td>
<td>100</td>
</tr>
</tbody>
</table>

Staff Recommendation

Recommend that the city council adopt the resolution approving a conditional use permit for a pet boarding and daycare facility at 14901 Minnetonka Industrial Road. (See page A13–A17.)

Originator: Susan Thomas, AICP, Principal Planner
Supporting Information

**Surrounding Uses**
- Northerly: industrial building; zoned I-1
- Easterly: industrial building; zoned I-1
- Southerly: industrial building; zoned I-1
- Westerly: industrial building; zoned I-1

**Planning**
- Guide Plan designation: mixed use
- Zoning: I-1

**Business**
The applicant has provided the following information regarding Auntie Ruth’s.

- **Staffing:** Staffing would be based on occupancy. The maximum number of employees on site would be 10. The building would not be staffed overnight.

- **Hours of Operation:** The building would generally be open for the variety of services provided from 6:00 a.m. to 8:00 p.m. seven days a week.

- **Animals:** It is anticipated that the facility would accommodate: 100 boarding dogs, 40 daycare dogs, 20 boarding cats, and 10 “small critters” for a total of 170 animals.

- **Outside:** As currently proposed, animals could be outside during the hours of 7:00 a.m. to 7:00 p.m. Animals would be supervised at all times, whether outdoors or indoors.

- **Waste Management:** Solid waste would be placed in appropriate containers and ultimately picked up by a waste treatment provider. The specific provider and pick-up times have not been determined as of yet.

- **Pet Friendly Grass:** Pet-friendly synthetic turf would be installed in the outdoor play area. The installation includes a layer of antimicrobial aggregate, which neutralizes odor associated with dog urine, and a layer of synthetic turf. As a condition of approval, the owner must: (1) supply information acceptable to the city engineer indicating that the antimicrobial layer will absorb the urine; or (2) remove asphalt and decompact the soil under the play area to allow for absorption; or (3) install an infiltration area and mechanism to channel urine to the area.
Building Remodel  The interior of the 25,000 square-foot building would be significantly remodeled to accommodate Auntie Ruth’s. As proposed, an indoor agility course would be constructed in the rear of the building. Large dog, small dog, cat, and “exotics” boarding areas, indoor play areas, a veterinary technician station, grooming center, retail space, and business offices would occupy the remainder of the building.

While minor relative to the interior changes, changes would also be made to the exterior of the building. A small awning and fenced-in play areas would be constructed on the west side of the building. The building may be repainted and new/additional windows installed.

Parking  City code does not contain specific parking requirements for animal boarding or daycare facilities in non-residential districts. In the past, staff has used the parking standard associated with “dog kennels,” which are conditionally-permitted in residential zoning districts. Based on this standard, the proposed 113 parking stalls at Auntie Ruth’s facility would exceed required parking. Interestingly, the proposed use would require less parking than an office user of the building.

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</table>

As proposed, Auntie Ruth’s would be hosting agility training and competitions. It is anticipated that up to 80 dogs could compete in the weekend competitions. In theory, even were each dog driven to the competitions in a separate car, parking could be accommodated on site. Nevertheless, staff has included a condition of approval allowing the city council to impose limits on competitions should parking become an issue in the future.

Number of Dogs  In recent years, city staff has informally established a “dog-to-building-size” ratio for dog boarding and daycare facilities. The proposed facility would fall within the ratio.

<table>
<thead>
<tr>
<th>RATIO</th>
<th>TOTAL # ALLOWED</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Informal City Ratio</strong></td>
<td>83 sq. ft. per dog</td>
</tr>
<tr>
<td><strong>Proposed Ratio</strong></td>
<td>147 sq.ft. per dog</td>
</tr>
<tr>
<td><strong>ASPCA Standard</strong></td>
<td>75-100 sq. ft. per dog</td>
</tr>
</tbody>
</table>
CUP Standards

While the zoning ordinance does not contain specific standards associated with animal boarding or daycare facilities in the industrial district, commercial kennels are permitted as interim uses in residential districts, with specific associated standards. Staff reviewed the applicant’s proposal in light of these standards; this review is for informational purposes only.

1) A minimum lot size of two acres.

Finding: The intent of this requirement is to ensure perceived nuisances – noise, traffic, refuse – do not substantially impact a residential neighborhood. As the proposed facility would be located in an industrial district, this standard is not applicable.

2) Must be located next to a collector or arterial street, as identified in the comprehensive plan, or otherwise located so that access to the site will not conduct significant traffic on local residential streets.

Finding: The proposed facility would be accessed by Minnetonka Industrial Road via Williston Road. As the proposed facility would be located in an industrial district, this standard is not applicable.

3) Exterior storage, including refuse, must be screened from adjacent properties or public streets.

Finding: As a condition of approval, the outdoor play area and trash area would be screened by 6-foot privacy fencing.

4) Must not include a crematory.

Finding: No crematory is proposed.

5) Parking areas for patrons must be screened from adjacent properties.

Finding: The intent of this requirement is to ensure perceived nuisances – including parking – do not substantially impact a residential neighborhood. As the proposed facility would be located in an industrial district, this standard is not applicable.

6) A minimum setback of 100 feet must be maintained between the kennels and all property lines.

* American Society for the Prevention of Cruelty to Animals ratio is for “play area” not building area.
Finding: The intent of this requirement is to ensure perceived nuisances – noise, traffic, refuse – do not substantially impact a residential neighborhood. As the facility would be located in an industrial district, and all kennels would be located inside, this standard is not applicable.

7) All dogs and cats must be kept within an enclosed building at all times, except for supervised walks.

Finding: Animals would be kept within the building or within the fenced area on the west side of the site. The animals would be supervised both inside and outside.

8) Must not cause annoyance or disturbance to another person by frequent howling, yelping, barking, or other kinds of noise. This paragraph shall only apply when the noise has continued for a 5-minute period. This requirement shall apply to the cumulative barking from the kennel, including one or several dogs.

Finding: Regardless of zoning district, this condition seems applicable and has been included as a condition of approval.

9) Must provide at least one parking space per employee and one parking space for each ten kennel cages.

Finding: The proposal would meet this parking requirement, as detailed in the “Parking” section of this report.

10) Must maintain a valid city kennel license and must comply with all applicable city and state building, health, and maintenance standards.

Finding: Regardless of zoning district, this condition is applicable and has been included as a condition of approval.

11) Shall be subject to site and building plan review, pursuant to section 200.27 of this ordinance.

Finding: The proposal would meet this requirement, as outlined in the “Site and Building Plan Standards” section of this report.

12) Shall be subject to a reasonable limitation on the total number of animals or the size of the facilities. This will be determined
by the city based on the size of the property, the use of adjoining properties, and the existence of buffering and other appropriate factors.

**Finding:** Regardless of zoning district, this condition is applicable. As a condition of approval, the facility may provide boarding or daycare service for a maximum of 170 animals at any one time.

**SBP Standards**

The proposed facility would meet the site and building plan standards as outlined in City Code 300.27 Subd.5.

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.

**Signs**

One wall sign and one freestanding sign would be allowed on site, as follows:

**Freestanding sign:**
- monument style sign;
- 60 square feet maximum copy and graphic area;
- 90 square feet maximum total monument size;
- 10 foot maximum height.

**Wall sign:**
- individual mounted letters;
- total surface area of all building signs shall not exceed 5 percent of the building face upon which the signs are located up to a maximum 150 square feet.

No “off premise” signs are allowed. In other words, though the property is located in the middle of the industrial district, no signs would be permitted on Williston Road directing clients to the site.

**Neighborhood Comments**

The city sent notices to 68 area property owners and received the attached comments. (See pages A9–A12.)

**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 conditional use permit.

2. Disagree with staff’s recommendation. In this case, a motion should be made recommending the city council deny the conditional use permit. 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.

Deadline for Decision

November 23, 2015
Location Map

Project: Auntie Ruth’s
Applicant: ARFF, LLC
Address: 14901 Minnetonka Industrial Rd
(98044.15a)
Conditional Use Permit Application Information

Project Narrative for the proposed full service dog daycare/boarding facility at 14901 Minnetonka Industrial Road

Legal Description

Lot 5, Block 1, Minnetonka Industrial Park, Hennepin County, Minnesota
PID: 16-117-22-43-0015

I. Project Description

Auntie Ruth’s is one of the leading Premier Dog/Cat Daycare and Boarding Facility’s in the Twin Cities. We work positively and our methods are gentle and non harmful to the emotional and physical well being of each pet we care for. By offering daycare, boarding, non-social playtime, and additional amenities for our younger and older friends, we are designed to help keep your pet comfortable no matter what their quirks and needs are. We are a non discriminatory facility and accept all ages and stages of life. We also even have a special program for dogs that don’t always like being around other dogs.

Our mission is provide the most professional service possible and the best level of pet care possible. How we want to do that is to create or build a better relationship between you and your pet. We want you to feel good about being a pet owner, and we also want your pet to be the best they can be. We are a transparent company and will always give you feedback so you can best care for your pet. Care is all encompassing and we feel that both owner and pet care provider should both be on the same page with your pet in order to provide the best care.

Our facility offers a special geriatric and orthopedic area that also includes suites with heated flooring to help with arthritis and stiff joints, we also offer a wonderful cat room with additional private suites and large cat play area. We have 3 indoor play spaces and 3 outdoor play spaces, a large agility and training center, retail nook, grooming center, and we have Certified Veterinarian Technicians on to make sure that all of the pets that come to Auntie Ruth’s are well cared.

II. Owner’s Bios

Martin McKinley has spent his entire career in financial services. He was the president & CEO of Wells Fargo Business Credit for over 20 years. Martin recently sold his interest in Fordham Capital Partners, a specialty finance company he co-founded in 2009.

Martin is a resident of Mountain Village, Colorado where he was recently elected Mayor Pro Tem.

Mike Mckinley has been the co-owner of Auntie Ruth’s Furry Friends a pet boarding and daycare facility in Minnetonka for the past three years. Mike facilitates the care for dogs, cats, and other small household pets. Mike has helped establish and grow Auntie Ruth’s mission to
provide the best quality of care for his clients including those with special needs such as geriatric and convalescent pets providing a valuable service to his community.

Mike’s care for animals extends beyond Auntie Ruth’s with his involvement with dog fostering and rescue. Mike has fostered and helped place numerous pets in homes over the years including his own two boxers.

Annie Haubenhofer has been working in the animal industry for over 8 years. She has 8 years of experience in the boarding/daycare industry and 3 years as CEO/Proprietor for Auntie Ruth’s. Annie also volunteers for the Minnesota Boxer Rescue, Upper Midwest Great Dane Rescue, and the Midwest Animal Rescue. Annie has worked widely with rehabilitating and rehoming dogs. She is also a CPDT and has worked under Inga From a very prominent dog trainer with behavioral expertise. Annie is currently working to become a CPDT-KA or CPDT-KSA which is a high level certified trainer that has put in over 500 hours of training to demonstrate her professionalism and knowledge of dog behavior and training.

III. Site Features: Existing

The facility would inhabit the old St. Jude location on Minnetonka Industrial Road. The address of the property is 14901 Minnetonka Industrial Road, Minnetonka, MN 55305.

The building is a single story 25,000 square foot property and was constructed between 1968/1978. It has approximately 125 parking spaces.

IV. Site Features: Proposed

Indoor area will be built out to include; Retail/Lobby, Kennels/suites, Grooming, Multipurpose center (Agility, training, competitions, events), Storage, Indoor play areas, Offices, Vet Tech station, Cattery, Special Needs area.

Outside area will have about 8,000 square feet of outdoor yards with privacy fences and an installation for additional shade for the yards. There may be some additional exterior building modifications including; painting, potential front entrance modifications, and signage installation on the exterior. There would potentially be some front window modifications due to low light inside building.

V. Additional Information

General Info
How many dogs boarding: 100 Boarding
How many dogs daycare: 40 Daycares
Total Dogs: 140
How many cats boarding: 20
How many small critters: 10
How many staff: 10/per day during peak periods, 6/per day during non peak periods.
**Staffing**
Staffing will be based on occupancy. The maximum number of employees on site would be around 10 during busy times down to a minimum of 3 employees during the slow times. The building would not be staffed overnight.

**Operating Hours**
Weekdays: 6am – 8pm (office hours 7am – 7pm)
Weekends: 6am – 8pm (office hours 9am – 6pm)
Outside Play area use/ Turf: K9Grass
Waste Management: Collected and thrown in the appropriate bins
Ratio of sq/ft per dogs/cats:

**Parking**
How many parking spots to employees: 10 spaces
How many parking spots per dog: 12 spaces
Customers: 8 stalls
Competition Staff: 2 (included in competitor number)
Competitors: 40

**Multipurpose Area**
Operating Hours:
Weekday evenings 6pm – 9pm
Weekends: 7am – 9pm
How many staff: 1 – 2 trainers
How many people: 8 clients

**Agility competition**
How many dogs competing: 80
How many people competing: Approx 42 (including staff)
How many judges: 1 judge 1 ring for AKC
Where are the dogs going to go to the bathroom? Outside elimination area with installed poop bag holder and container

**Outside Area:** Depending on the weather conditions and occupancy level, dogs could be outside during the hours of 7:00am to 7:00pm. Dogs would be supervised at all times, whether in the outdoor or indoor areas.

**Waste Management:** Waste will be cleaned up immediately by the dog handlers. Solid waste will be placed in appropriate containers and ultimately picked up by a waste treatment provider once per week or sooner based on need. The waste collection containers would be screened by a 6-foot privacy fence adjacent to the outdoor dog play area and convenient for waste management pickup. The specific provider and pick-up day/times have yet to be determined.

**Parking Lot Filtration:** The fenced outdoor dog play area will have a filtration system installed underneath the artificial grass that will be antimicrobial and will help reduce odors in the yards.
To sanitize the yards we will be using environmentally safe cleaners that will be used to keep the grass clean and sanitary for the pets that will be out in the yards.

**Sustainability:** We will be diligent on our efforts to reduce our energy and water costs by creating an efficient work environment including lighting, water usage, and waste materials. We intend on using as many recycled materials within our environment which also lends a great deal into pet safety and pet friendly materials.

**CUP standards – Retail and service Uses**
The proposed commercial kennel meets the general conditional use permit standards as outlined in City Code 300.21

**CUP Standards – Commercial Kennel**
While the zoning ordinance does not contain specific standards associated with commercial kennels in the industrial district, such kennels are conditionally permitted in residential districts, with specific conditional use permit standards associated with them.

**Site and Building Plan Standards**
The proposed commercial kennel meets the general conditional use permit standards as outlined in City Code 300.27 Subd.5.
Good morning Council member Wiersum and Ms Thomas
I am writing to in response to the Public Hearing / council meetings scheduled for Auntie Ruth's Furry Friends at 14901 Mtka Industrial Road. My name is Jeff Jensen and I live at 14830 Walker Place and I am a 15 year resident of Minnetonka. I am very much opposed to this facility. Just to make this clear--I am a dog owner-- (1) dog. There are several in the neighborhood and I love my dog. I also love the peace and quiet of my neighborhood. I will admit that if one dog starts barking--they all start barking. I keep a short leash on my dog as regards to her barking. (pun intended)

I have been to the Home Depot in Eden Prairie and there is a dog boarding facility across Valley View Road from the Home Depot. If you have not been in the area I would suggest that you and other members take a trip down there to understand what I am speaking about. I have been at the Home Depot at all different times of the day--early am-later in the evening, every day of the week --and there has NOT been one time I haven't heard the dogs barking. I am not sure how many dogs are at that facility at any given time and I am not certain how much noise 170 dogs can make--but if this is the capacity of the facility than we should also investigate the noise level of 170 barking dogs as well. I know, because I have read the ordinance, that if a dog barks for more than 5 minutes it is considered a "nuisance "

There are several other reasons why I am opposed but the noise of the dogs needs to be looked into. The city does all kinds of "studies" like traffic studies, water shed studies, water use studies.... In short, I would like your help and support. Please let me know what else I can do or need to do going forward.

Jeff
Williston Ridge LLC

September 2, 2015

City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345

RE: Auntie Ruth’s Furry Friends Proposal – 14901 Minnetonka Industrial Road

Dear Mayor and City of Minnetonka Council Members,

I am a manager and part owner of Williston Ridge LLC, which recently purchased 6 buildings. I and the other owners of Williston Ridge LLC oppose the proposed conditional use permit for a kennel operated as a dog day care and boarding facility at 14901 Minnetonka Industrial Road.

Our 6 buildings and the proposed kennel building are part of a 13-building campus. Our buildings surround the proposed kennel building on the north, east, and south. Our buildings contain 355,000 square feet of office and light manufacturing space. Our principal tenant is St. Jude Medical and Cargill. Although the site is zoned industrial, these tenants and our ownership have been good neighbors to the adjacent residential areas as it relates to noise and upkeep at the property.

We participated in the planning commission meetings and city council meetings when the site was being considered for Unleashed (180 pet daycare and boarding facility). Our principal concern with the kennel remains the noise that the use would generate. Council, at that time, addressed our concern by putting conditions on the permit that provided for a check-in date to review potential noise violations and ability to put restrictions on permit or pull permit if a problem was presented. This would provide a set date to confirm the applicant has taken sufficient steps to address the above concerns and to the extent they are problems it provides an opportunity for the council to address unforeseen concerns and to put in place additional limitations and restrictions in place on the conditional use permit. They also requested additional detail related to number of dogs and the management of problem dogs in the outdoor area.

Below are the suggestions we presented at the time Unleashed CUP was being considered. We hope you take this information into consideration as you review the Auntie Ruth’s application for a similar CUP. Our suggestions to limit impact on neighboring buildings were:

1. All animals be kept inside the facility
2. Set a higher threshold for noise violations for the facility
3. Limit the number of dogs allowed in the outdoor areas
4. Limit the times the dogs are allowed in the outdoor areas
5. Reduce the size of outdoor area
6. Enforcing setback and site acreage requirements for a commercial kennel
7. Increasing natural sound, sight and run-off barriers
8. Requiring modifications to site access and parking availability to minimize impact of customers dropping off animals

If you are interested in the background and reasoning for the proposed suggestions below is a more detailed summary:

- **All dogs to be kept inside facility** - I-1 zoning requires all uses to be conducted within enclosed buildings with a few limited exceptions. Outdoor dog enclosures are not one of the listed exceptions. We believe the most effective way to ensure the kennel does not unduly affect neighbors would be to require it to comply with I-1 zoning principle that all uses should occur within the enclosed building.

- **Set a higher threshold for noise violation for the facility** – the current code for a noise violation provides for a 5-minute period. It is within the council’s purview based on section 6 of the code: “The city council may reasonably add or revise conditions to address any future unforeseen problems. In particular, the city council may add or revise conditions to address disturbance caused by frequent howling, yelping, or barking.” We think the council should put off until later the completely foreseeable noise problem.

- **Limit the number of dogs allowed in the outdoor areas** – this was done at Adogo located at 12800 Wayzata Blvd location. A maximum of 10 dogs were allowed in the outdoor area at a time with employee supervision at all times.

- **Limit the times the dogs are allowed in the outdoor areas** – this was done at Adogo located at 12800 Wayzata Blvd location. Above and beyond the 10 dogs allowed in the outdoor areas, the Adogo was asked to provide a schedule of outdoor time. Adogo suggested 30 min windows for a total of 2 hours of outdoor play and potty time. Hours provided were 6:30 AM, 1:00 PM, 4:00 PM and 7:30 PM.

- **Reduce the size of outdoor area** – in the other two Adogo locations the outdoor area was roughly 30 to 35 percent of the proposed enclosed area. At Auntie Ruth’s the outdoor area is nearly 45 percent of the proposed enclosed area allowing for a larger population of dogs generating a higher level of noise.

- **Enforce setback requirements** – the code minimum setback for commercial kennels is 100 feet between the kennels and all property lines. The code should be enforced where the use was contemplated and similar concerns exist therefore increasing the
distance between the perceived nuisance and existing orderly light industrial environment.

- **Increase the sight and sound buffers for the outdoor area** – where I-1 zoning does permit outside uses, such as vehicle storage, it requires screening. We think an 8,000 square foot outdoor dog enclosure serving up to 180 dogs should not be permitted without making sure the adverse effects on neighbors will be adequately mitigated, particularly where the lot is small and the enclosure would be within earshot of hundreds of employees. The two most recently approved kennel included an 8 foot opaque fence with sound proofing on the interior. The approved plans for those locations also included additional berming, trees and shrubs to create a visual and sound buffer for neighbors.

- **Mitigate drop-off and pick-up effects.** Pick-up and drop-off are instances of high levels of anxiety and stimulation that typically provoke higher levels of barking and other undesirable behavior. We request the applicant consider adding visual and sound buffers at this location to minimize impact to neighboring properties.

Our hope is that the size, design and use of space are addressed to limit noise on the front-end of the CUP and to the extent that there are concerns in the future the CUP would have a reasonable provision to address unforeseen concerns and to put in place additional limitations and restrictions on the CUP.

Sincerely,

Kristin Myhre
Director
Eagle Ridge Partners LLC

Cc: Mr. John C. Scholz, Eagle Ridge Partners LLC
    Mr. Robert Stanek, CarVal Investors
Resolution No. 2015-

Resolution approving a conditional use permit for a pet boarding and daycare facility at 14901 Minnetonka Industrial Road

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

Section 1. Background.

1.01 Auntie Ruth’s Furry Friends (ARFF, LLC.) is requesting a conditional use permit to operate a pet boarding and daycare facility.

1.02 The property is located within the industrial (I-1) zoning district at 14901 Minnetonka Industrial Road. It is legally described as: LOT 005, BLOCK 001, MINNETONKA INDUSTRIAL PARK.

1.03 On September 10, 2015, the planning commission held a hearing on the application. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. General Standards.

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

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 storm water 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.

Section 3. Specific Standards.

3.01 City Code §300.21 does not specifically regulate animal boarding or daycare facilities in the industrial (I-1) zoning district. However, such uses are similar to permitted storage uses and to conditionally-permitted service uses.

3.02 City Code §300.21. Subd.4(l) states that uses similar to those specifically outlined as conditional uses may be conditionally-permitted.

Section 4. Findings.

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

4.02 Within the industrial zoning district a variety of land uses are permitted and conditionally-permitted that are not obviously compatible with residential, office, or commercial uses. For instance, warehousing, manufacturing, processing, and outside storage are permitted in the industrial district; vehicle towing businesses, auto body repair and painting businesses, and waste transfer facilities are conditionally-permitted uses.

4.02 The variety of permitted and conditionally-permitted uses in the industrial district may have both real and perceived conditions associated with noise, odor, light, and storage not typical of uses in residential, office, and commercial districts. The proposed pet boarding/daycare facility may have conditions similar to permitted and conditionally-permitted industrial uses. As such, the proposed facility would be a reasonable use within the industrial district.

4.03 The proposed use represents a logical and feasible adaptive reuse of an existing building.

Section 5. City Council Action.

5.01 The above-described conditional use permit is approved, subject to the
following conditions:

1. Prior to issuance of a building permit:
   a) This resolution must be recorded with Hennepin County;
   b) The applicant must apply for and obtain a city kennel license; and
   c) The applicant must submit for staff’s review and approval:
      1) A waste management plan detailing how often animal waste will be removed from the site; and
      2) A management plan with for the outdoor play area.

2. Prior to opening the facility, the applicant must do one of the following:
   a) Supply information acceptable to the city engineer indicating that the aggregate layer will absorb the urine;
   b) Remove asphalt and decompact the soil under the play area to allow for absorption; or
   c) Install an infiltration area and mechanism to channel urine from the play area to the infiltration area.

3. The maximum number of boarded/daycare animals on the site is limited to 170.

4. All outdoor play areas must be enclosed with six-foot tall, solid wood fencing.

5. The facility must conform to all provisions of:
   a) City Code §850 – Noise Regulations;
   b) City Code §300.28 Subd. 5 – Performance Standards; Regulating Odor; and
   c) City Code §925 – Animal Control Regulations

6. An update on the facility operations be provided to the city council after 6 months of operation.
7. The city council may reasonably add or revise conditions to address any future unforeseen problems. In particular, the city may add or revise conditions to:

a) Address disturbance caused by frequent howling, yelping or barking.

b) Address parking issues caused by agility competitions.

8. Any change to the approved use that results in a significant change in the character or operation of the facility requires a revised conditional use permit.

9. Failure to obtain and maintain a valid city kennel license or comply with building, health and maintenance requirements outlined in city code will render this conditional use permit null and void.

10. This resolution does not approve any signs. Separate sign permits must be submit for staff review and approval.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 28, 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 September 28, 2015.

______________________________
David E. Maeda, City Clerk

Seal
MINNETONKA PLANNING COMMISSION
September 10, 2015

Brief Description  Conditional use permit, with variance, for a dental clinic at 13059 Ridgedale Drive

Recommendation  Recommend the city council adopt the resolution approving the conditional use permit

Project No.  15029.15a

Property  Ridge Square North, 13059 Ridgedale Drive

Applicant  PDG, P.A.

Property Owner  Ridge Square North LLP

Proposal  Park Dental is proposing to locate a dental clinic in the former Wanderer's Chinese Restaurant space at Ridge Square North. The proposed dental clinic would be 5,100 square feet in size, and would be located within the existing building. There would be no exterior expansions of the building or property. (See narrative and plans on pages A1-A6.)

Proposal Requirements
The proposal requires:

- **Conditional use permit:** Hospitals and medical clinics on property designated for office, retail, or service commercial uses are conditional uses in the PID/Planned I-394 zoning district. Therefore, a conditional use permit is required.

- **Variance:** One of the conditional use permit standards for medical clinics is that they must not be located adjacent to low density residential areas. Ridge Square North abuts single-family residential properties to the west. Therefore, a variance from this conditional use permit standard is required.

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 Ridge Square North shopping center is located on the west side of Ridgedale Drive, adjacent to Byerly’s. The shopping center was constructed in 1982 and is 82,000 square feet in size. Ridge Square North includes a mix of retail, service-commercial and restaurant uses. Current tenants include Noodles & Company, New Uses, UPS Store, and 2nd Swing Golf. The site has two access points from Ridgedale Drive. Parking is provided in both the front and back of the property with a substantial amount of parking available at the back of the building.

Building Use

The applicant is proposing to locate a Park Dental office in the northeast corner of the Ridge Square North building. The tenant space was occupied by Wanderer’s Garden from 1997 until last year. The proposed dental office would be a new location for the existing Park Dental located at 13911 Ridgedale Drive. The proposed clinic would be 5,100 square feet in size.

Proposed Parking

Ridge Square North originally included a movie theater as one of its tenants. Therefore, the site includes a significant amount of surface parking and currently exceeds the parking requirements. The site has 563 parking stalls. Based on the current tenants and the proposed dental clinic, the site would require 458 parking stalls. Therefore, the site has adequate on-site parking to meet the city’s parking requirements.

Traffic

The city’s traffic consultant, SRF Consulting Group, conducted a traffic study for the proposed clinic. (See pages A7-A10.) The traffic study concluded that:

- The Ridge Square North property currently generates fewer total trips than would be expected based on the Institute for Transportation Engineers (ITE) estimates for a shopping center. This is based on the current mix of tenants within the center. The site generates fewer trips in the morning peak, evening peak hour, and total daily trips. The site generates more trips during the midday peak hour than ITE estimates, which indicates a high lunch time use.

- The proposed dental clinic would generate fewer total trips than the restaurant that previously occupied the tenant space. The clinic would generate more trips in the a.m. peak hour, but fewer trips throughout the rest of the day. The morning peak hour is currently the least busy time of day for Ridge Square North in terms of traffic.
Ridge Square North would generate a total of 281 p.m. peak hour trips, which includes the proposed dental clinic. This is less than the 338 p.m. peak hour trips allocated to the subject property in the Planned I-394 traffic analysis ordinance.

**Staff Analysis**

Staff finds that the proposed dental clinic is an appropriate use of the property:

- The proposed dental clinic would generate less traffic and would have less parking demand than the restaurant tenant that previously occupied the space.

- The clinic would be located within an existing multi-tenant shopping center. The shopping center contains a mix of other commercial and retail uses that operate similarly to a dental clinic in terms of traffic generation, parking demand, noise, and exterior lighting. The dental clinic would not create any additional impacts to the residential properties.

- Although the property is adjacent to single-family residential properties, the vehicle access for the clinic tenant is directly from Ridgedale Drive, which only serves other commercial properties. The site would not have access through a residential area or from a local residential street.

**Staff Recommendation**

Recommend that the city council adopt the resolution approving a conditional use permit, with variance, for a dental clinic at 13059 Ridgedale Drive. (See pages A11-A16.)

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

### Surrounding Land Uses

<table>
<thead>
<tr>
<th>Direction</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northerly</td>
<td>Ridgehaven Mall, zoned PID, Planned I-394 district, and guided for commercial uses in the comprehensive plan</td>
</tr>
<tr>
<td>Easterly</td>
<td>Highland Bank redevelopment, zoned PUD/Planned Unit Development, and guided for mixed use</td>
</tr>
<tr>
<td>Southerly</td>
<td>Ridge Square South, zoned PID and guided for mixed use</td>
</tr>
<tr>
<td>Westerly</td>
<td>Single-family homes, zoned R-1 and guided for low density residential uses</td>
</tr>
</tbody>
</table>

### Planning

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

### Medical Clinics

By city code definition, a medical clinic is “a freestanding structure or, in the case of multiple tenant buildings, a total occupied space of 2,000 square feet or greater used for patient examination and treatment by physicians, dentists, optometrists, psychologists or other health care professionals and where patients are not lodged overnight.”

### 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(d):

1. Shall not be adjacent to low density residential areas;
   
   **Finding:** The Ridge Square North property abuts single-family residential properties to the west. The applicant has requested a variance from this standard.

2. Shall have direct access from the site to a collector or arterial street as defined in the comprehensive plan;
   
   **Finding:** The property has direct access to Ridgedale Drive, which is defined as a major collector street in the comprehensive plan.

3. Shall not have emergency vehicle access adjacent to or located across a street from any residential use; and
   
   **Finding:** The proposed dental clinic would not have emergency vehicle service. The clinic would provide general and specialty family dentistry services, and clients would not arrive to the clinic by an emergency vehicle.

4. May be required to submit a detailed parking analysis for uses exceeding 10,000 square feet. Additional parking may be required based on this analysis.
   
   **Finding:** The clinic would be 5,100 square feet in size, so a detailed parking study is not required. The site has adequate on-site parking to accommodate the proposed dental clinic and meet the city’s parking requirements.

**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)
Neighborhood Comments

The city sent notices to 129 area property owners and received no comments.

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 conditional use permit.

2. Disagree with staff’s recommendation. In this case, a motion should be made recommending the city council deny the conditional use permit. 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.

Deadline for Decision

October 19, 2015
Location Map

Project: Park Dental Ridgepark
Applicant: PDG, PA
Address: 13059 Ridgedale Dr
(15029.15a)
Application for Conditional Use Permit and Variance

PDG, P.A.
(Park Dental Ridgepark)

13059 Ridgedale Drive
Minnetonka, MN

August 20, 2015

Project Overview

PDG, P.A. (“Park Dental”) requests approval of a Conditional Use Permit to allow for a relocation of their existing location at 13911 Ridgedale Drive to the Ridge Square North building at 13059 Ridgedale Drive. Park Dental has served this community since March 1984 and is excited for this opportunity to update their physical location to better serve the needs of their patients.

The space under consideration is a 5,113 square foot space formerly occupied by the Wanderer’s Chinese restaurant within the Planned I-394 Zoning District. It compares to their existing site within the same zoning district consisting of 4,925 square feet. This space is on the northeast corner of the Ridge Square North building and provides ample parking, visibility, and access for patients and staff.

CUP Purpose and Intent

The proposed Park Dental location meets the requirements for the City Conditional Use Permit standards as follows:

The Use is in the Best Interest of the City
Park Dental has provided dental services to the surrounding community from the existing location for the past 31 years. Additionally, there are currently nearly 1,400 active Park Dental Patient households within the 55305 zip code.

The Use is Compatible with Other nearby Uses
Dental uses fit in very well with retail co-tenants and often operate from an external perspective very similar to retail users. Patients generally arrive via their own vehicle and stay for a short appointment before leaving again, similar to the traffic for restaurants, stores, or other retail uses. Additionally, there are several other medical uses within the Planned I-394 Zoning District including North Memorial Clinic, OBGYN West, Minnesota Eye Consultants, Swanson Family Dentistry, Cross Dental, Ridgehill Dentistry, Center for Smile Enhancement and several other medical and dental users.

The use is consistent with the intent of this ordinance
The location, size and design of this Park Dental location are consistent with the standards, purposes and procedures of the City’s ordinances and similar in size to their existing location within the same zoning district. The site will now be approximately 240 feet further away from residential uses and in an area that is more amenable to a dental office.
The use is consistent with the goals, policies and objectives of the comprehensive plan
This use is consistent with the goals, policies and objectives of the comprehensive plan. The use as a tenant within the Ridge Square development will not impact the properties ability to potentially eventually be redeveloped as called out within the 2030 Comprehensive Plan. Further, the dental office’s hours of 7a-8p Monday-Thursday, 7a-4p Friday and by appointment for children on Saturdays is more amenable to nearby residential uses than many other retail uses such as restaurants and other stores as the area redevelops.

The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements
This use, with no changes to the exterior site plan, would have no impact on governmental facilities, utilities, services or existing or proposed improvements.

The use is consistent with the city's water resources management plan
This use is consistent with the city’s water resources management plan and will save water as the practice currently uses a wet-ring vacuum and will be installing a dry vacuum system that does not use water at the new location.

The use is in compliance with the performance standards specified in section 300.28 of this ordinance
This use would be in compliance and very consistent with the performance standards specified in section 300.28 of the ordinance. No exterior flickering or flashing lights would be used, there would not be exterior vibrations, smoke, odor, radiation in excess of standards of the MN Dept of Health, excessive heat or humidity, electromagnetic activity, explosive hazards, unregulated liquid or solid waste, or parking issues. We are submitting for a traffic study through the City as well.

The use does not have an undue adverse impact on the public health, safety or welfare.
This use will have a positive impact on public health, safety and welfare through continuing to provide a basic and necessary service to the community.

Hospitals and medical clinics on property designated for office, retail or service commercial uses:
- Shall not be adjacent to low density residential areas;
  We are requesting a variance to this requirement due to the overall development being adjacent to residential uses. Our specific suite will be approximately 400 feet from residential uses which compares to the existing suite which is approximately 160 feet from residential uses which has not had any issues over the past 31 years with that adjacency.

- Shall have direct access from the site to a collector or arterial street as defined in the comprehensive plan
  This site and our premises has direct access to Ridgedale Drive which is a “Major Collector” as defined in the comprehensive plan

- Shall not have emergency vehicle access adjacent to or located across a street from any residential use
  There is no access, emergency or otherwise, adjacent to or located across a street from any residential use
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<tr>
<td>1</td>
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<td>Wayzata Children’s Clinic</td>
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<td>OBGYN West</td>
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<td>Achieve Health Chiropractic Clinic</td>
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<td>Jonathan Dental</td>
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<td>6</td>
<td>Hannon &amp; Sandler P.A. Dentistry</td>
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<td>Dental ER Plus General Dentistry</td>
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<td>Engstrand Family Dental</td>
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<td>B</td>
<td>Future Park Dental</td>
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FACE OF DEMISING WALL

NEW BRICK INFILL TO MATCH EXISTING, TYP
NEW WINDOW, TYP. - SEE FLOOR PLAN

1' - 0"

NEW STOREFRONT INFILL TO MATCH EXISTING
NEW BRICK INFILL TO MATCH EXISTING, TYP
NEW WINDOW, TYP. - SEE FLOOR PLAN
NEW DOOR - SEE FLOOR PLAN

1' - 0"

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Sheet Number
Sheet Title
Revisions
Drawn By:
Comm. No.:
PIC / AIC:
Project Title
Date:
Document Phase:
Checked By:

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I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly licensed architect under the laws of the state of
Signed:
Name:
License No.

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Architect of Record
Designer

6/29/2015 11:56:12 AM
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Park Dental
Ridgepark

Building Elevations

No. Date Description

PARK DENTAL
13059 RIDGEDALE DR.
Introduction

As requested, SRF has completed a traffic review of the proposed Minnetonka Park Dental office located at the former Wanderers Garden restaurant within the Ridge Square North shopping center in the City of Minnetonka (see Figure 1: Project Location). The purpose of this review is to compare the actual trip generation between the Ridge Square North shopping center and the Institute of Transportation Engineers (ITE) Trip Generation Manual, as well as between the former Wanderers Garden restaurant and the proposed Park Dental office. Results of the comparison will be used to determine if additional traffic analysis is necessary.

Existing Conditions

SRF collected turning movement counts at the two existing Ridge Square North shopping center driveways during typical hours of operations (6:00 a.m. to 10:00 p.m.). The counts were conducted on Saturday, August 22, 2015 and Tuesday, August 25, 2015. It should be noted that at the time of the traffic counts, the Wanderers Garden restaurant was closed.

Actual traffic volumes collected for the existing Ridge Square North shopping center were compared to trip generation estimates using the ITE Trip Generation Manual, 9th Edition. While the existing Ridge Square North shopping center consists of approximately 81,947 square feet, the proposed Park Dental leasable area (5,113 square feet) is not currently occupied. Therefore, for comparison purposes the existing trip generation estimates were based on the current 76,834 square feet of occupied space. All of the current tenants in the building are considered general retail/service commercial, except for the Noodles & Co. high-turnover restaurant, which is approximately 2,900 square feet.

Results of the trip generation comparison shown in Table 1 indicate that compared to the average ITE trip generation estimate, the existing Ridge Square North generates 69 fewer a.m. peak hour, 130 additional midday peak hour, 40 fewer p.m. peak hour, and 729 fewer daily trips on a typical weekday. On a typical Saturday, Ridge Square North generates 14 fewer midday peak hour and 1,279 fewer daily trips. In general the driveway counts were lower than the ITE average rate except during the weekday midday peak hour, indicating that the Ridge Square North is a high lunch time use generator.
Figure 1

Project Location
Minnetonka Park Dental Traffic Study
City of Minnetonka

PARK DENTAL
13059 RIDGEDALE DR.

Project Location
Ridgedale Drive
Plymouth Road
Cartway Lane

NORTH

Ridge Square
North
Table 1 – Existing Trip Generation Comparison

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Size</th>
<th>A.M. Peak Hour Trips</th>
<th>Midday Peak Hour Trips</th>
<th>P.M. Peak Hour Trips</th>
<th>Daily Trips</th>
<th>Saturday</th>
</tr>
</thead>
<tbody>
<tr>
<td>ITE Trip Generation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shopping Center (820)</td>
<td>73,934 SF</td>
<td>44</td>
<td>27</td>
<td>147</td>
<td>129</td>
<td>132</td>
</tr>
<tr>
<td>High-Turnover Restaurant (932)</td>
<td>2,900 SF</td>
<td>17</td>
<td>14</td>
<td>6</td>
<td>3</td>
<td>17</td>
</tr>
<tr>
<td>Ridge Square North Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Driveway Counts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ridge Square North</td>
<td>76,834 SF</td>
<td>20</td>
<td>13</td>
<td>202</td>
<td>213</td>
<td>116</td>
</tr>
<tr>
<td>Difference</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(1) Since ITE does not provide a trip rate for the weekday midday peak hour, trips were estimated using the hourly traffic volume percentages and the p.m. peak hour trip estimates from the ITE Trip Generation Manual for both the shopping center and high-turnover restaurant land uses.

Proposed Development

The Minnetonka Park Dental offices are proposed to be located in the former Wanderers Garden restaurant within the Ridge Square North building. The proposed development will consist of 5,113 square feet, which is the same square footage occupied by the former Wanderers Garden. Trip generation estimates were once again developed using the ITE Trip Generation Manual, 9th Edition to compare the proposed dental office with the former high-turnover restaurant. Results of the trip generation comparison shown in Table 2 indicate that the proposed dental office will generate fewer weekday and Saturday trips during the peak hours and on a daily basis, except during the weekday a.m. peak hour. A 13 trip increase is expected during the weekday a.m. peak hour.

Table 2 – Proposed Trip Generation Comparison

<table>
<thead>
<tr>
<th>Land Use (ITE Code)</th>
<th>Size</th>
<th>A.M. Peak Hour Trips</th>
<th>Midday Peak Hour Trips</th>
<th>P.M. Peak Hour Trips</th>
<th>Daily Trips</th>
<th>Saturday</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated Former Land Use (Wanderers Garden Restaurant)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High-Turnover Restaurant (932)</td>
<td>5,113 SF</td>
<td>0</td>
<td>0</td>
<td>27</td>
<td>29</td>
<td>30</td>
</tr>
<tr>
<td>Proposed Land Use</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical-Dental Office (720)</td>
<td>5,113 SF</td>
<td>10</td>
<td>3</td>
<td>11</td>
<td>8</td>
<td>5</td>
</tr>
<tr>
<td>Difference</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(1) When in operation, Wanderers Garden was not open during the a.m. peak hour and therefore generated minimal trips. No trips were assumed for the high-turnover land use during the a.m. peak hour.

(2) ITE does not provide information about the trip rate or hourly breakdown for weekday midday trips at a medical-dental office land use. Saturday midday trips were assumed to be approximately the same for a weekday midday peak hour.
I-394 Ordinance

The proposed land use change to Ridge Square North was also compared to the PID parcel trip allocation based on the current I-394 Ordinance. The parcel’s current trip allocation is 338 p.m. peak hour trips. The p.m. peak hour trips for Ridge Square North were compared to the current ordinance using both the actual traffic volumes collected at the existing Ridge Square North shopping center driveways and the trip generation estimates developed using the average ITE trip generation estimates. Results of the I-394 Ordinance trip generation comparison shown in Table 3 indicate that with the proposed development, Ridge Square North is expected to generate approximately 17 to 57 fewer p.m. peak hour trips based on the ITE trip generation estimate and actual traffic volumes, respectively.

Table 3 – I-394 Ordinance Trip Generation Comparison

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Land Use (ITE Code)</th>
<th>Size</th>
<th>Weekday P.M. Peak Hour Trips</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>In</td>
</tr>
<tr>
<td>I-394 Ordinance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ridge Square North</td>
<td>Shopping Center (820)</td>
<td>73,934 SF</td>
<td>132</td>
</tr>
<tr>
<td>ITE Trip Generation</td>
<td>High-Turnover Restaurant (932)</td>
<td>2,900 SF</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>Medical-Dental Office (720)</td>
<td>5,113 SF</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Subtotal</td>
<td></td>
<td>154</td>
</tr>
<tr>
<td></td>
<td>P.M. Peak Hour Total</td>
<td></td>
<td>321</td>
</tr>
<tr>
<td></td>
<td>Difference</td>
<td></td>
<td>-17</td>
</tr>
<tr>
<td>Ridge Square North</td>
<td>Ridge Square North</td>
<td>76,834 SF</td>
<td>116</td>
</tr>
<tr>
<td>Actual Traffic Volumes</td>
<td>Medical-Dental Office (720)</td>
<td>5,113 SF</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Subtotal</td>
<td></td>
<td>121</td>
</tr>
<tr>
<td></td>
<td>P.M. Peak Hour Total</td>
<td></td>
<td>281</td>
</tr>
<tr>
<td></td>
<td>Difference</td>
<td></td>
<td>-57</td>
</tr>
</tbody>
</table>

Conclusions

The proposed Park Dental office is expected to generate fewer trips than the former high-turnover restaurant that occupied the same leasable area. Based on this information there is not expected to be a significant impact to area roadways and no further traffic analysis is recommended.
Resolution No. 2015-

Resolution approving a conditional use permit, with variance, for a dental clinic at 13059 Ridgedale Drive

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

Section 1. Background.

1.01 PDG, P.A. and Ridge Square North LLP have requested a conditional use permit, with variance, for a dental clinic.

1.02 The property is located at 13059 Ridgedale Drive. It is legally described on Exhibit A.

1.03 On September 10, 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. STANDARDS.

2.01 City Code §300.21, Subd. 2, outlines the general standards that must be met for granting conditional use permits on properties designated for office use. Those standards are incorporated here by reference.

2.02 City Code §300.31 Subd.(4)b(2) outlines the general standards that must be met for granting conditional use permits in the PID zoning district. Those standards are incorporated here by reference.

2.03 City Code §300.31 Subd.(4)b(2)d outlines the specific standards that must be met for hospitals and medical clinics located in the PID zoning district:

1. Shall not be adjacent to low density residential areas;
2. Shall have direct access from the site to a collector or arterial street as defined in the comprehensive plan;

3. Shall not have emergency vehicle access adjacent to or located across a street from any residential use; and

4. May be required to submit a detailed parking analysis for uses exceeding 10,000 square feet. Additional parking may be required based on this analysis.

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

Section 3. Findings.

3.01 The proposal meets the general and specific conditional use permit standards, as outlined in City Code §300.21, Subd. 2 and City Code §300.31 Subd.(4)b(2) and Subd.(4)b(2)d

3.02 The proposed meets the variance standards to be located adjacent to low density residential area, as outlined in City Code §300.07:

1. INTENT OF THE ORDINANCE: The intent of requiring that medical clinics be separated from residential properties is to ensure that potential nuisance issues associated with such uses do not negatively impact the residential character of an area. The proposal meets this intent. The medical clinic would be located within an existing multi-tenant shopping center. The shopping center contains a mix of other commercial and retail uses that operate similarly to a dental clinic in terms of traffic generation, parking demand, noise, and exterior lighting. The dental clinic would not create any additional impacts to the residential properties.

2. CONSISTENT WITH COMPREHENSIVE PLAN: The land use policies of the comprehensive plan suggest that greater density/intensity and mix of land uses should be encouraged were access is available and supported by regional transportation systems. The requested variance would allow for the location of a medical clinic along Ridgedale Drive, Plymouth Road, and Interstate 394, which is a
regional transportation corridor consisting of vehicle and pedestrian facilities and transit service.

3. PRACTICAL DIFFICULTIES:

a) REASONABLENESS and UNIQUE CIRCUMSTANCES: The requested variance is reasonable given the unique circumstance. Although the property is adjacent to single-family residential properties, the vehicle access for the medical clinic tenant is directly from Ridgedale Drive, which only serves other commercial properties. The site would not have access through a residential area or from a local residential street. This is not common to other office properties in the I-394 district.

b) CHARACTER OF LOCALITY: The requested variance would not negatively impact the character of the locality. The area already includes a mix of land uses, including commercial, retail, office, and high density residential.


4.01 The above-described conditional use permit is approved, subject to the following conditions:

1. Subject to staff approval, the property must be developed and maintained in substantial conformance with the following plans:
   - Floor plan dated June 29, 2015
   - Building elevation dated June 29, 2015

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

3. There may be no emergency vehicle access for the proposed dental clinic.

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

5. 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 September 28, 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 September 28, 2015.

David E. Maeda, City Clerk
EXHIBIT "A"

LEGAL DESCRIPTION

Lots 1 and 2, Block 1, Ridge Square Second Addition, according to the plat thereof on file and of record in the office of the County Recorder in and for Hennepin County, Minnesota.

Together with an easement for parking over all that part of Ridge Square described as follows:

All of Lot 2, Block 1, RIDGE SQUARE, except that part deeded to the City of Minnetonka as per Document No. 4564114.

All that part of Lot 1, Block 1, RIDGE SQUARE, which lies Easterly and Northerly of the following described line: Beginning at the Southwest corner of said Lot 2; thence South 27 degrees 09 minutes 01 seconds West, a distance of 262.06 feet; thence South 89 degrees 59 minutes 31 seconds East to the East line of said Lot 1 and there terminating.

Except that part of said Lots 1 and 2 described as follows: Commencing at the Southwest corner of said Lot 2; thence South 27 degrees 09 minutes 01 seconds West, a distance of 262.06 feet; thence South 89 degrees 59 minutes 31 seconds East a distance of 146.50 feet to the actual point of beginning of the tract of land to be described; thence South 89 degrees 59 minutes 31 seconds East a distance of 365.13 feet; thence North 16 degrees 00 minutes 29 seconds West a distance of 39.96 East; thence Northwesterly, 20.67 feet, along a tangential curve to the left having a radius of 16.00 feet; thence North 89 degrees 59 minutes 31 seconds West a distance of 270.00 feet; thence North 36 degrees 00 minutes 29 seconds West a distance of 50.00 feet; thence North 24 degrees 59 minutes 31 seconds East a distance of 204.00 degrees 59 minutes 31 seconds East a distance of 204.00 feet; thence Northerly, Westerly and Southwesterly 125.66 feet along a tangential curve to the left, having a radius of 40.00 feet and a central angle of 180 degrees; thence South 24 degrees 59 minutes 31 seconds West, tangent to last described curve, a distance of 256.84 feet; thence South 36 degrees 00 minutes 29 seconds East, a distance of 94.40 feet to the point of beginning.

For purposes of this description the North line of said Lot 1 is assumed to bear North 89 degrees 56 minutes 49 seconds West.

Subject to an easement for parking over all that part of Ridge Square Second Addition described as follows:

All that part of Lots 1 and 2, Block 1, RIDGE SQUARE SECOND ADDITION, which lies Easterly and Northerly of the following described line: Commencing at the Northwest corner of said Lot 2; thence Easterly along the Northerly line of said Lot 2, a distance of 176 feet to the actual point of beginning of the line to be described; thence Southerly, deflecting 90 degrees to the right, a distance of 25 feet; thence Westerly, deflecting 90 degrees to the right, a distance of 31 feet; thence Southerly, deflecting 90 degrees to the left, a distance of 82 feet; thence Easterly, deflecting 90 degrees to the left, a distance of 20 feet; thence Southerly deflecting 90 degrees to the right, a distance of 478 feet; thence Westerly, deflecting 90 degrees to the right, a distance of 20 feet; thence Southerly, deflecting 90
degrees to the left, a distance of 109 feet; thence Easterly, deflecting 90 degrees to the left, a distance of 20 feet; thence Southerly, deflecting 90 degrees to the right, a distance of 20 feet; thence Easterly, deflecting 90 degrees to the left, a distance of 500 feet and there terminating.

Except that part of said Lots 1 and 2 described as follows: Commencing at the Northwestern corner of said Lot 2; thence Easterly along the Northerly line of said Lot 2, a distance of 194 feet; thence Southerly, deflecting 90 degrees to the right, a distance of 100 feet to the actual point of beginning of the tract of land to be described; thence continuing Southerly along last described course, a distance of 492 feet; thence Southeasterly, deflecting 45 degrees to the left, a distance of 80.61 feet; thence Easterly, deflecting 45 degrees to the left, a distance of 255 feet; thence Easterly, Northeasterly and Northerly, 62.83 feet along a tangential curve to the left, having a radius of 40 feet and a central angle of 90 degrees; thence Northerly, tangent to last described curve, a distance of 20 feet; thence Northerly, Northwesterly and Westerly, 62.83 feet along a tangential curve to the left, having a radius of 40 feet and a central angle of 90 degrees; thence Westerly, tangent to last described curve, a distance of 212.00 feet; thence Northwesterly, deflecting 45 degrees to the right, a distance of 42.43 feet; thence Northerly, deflecting 45 degrees to the right, a distance of 344 feet; thence Northeasterly, deflecting 45 degrees to the right, a distance of 42.43 feet; thence Easterly, deflecting 45 degrees to the right, a distance of 135.00 feet; thence Easterly, Northerly and Westerly, 125.66 feet, along a tangential curve to the left, having a radius of 40 feet and a central angle of 180 degrees; thence Westerly, tangent to last described curve, a distance of 200 feet; thence Southwesterly, deflecting 45 degrees to the left, a distance of 49.50 feet to the point of beginning.