Planning Commission Agenda

May 10, 2018—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: April 26, 2018
5. Report from Staff
6. Report from Planning Commission Members
7. Public Hearings: Consent Agenda
   A. Interim use permit for temporary sale of fireworks at Westwind Plaza.
      Recommendation: Recommend the city council approve the request (4 votes)
      • Recommendation to City Council (Tentative Date: June 4, 2018)
      • Project Planner: Susan Thomas
8. Public Hearings: Non-Consent Agenda Items
   A. Variances to allow construction of a porch and attached garage at 5053 Woodland Road.
      Recommendation: Adopt the resolution approving the request (5 votes)
      • Final Decision Subject to Appeal
      • Project Planner: Drew Ingvalson
   B. Items concerning LEGACY OAKS.
      Recommendation: Adopt the resolution approving the request (5 votes)
      • Final Decision Subject to Appeal
      • Project Planner: Susan Thomas
C. A conditional use permit, with parking variance, for Wellhaven Pet Health at 1700 Plymouth Road.

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

- Recommendation to City Council (Tentative Date: June 4, 2018)
- Project Planner: Drew Ingvalson

9. Adjournment
Notice

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

2. Applications and items scheduled for the May 24, 2018 planning commission meeting:

   Project Description: The property owner is proposing to convert the lower level of the existing home at 2920 Ellsworth Ln into an accessory apartment. This proposal requires approval of: (1) a conditional use permit.
   Project No.: 18014.18a
   Ward/Council Member: 2—Wagner
   Staff: Susan Thomas
   Section: 15

   Project Description: Dominium is proposing to redevelop the property at 11001 Bren Road E. As proposed, the existing building would be removed and three new apartment buildings would be constructed. In total, the new buildings would contain a total of 482 senior and general occupancy apartments. The proposal requires approval of: (1) a rezoning; (2) a master development plan; and (3) final site and building plans.
   Project No.: 86009.17a
   Ward/Council Member: 1—Ellingson
   Staff: Susan Thomas
   Section: 36

   Project Description: Ridgedale Executive Apartments, LLC is proposing to redevelop a portion of the existing property at 12501 Ridgedale Drive. As proposed, the existing, vacant restaurant building and associated parking lot would be removed and a new, four-story, 77-unit apartment building would be constructed. An existing office building and associated parking area on the western side of the property would remain. The proposal requires approval of: (1) rezoning; (2) master development plan; and (3) final site and building plan.
   Project No.: 96104.18a
   Ward/Council Member: 2—Wagner
   Staff: Loren Gordon
   Section: 02

   Project Description: The property owner is proposing to construct a three-season porch on the east side of the existing home at 16485 Creekside Cir. As the porch would maintain the home's existing non-conforming setback of 35 feet, an expansion permit is required.
   Project No.: 18011.18a
   Ward/Council Member: 4—Bergstedt
   Staff: Drew Ingvalson
   Section: 32

   Project Description: The property owners are proposing to remove an existing detached building at 4024 Co Rd 101 and build a new garage/home office building. The proposal requires approval of: (1) a conditional use permit.
   Project No.: 08018.18a
   Ward/Council Member: 3—Happe
   Staff: Susan Thomas
   Section: 19

   Project Description: The applicant is requesting a variance and expansion permit for home additions at 16912 Grays Bay Blvd.
   Project No.: 18013.18a
   Ward/Council Member: 3—Happe
   Staff: Drew Ingvalson
   Section: 17

   Project Description: The applicant is requesting an expansion permit for an addition that does not meet the aggregate side yard setback at 10107 Lakeview Dr W.
   Project No.: 18015.18a
   Ward/Council Member: 2—Wagner
   Staff: Drew Ingvalson
   Section: 01
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 Schack, Sewall, Hanson, and Kirk were present. O'Connell, Powers, and Knight were absent.

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Assistant City Planner Susan Thomas, and Natural Resource Manager Jo Colleran.

3. **Approval of Agenda**

   *Sewall moved, second by Hanson, to approve the April 12, 2018 meeting agenda as submitted with modifications for 8A and additional comments for 8B provided in the change memo dated April 26, 2018.*

   Schack, Sewall, Hanson, and Kirk voted yes. O'Connell, Powers, and Knight were absent. **Motion carried.**

4. **Approval of Minutes:** April 12, 2018

   *Schack moved, second by Sewall, to approve the April 12, 2018 meeting minutes as submitted.*

   Schack, Sewall, Hanson, and Kirk voted yes. O'Connell, Powers, and Knight were absent. **Motion carried.**

5. **Report from Staff**

Gordon briefed the commission on land use applications considered by the city council at its meeting of April 16, 2018:

- Adopted a resolution amending an interim use permit for a seasonal flower market at 11400 Highway 7.
- Introduced ordinance modifications related to Ridgedale Active Apartments and Solbekken Villas.

The annual boards and commissions dinner will be held May 16, 2018 at 5:30 p.m. at the community center.

The next planning commission meeting is scheduled to be held May 10, 2018.
6. Report from Planning Commission Members: None

7. Public Hearings: Consent Agenda: None

8. Public Hearings

A. Conditional use permit for a graduate school within the industrial district at 10225 Yellow Circle Drive.

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

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

Schack asked if there are any schools currently in Opus. Ingvalson answered affirmatively. Eagle Ridge Academy, International Spanish Language Academy, Bren Road School, and Lions Gate Academy.

Jeffrey Allen, president of Adler Graduate School, applicant, stated that the school provides graduate counseling degrees.

Sewall asked if patients would be seen at the site. Mr. Allen answered in the negative.

Mr. Allen looked forward to the school being part of the community.

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

Sewall thought the proposal would help alleviate traffic since the peak hours would be different than the surrounding uses and vehicles would be traveling in the opposite direction of most other vehicles. He supports staff’s recommendation.

Hanson agreed.

Schack liked the idea that the proposal would provide diversification of the uses in the area, so it would not be so quiet at night. It would feel more neighborly. She supports staff’s recommendation.

**Sewall moved, second by Schack, to recommend that the city council adopt the resolution approving a conditional use permit for Adler Graduate School at 10225 Yellow Circle Drive with modifications provided in the change memo dated April 26, 2018.**

**Schack, Sewall, Hanson, and Kirk voted yes. O’Connell, Powers, and Knight were absent. Motion carried.**
B. Conditional use permit for a religious institution at 2333 and 2339 Hopkins Crossroad and 11170 Mill Run.

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

Chair Kirk called for a break to allow time to address technical issues. The meeting reconvened after a 5-minute break.

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

Schack confirmed with Thomas that the proposal does not include a school. Thomas explained that if a school, daycare, or food shelf would be added to the site, then plans must be submitted and reviewed by staff to determine if there would be adequate parking and the proposal’s impact on traffic.

Sewall asked if parking is allowed on Mill Run and Fetterly Road. Thomas answered affirmatively. Thomas explained that in order to request that parking be prohibited on a street, a petition must be signed by a percentage of property owners who reside on the street and submitted to the city council for approval.

Sewall asked what could be done if safety would become an issue. Thomas stated that the city engineer would look for the source of a traffic issue and take steps to correct a problem. Every conditional use permit allows the city council to add or revise conditions to address future, unforeseen problems.

Schack asked if staff would change its recommendation if Hennepin County would deny a permit to widen the existing access for the driveway to be located on the county road. Thomas stated that the applicant would then decide how to proceed. Chair Kirk explained that the planning commission would review a new application if the current one would not come to fruition.

Chair Kirk asked if the residence at 2327 Hopkins Crossroad has a shared driveway with 2333 Hopkins Crossroad. Thomas answered affirmatively. A condition of approval would require the applicant to maintain a connection and grading work on the adjacent site would need be agreed upon by a private agreement between the two property owners.

Chair Kirk noted that the applicant also owns the residence at 11170 Mill Run. Thomas explained that the residence at 11170 Mill Run would also be included in the conditional use permit requirements. Chair Kirk asked if the house would be included in the FAR calculation. Thomas noted that there is no FAR standard in the code for religious institutions, but staff did provide the FAR for the proposal with and without the residence.

Sewall asked for the probability of a trail or sidewalk being added to the site. Wischnack explained that the capital improvement plan expected to be approved by the city council in June includes funds for a trail to be completed on the site in 2023.
Rabbi Mordechai Grossbaum, Chabad Center for Jewish Life, applicant, stated that:

- He appreciated the opportunity to present the project.
- Chabad has six synagogues in the area and has been located in Minnetonka 16 years. Chabad is looking for a home that is their own. The synagogue is just part of what they do.
- The property would meet all ordinance requirements.
- The neighborhood meeting provided good feedback.
- The concept plan review provided more good feedback and changes were made to match Chabad’s needs and the concerns of the neighbors.
- He thanked the neighbors for their valuable input. The building would be beautiful.
- He thanked staff for guiding them through the project. It was a pleasure to work with staff.
- He introduced the project architect, Aaron Parker, and the attorney for the project, Marvin List.
- He was available for questions.

Hanson asked what changes had been made in response to the neighborhood feedback. Rabbi Grossbaum answered the height of the buildings, entrance, building appearance, materials used on the building, clear wall on the east side, parking, and trees.

Mr. Parker stated that:

- He grew up in Minnetonka and graduated from Hopkins High School.
- The site has been expanded by 50 percent.
- The Chabad Center would be moved to the north and the residence on Mill Run would be used as a parish house. The house would retain its residential character on Mill Run. The Mill Run driveway would serve exclusively the house. Vehicular access to the Chabad Center would be exclusively from Hopkins Crossroads.
- Any regrading that would take place would occur on the Chabad property and meet the grade and alignment of the drive at the property line.
- The applicant lowered the height of the building. The sloping roof was replaced with a flat roof. An enclosed courtyard was added between the Mill Run house and the Chabad Center to serve as a buffer.
- The site has already been severely disrupted. The proposed design would introduce some discipline to what is a mess right now. The previous owner operated a dune buggy business on the property.
- He provided a photo of the site in the winter with no foliage and the view would not be obtrusive.
- He pointed out the floor plan and described the materials for the building.
- The site is already relatively well buffered, but the applicant would plant 150 coniferous trees with other shrubs and trees with high leaf density to screen the facility from the neighbors.
• He provided an illustration of the color palette and materials.
• The site would be regraded to address a neighbors’ concerns regarding flooding. Stormwater management would take place on the site with a storage vault below grade.
• Lighting would follow guidelines established by the Dark Sky Society. Lower height fixtures would be used to reduce light spill.
• All outdoor spaces would be enclosed and buffered.
• He had more detailed information available and was available for questions.

The public hearing was opened.

Jo Soo, 2391 Vernon Circle, stated that:

• He appreciated the opportunity to speak.
• He had deep concerns and opposed the proposal. The families in the neighborhood would be negatively impacted.
• He was concerned with safety. The concerns outweigh the benefits.
• The building would be too big. He liked the roof change, but the building would still be too big. The proposed building would not meet the character of the neighborhood because of its size. The FAR would be 21.08 percent which is larger than other religious institutions. He reviewed other religious-institution sites.
• It seemed like proof of parking was a way to get around the 70 percent impervious parking requirement.
• A school is expected to be there. Those activities should be included now.
• He reviewed the proposed plan. There would only be 51 parking stalls without proof of parking. It would not be possible for a fire truck to turn around. There would be one dangerous ingress and egress to County Road 73.
• There would be a lack of green space.
• He provided a rendering of the east side which would have a 110-foot wall 50 feet from the property line which would be a bad transition to a neighboring residence. He was concerned with light spilling onto the adjacent property.
• He believed there would be more activities than listed in the application.
• The proposal should be at a location with more parking and fewer traffic concerns.
• He did not agree with staff’s recommendation.
• Twenty-eight trees would be cut down.
• Other religious institutions are on bigger properties and have more buffer.
• The assembly area should be included as part of the regularly used sanctuary area and included in the parking requirement calculation.
• The neighbors provided letters detailing how the conditional use permit standards would not be met. Two of the letters in support of the application should not be considered because one was written by a Chabad member and the other author is moving.
• He recommended denial of the application.

Vernon Swing, president and CEO of Swing Traffic Solutions, stated that:

• He is a licensed traffic engineer employed by residents of Mill Run. The city’s traffic engineering consultant used methodology consistent with industry standards, yet the overall scope was insufficient to fully understand the impact to the safety of the area. The study was deficient by not including the intersection of Hillside Lane and Hopkins Crossroad.
• Parent teacher conferences were being conducted and school was closed when traffic counts were done April 6, 2018.
• The traffic study did not address pedestrian and bicycle safety on Hopkins Crossroad. Twenty-five vehicles would turn left during the p.m. peak time. Stopped vehicles would interfere with traffic on Hopkins Crossroad and Hillside Lane.
• The stopping sight distance numbers are accurate, but the intersection site distance was not addressed. There would be insufficient sight distance at the proposed driveway location.
• He did not think the county would approve the access.

Susan Wiens, 2346 Vernon Circle, stated that:

• She did not agree with staff’s recommendation.
• She was concerned with the view, traffic and pedestrian safety.
• The sanctuary and social meeting space should be included in the parking calculation. The chairs and tables could be moved to make room for more people. She thought 46 more parking stalls should be included.
• She did not want vehicles to park on Mill Run and in other neighborhoods.
• The proposal should not be approved.

Amy Taswell, 11120 Mill Run, stated that:

• She believes the application omitted relevant information.
• She was concerned with traffic, parking and pedestrian safety in the neighborhood.
• She questioned the definition of “regular use” and wanted to know how often the wall would be moved to combine the sanctuary with the social hall.
• The building could accommodate up to 400 people.
• She witnessed seven of 16 vehicles parked off site at another Chabad center during a service.
• Snowbanks obscure vision. She provided photos of vehicles parked on both sides of Mill Run. Mill Run could become a parking lot.
• She showed videos of traffic on Hopkins Crossroads.

Douglas Altman, 11128 Mill Run, stated that:
He and his wife live on the property adjacent to the site on the east side. He and his wife have been regulars at Chabad since its inception 15 years ago. His association with the Grossbaums has been nothing but uplifting. He has lived on Mill Run 25 years. The site of the proposed center was previously a junk yard with a mean dog. The site continues to be an eyesore. He appreciated that the proposal would clean up the site and create an elegant building. The number of Chabad members present at the public hearing is typical of a large gathering. There would be ample parking on the site. The residents on Mill Run have parties that require attendees to park vehicles on Mill Run more often than gatherings at Chabad would require additional parking. The Chabad Center would be a blessing. He encouraged commissioners to recommend that the proposal be approved.

Michael Leardahl, 2390 Vernon Circle, stated that:

- The proposed building would be 145 feet from his front door.
- The site was not a junkyard.
- He disagreed with staff’s recommendation.

Kristin Soo, 2391 Vernon Circle, stated that:

- The proposal would be “disharmonious” with the neighborhood.
- The neighborhood already has schools and institutions. She did not want large gatherings to be held there.
- The Hillside Lane and Hopkins Crossroads intersection is a challenge already.
- She provided pictures of Hopkins Crossroads at the Hillside Lane intersection. If traffic backs up behind a vehicle turning left, then there is no safe way to get around the vehicle waiting to turn. She had a picture of five vehicles waiting behind a vehicle turning left.
- She provided videos of the intersection that showed vehicles having to wait when a vehicle turned left.

Jack Fiterman, 11205 Overlook Drive, stated that:

- His house is directly across the street from the site. He agreed that there is always a lot of traffic on Hopkins Crossroads.
- He is not a member of Chabad, but he does go to services on occasion.
- On an average day, there would be no more than seven or eight vehicles at the current Chabad location. On a Saturday, there would be no more than 15 to 20 vehicles in the parking lot. There are only two high-holy days each year that draw a large crowd.
• There are no more stand-up members of society than the Grossbaums and attendees of the Chabad. It would be an honor to have the Chabad in his neighborhood.

Jim Moscowitz, 11120 Mill Run, stated that:

• He questioned the need for a building with 15,000 square feet and such a big mass.
• He concurred with the neighbors.

Michael Farber, 11025 Joy Lane, stated that:

• He has been affiliated with Chabad for 18 years. He has lived in the neighborhood for six years. He is looking forward to cutting his walk in half.
• He is looking forward to having a permanent space and having enough room.
• The proposal will increase the property values in the area.
• He appreciated the opportunity to speak.

Carl Smith, 11201 Fetterly Road West, stated that:

• He was concerned with safety on County Road 73 and cul de sacs on Fetterly Road. Forty-seven households exit Fetterly Road to get to County Road 73. He and some of the Mill Run residents have developed hand signals to communicate which driver should proceed first. The number of turns into the proposed site and decision making by the drivers would cause a safety concern. He did not know how that could be mitigated. He concurred with the other comments including the concern with the lack of pedestrian infrastructure.
• He did not see the proposal as a harmonious addition to the area. He encouraged further study before making a decision.

Jim Bechthold, 11320 Fetterly Road, stated that:

• Through the years, things change. He was concerned with the traffic. There is not enough space for turns on County Road 73.
• Fetterly Road has turn lanes. When he turns left, vehicles pass on the right. The access to the site’s driveway should be as far from Mill Run and Fetterly Road as possible.
• The vehicles in the drop-off area could back up onto County Road 73.
• He suggested improvements be made to the roads to decrease the traffic impact.

Barry Ross, 11295 Overlook Drive, stated that:
• The site was an absolute junk yard. He looked forward to Chabad and the design would be a wonderful addition to the neighborhood.
• The location would be perfect. The Grossbaums are wonderful people.
• Hopkins Crossroads is a busy street. He does make left-hand turns every day. The increase in traffic would be a few drops of water in an ocean. It would not change what currently happens on Hopkins Crossroads. He saw what happened when Interstate 169 was closed and he was still able to turn left when thousands of vehicles were added. The proposal would be totally insignificant to that.

Vladimir Greengauz, 15200 Willowood Drive, stated that:
• A house of worship fits in a mature, vibrant neighborhood. He thought the applicant should be welcomed.
• No more than 50 or 100 trips would be added to 14,000 trips every day.
• He requested that the project be approved.

Sam Black, 2265 Cape Cod Place, stated that:
• He concurred with the traffic concerns.
• He requested that the proposal be postponed for two weeks to create a 3-D rendering to show what the proposed building would look like in context.
• He welcomed Chabad. It is a great project, but not for the proposed site. The building would be too big and imposing.

David Segal, 2220 Cape Cod Place, stated that:
• Some developments he helped create contribute to the traffic on County Road 73. That is part of the progress of a developing neighborhood. The scope of the project and type of use would have relatively low impact. There would be large gatherings two or three times a year for a couple hours that would have minimal impact on the surrounding neighborhoods. Parking accommodations can be made for those two days of the year.
• Chabad has been in the neighborhood in the office warehouse by Holiday for a long time. There have been no complaints including parking or traffic.
• He attended a Chabad service. There were 40 people. There were 12 vehicles in the entire parking lot.
• There is enough room on County Road 73 to add a turn lane in the center. That would help deal with the stacking and traffic flow going on now.

David Carlson, 11171 Mill Run, stated that:
• He concurred with the concerns regarding traffic.
• He hoped Chabad would find a home, but he did not think this site would be the appropriate location due to the traffic.

Marvin Liszt, attorney representing the applicant, stated that:

• A religious institution is allowed in a residential neighborhood with a conditional use permit. Staff are unbiased and recommend approval of the application with a set of conditions everyone is familiar with.
• One of the best traffic study consulting firms in the state, unbiased with the situation, did not find an issue with the proposal that was unsolvable.
• On the other hand, neighbors would prefer not to have an institution in their neighborhood. The neighbors have used hyperbole, exaggerated numbers way beyond what goes on, and refer to a huge traffic problem that the traffic-study professionals determined would not exist.
• There is no reason to delay taking action on the application.

Jeff Paletz, 2001 Runnymeade Court, stated that:

• The potential traffic created by Chabad would be insignificant compared to the existing level of traffic.

No additional testimony was submitted and the hearing was closed.

Rabbi Grossbaum stated that:

• The size of the building is needed to provide room for classroom activities, office duties, worship services, and social hall gatherings to take place at the same time. The layout of the building would be phenomenal.
• There are two major holidays a year with services starting at 10 a.m.
• The numbers provided in the application are absolutely accurate.

In response to Schack’s question regarding lighting, Gordon explained that Dark Skies standards refers to lighting that points downward and is located only in necessary areas. It is a residential standard approach to lighting. Thomas explained that the city’s ordinance restricts the number of illuminated foot candles that can extend to a residential property line. Staff have the equipment to measure illumination at the property line and enforce lighting ordinance requirements. That is a standard that applies to every property in the city.

In response to Schack’s question, Colleran explained that the landscape ordinance requires islands with trees in a parking lot when there are more than 150 parking stalls. The proposal would have 43 parking stalls. The ordinance also requires one tree for every 15 stalls, but the trees could be planted around the perimeter. The final landscape plan has not been finalized or approved yet.
In response to Sewall’s question, Thomas explained that a county driveway permit would have to be obtained from the county to widen the access to a county road. If the county would deny the permit, then the applicant would have to decide how to proceed.

Chair Kirk clarified that the commission may table or recommend denial or approval of the proposed project to the city council as provided in the application.

In response to the concerns Chair Kirk listed from the public hearing, Thomas explained that the fire marshal reviews every application. Staff would not recommend approval of an application that the fire marshal did not approve.

Colleran explained the tree protection ordinance. The site does not contain a remnant woodland ecosystem. The site has 36 high-priority trees. The proposal would remove 14 high-priority trees. Of 45 significant trees, 40 would be removed.

Thomas explained how the code would require 40 parking stalls. The proposal would have 51 parking stalls. An office building of the same size would be required to have 60 parking stalls. The city has approved many conditional use permits for religious institutions that calculated the minimum amount of parking based on the main, sanctuary space. These institutions also had additional assembly areas.

In response to Hanson’s request, Thomas reviewed the traffic study.

Matt Pacyna, traffic engineer with SRF Consulting Group, stated that:

- The amount of traffic that would be generated by the proposal would be small in comparison to the existing traffic on Hopkins Crossroad. The delay may be increased by one or two seconds for drivers on Mill Run or Fetterly Road West to turn onto Hopkins Crossroads.
- He estimated the capacity of Hopkins Crossroad to be about 17,000 vehicle trips. The current number is approximately 14,500.

Schack noted that institutions face a conundrum because the code requires one to be accessed by an arterial road, drivers feel that arterial roads are already at capacity, and sites are limited in the community. So, change is needed. She appreciated the traffic concerns. Based on the code and conditional use permit standards, she agreed with staff that the scale of the building, while it would be big, has been made to be as harmonious with the community as possible. Buying the third lot was a response to the concern that the site was too small. Religious facilities make good neighbors. They are quiet, do not have massive parties, and visitors go home by 10 p.m. She understood the traffic concerns, but the traffic impact would be less than one percent. To evolve as a community, change is necessary. She walked to the site and witnessed times when vehicles were stacked. She supports staff’s recommendation.

Hanson agreed that the proposal meets the requirements made by the commission and city. Looking at the math without emotion made an impact on him. He confirmed with
staff that an increase in the use of the site would have to be reviewed by the commission and approved by the city council.

Sewall has learned that a resident’s view is not a protected right. He felt for the adjacent neighbors who would have a different view. He previously preferred to have access on Hopkins Crossroads instead of Mill Run, but he would now rather have the entrance on Mill Run since there are already turn lanes on Mill Run. He gave kudos to the applicant for the design changes. The building is much more attractive now. It is still very large. He is torn because he would like the access on Mill Run.

Chair Kirk believed the proposal would not be harmonious with the character of the neighborhood. The houses on adjoining properties are close to their property lines. The proposal meets all of the rules including setbacks and building height. He was concerned with the site having enough parking because the surrounding streets would not accommodate many parked vehicles. Hopkins Crossroads is not a safe road. Vehicles pass vehicles turning left on the right shoulder. The ordinance states that the collector road is the right place for the access. He would like to see turn lanes added to Hopkins Crossroads. He was on the fence. He will support staff’s recommendation, but hopes something will be done to make Hopkins Crossroads safer in that area.

**Schack moved, second by Hanson, to recommend that the city council adopt the resolution approving a conditional use permit for a religious institution at 2333 and 2339 Hopkins Crossroad and 11170 Mill Run.**

Schack, Hanson, and Kirk voted yes. Sewall voted no. O’Connell, Powers, and Knight were absent. Motion carried.

This item is scheduled to be reviewed by the city council at its meeting on May 14, 2018.

C. Preliminary plat of Arundel Addition, a three-lot residential subdivision with variances, at 15500 Minnetonka Boulevard.

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

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

Chair Kirk asked why staff is recommending approval of this lot-behind-lot application. Ingvalson answered that the site would be able to be subdivided with a public street and cul-de-sac, but a private drive would save trees and decrease site disturbance.

Daniel Schmidt, of Sathre-Bergquist, engineer for the project, stated that Ingvalson did a good job and he was available for questions.

The public hearing was opened.

Christi Brusven, 15518 Minnetonka Boulevard, stated that she supports the private drive. It is reasonable because a public road along the fence line would make her lot a corner
lot, add congestion to Minnetonka Boulevard, cause the removal of more trees and eliminate the buffer to her property.

John Keefe, 15416 Minnetonka Boulevard, stated that he opposes the subdivision. It would eliminate wildlife, the million dollar houses would cause his property taxes to go up, and the removal of trees would decrease his privacy and cause the value of his property to go down. He was concerned with the noise construction machinery would cause. He asked where the driveway would be located. He did not want it located along his property. He was worried his house would be included in FEMA’s floodplain designation if the houses would be built.

No additional testimony was submitted and the hearing was closed.

Schack confirmed that the proposed driveway would stay in the same location as the current driveway. Mr. Schmidt estimated that the driveway width would be increased from 14 feet to 20 feet.

Chair Kirk confirmed with Ingvalson that the site accommodate a public street with a cul-de-sac. Chair Kirk noted that the property is bound to be developed at some point. Staff found this proposal to be the best option.

Schack’s priority is saving the trees. She understood that change is hard. The property owner has rights and the property will be developed. The proposal is a decent plan and the best one possible.

Sewall found the private drive to be the best option. The current location will stay the same, so many trees would be saved. Compared to what could be done, a three-lot subdivision is fortunate. He appreciated the applicant and staff creating the best option.

In response to Chair Kirk’s question, Colleran explained that tree mitigation requirements would be determined during the building permit process. Keeping the driveway where it is will save three large oak trees.

Chair Kirk thought this would be the best plan.

Hanson moved, second by Sewall, to recommend that the city council adopt the resolution approving the preliminary plat of Arundel Addition, a three-lot residential subdivision with variances, at 15500 Minnetonka Blvd.

Schack, Sewall, Hanson, and Kirk voted yes. O’Connell, Powers, and Knight were absent. Motion carried.

This item is scheduled to be reviewed by the city council at its meeting on May 14, 2018.

Schack moved, second by Sewall, to recommend that the planning commission continue the meeting until midnight.
Schack, Sewall, Hanson, and Kirk voted yes. O’Connell, Powers, and Knight were absent. Motion carried.

D. Items concerning Solbekken Villas, a residential development at 5740 and 5750 Shady Oak Road.

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

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

Ed Briesemeister, applicant, stated that the footprints of the buildings and roadways would cover 40 percent of the site. About 60 percent of the site would not be covered. The west portion would remain a wooded hillside. Fifty percent of the site would be preserved. Ten percent would have man-made landscaping. The market feedback has been very strong for horizontal townhomes.

Hanson liked the proposal. It is a great opportunity. He asked if there would be any disruption in traffic. Mr. Briesemeister stated that there would be no impact on traffic.

Schack asked if there would be an elevator. Mr. Briesemeister answered in the affirmative. It would be a very elegant design. At night, the curtain wall of glass would be lit.

In response to Chair Kirk’s question, Mr. Briesemeister stated that the price point would be around $700,000. The townhomes are all basically 2,000 square feet in size. The three detached houses would be 3,600 square feet with the basement finished.

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

Hanson appreciates the aesthetics. It would be unique. It would draw a ton of interest. He supports the proposal.

Schack thought the proposal may provide an opportunity for a Minnetonka empty nester to vacate a single-family house and move into a townhome.

Sewall agreed. It is refreshing to see medium density with a new look and concept.

Chair Kirk thought the proposal looks beautiful. He was excited to see it finished.

Thomas clarified that the east setback would be required to be 10 feet from the property line and the trail.

Sewall moved, second by Schack, to recommend that the city council approve the following associated with the properties at 5740 and 5750 Shady Oak Road with a modification to require the east setback to be 10 feet from the property line and trail:
1) **An ordinance repealing and replacing the existing PUD and master development plan.**

2) **A resolution approving final site and building plans.**

3) **A resolution approving preliminary and final plats.**

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

This item is scheduled to be reviewed by the city council at its meeting on May 14, 2018.

E. **Items concerning Ridgedale Active Adult Apartments at 12421 Wayzata Blvd.**

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

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

Chair Kirk thought the parkway would be brilliant. It would clean up the traffic and provide a safer thoroughfare.

Schack asked if a precedent would be set regarding FAR and setbacks. Gordon provided comparable projects in the staff report. The FAR in the ordinance does not yet reflect the current vision for the area. The ordinance was established 30 years ago.

Chair Kirk was not concerned with the FAR, but was concerned with the setback. He questioned if adjacent properties would be limited due to the site’s proposed setbacks. Gordon thought it would depend on the neighboring use.

Hanson asked if the material would be metal instead of stone. Gordon explained that the white panels would be metal. The darker features would be brick or metal panels. The grey and brown would be cement panels. The Island Apartments uses the same panels.

Mary Lucas, Trammel Crow Company, applicant, introduced herself and project architect Lucas Van Sistine of ESG Architects. She stated that they were available to answer questions. Mr. Van Sistine explained the change to the round about which opened up the building and made the park a little larger.

Sewall asked for the number of visitor parking stalls. Ms. Lucas stated that there would be 4 outside and 40 stalls inside for staff and visitors. Mr. Van Sistine stated that there would be a designated area for dogs “to go.”

In response to Chair Kirk’s question, Mr. Van Sistine explained the traffic pattern for moving trucks on the site.
The public hearing was opened.

Annette Bertelsen, 13513 Larkin Drive, stated that she and her neighbors support the project. She likes the amenities. The proposal is well planned out. There would be residential units within the perimeter of Ridgedale Center to provide density away from single-family houses. She is thankful for the developer being interested in helping the city meet its housing goals. She had three main concerns with the park. The park area would not provide density. The park area may be needed for parking in the future. She did not love the location of the park. She would like it closer to the mall so it could be part of the mall events. She was concerned with the money the city would spend to plan the park and purchase the land.

Dr. Mark Stetsin, 2000 Norway Pine Circle, stated that he represented a coalition of neighbors from the Norway Pine Circle, Austrian Pine, and Sherwood Forest neighborhoods. He supports the city developing high-density housing. He strongly supports the project being located north of Ridgedale Drive. He is excited about a park. It would be a great use of the land overall. The project would be far enough away so that the physical mass and density of the building would not be a problem. It is a winning project for the city. It would not change the character or integrity of the neighborhood.

No additional testimony was submitted and the hearing was closed.

Gordon provided an aerial view of Ridgedale Center on the Friday after Thanksgiving to show available parking areas. He was not too concerned with precluding potential future developments. The developer would provide land for a park in lieu of the park dedication fee of $840,000. The 1.3 acres to be used for a park is worth $1.1 million to $1.5 million. The city council is allocating funds for improvements for the park. Wischnack added that the opportunities for parks are few and far between. The vision included a lot of ideas. Crane Lake has not been forgotten. This is an opportunity that the city may not be provided again for a very long time.

Chair Kirk thought amenities must be provided for the residents living in the high-density housing. The library does not have a lot of green, outdoor area. The proposal moves in the right direction.

Schack saw the proposal as the start of a community-gathering place that would benefit the neighbors and mall visitors. She agreed that the site is the correct location for density. It would be a great project.

Hanson noted that consumers are changing their shopping habits. This is a chance for the city to bring in amenities. This is forward thinking to prepare for increased shopping online. He was not concerned with parking. He supports the proposal.

Sewall likes the proposal. The city would be lucky to have a park at that location. The city does not have too many urban parks. The Ridgedale area is an appropriate location to have more dense housing. A park may be added on the southeast side of Ridgedale Center someday.
Chair Kirk agreed. He supports staff’s recommendation. He appreciates the residents’ input during the public hearing.

__Sewall moved, second by Schack, to recommend that the city council adopt the master development plan, site and building plan with variances, and preliminary and final plats associated with Ridgedale Active Adult Apartments at 12421 Wayzata Blvd.__

_Schack, Sewall, Hanson, and Kirk voted yes. O’Connell, Powers, and Knight were absent. Motion carried._

9. Adjournment

__Sewall moved, second by Hanson, to adjourn the meeting at 11:55 p.m. Motion carried unanimously._

By:  ____________________________

Lois T. Mason
Planning Secretary
Minnetonka Planning Commission Meeting
May 10, 2018
Agenda Item 7

Public Hearing: Consent Agenda
MINNETONKA PLANNING COMMISSION  
May 10, 2018

Brief Description  Interim use permit for temporary sale of fireworks at Westwind Plaza
Recommendation  Recommend the city council approve the request

Proposal

TNT Fireworks is proposing to sell fireworks at Westwind Plaza over a roughly three week period in June and July. As proposed, a 20-foot by 40-foot tent would be located on the south side of the Westwind Plaza parking lot. The tent, which would be open 8 a.m. to 10 p.m., would be stocked with Minnesota-legal fireworks.

The proposal requires:

- **Interim Use Permit:** By city code, the temporary sale of goods from a commercially-zoned parking lot is allowed only by interim use permit. (City Code §300.18 Subd.7)

Staff Analysis

Staff finds that the applicant’s proposal is reasonable.

- **Interim Use Standards.** The proposal would meet all interim use standards as outlined in city code. These specific standards are detailed in the “Supporting Information” section of this report.

- **Parking.** The proposed interim use would not negatively impact parking on the site. Westwind Plaza is “over-parked” by city code standards. In other words, the property has more parking spaces available than are required by city code. Even with existing transient sales on site (plants and garden produce) and the proposed fireworks sales, minimum parking standards would continue to be met.

- **Safety Considerations.** With adherence to appropriate conditions, the proposal would meet the city’s fire marshal’s requirements.

Staff Recommendation

Recommend that the city council adopt the resolution approving an interim use permit for temporary fireworks sales by TNT Fireworks at 4795 County Road 101.

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

**Surrounding Land Uses**
- Northerly: Westwind Plaza, zoned B-2
- Easterly: Westwind Plaza, zoned B-2
- Southerly: Cub Foods, zoned B-2
- Westerly: County Road 101

**Planning**
- Guide Plan designation: Commercial
- Zoning: B-2

**Parking**
There are 558 parking stalls on the subject property. Given this, the property would meet parking requirements even with existing seasonal sales and the proposed fireworks sales:

<table>
<thead>
<tr>
<th>USE</th>
<th>Area</th>
<th>Parking Required</th>
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<tbody>
<tr>
<td>Retail Use</td>
<td>78,500 sq.ft.</td>
<td>353</td>
</tr>
<tr>
<td>Medical Use</td>
<td>2,800 sq.ft.</td>
<td>20</td>
</tr>
<tr>
<td>Fast Food Restaurant</td>
<td>6,650 sq.ft.</td>
<td>110</td>
</tr>
<tr>
<td>Seasonal Sales Area</td>
<td></td>
<td>28</td>
</tr>
<tr>
<td>Fireworks Tent</td>
<td></td>
<td>10</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>87,950 sq.ft.</strong></td>
<td><strong>521 stalls</strong></td>
</tr>
</tbody>
</table>

**Fireworks**
The sale and use of non-explosive and non-aerial fireworks is permitted in Minnesota. Such items include: sparklers, cones and tubes that emit sparks, and novelty items such as snakes and party poppers. (MN Statute 624.20)

The city cannot prevent the transient sale of fireworks if the proposed sale: (1) meets the interim use permit standards for transient sales; and (2) meets all of the requirements of the National Fire Protection Act.

**IUP Standards**
The proposal would meet the general interim use permit standards as outlined in City Code §300.05 Subd.5.

1) The general performance standards in section 300.16, Subd.2 will be met;
   
   **Finding:** This standard applies to residential uses and is, therefore, not applicable.

2) The use will not delay anticipated development or redevelopment of the site;
Finding: There is no 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;

Finding: The proposal will not conflict with any provisions of 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;

Finding: The proposed use would be operating for less than 30 days. It would not adversely impact the adjacent property, surrounding neighborhood, or other uses on the subject property.

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

Finding: City staff knows of no current city code violations.

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

Finding: Transient sales are allowed as interim uses in the commercial zoning districts.

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

Finding: A date specific condition has been included in the approval resolution.

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

Finding: The proposed use will not impose any foreseen, unreasonable costs on the public.

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.

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

The proposal also meets the specific interim use permit standards for transient sales as outlined in City Code §300.18 Subd.7(a):
1) Must be located in a suitable off-street location and shall not extend into adjacent right-of-way or other public property;

**Finding:** As proposed, a tent would be located in a suitable off-street location.

2) Must not interrupt vehicular circulation on the site or obstruct parking spaces needed by permanent business established on the site;

**Finding:** The proposed tent and storage container would occupy less than 10 parking spaces within Westwind Plaza. Even with this proposed tent, and other transient sales on site, the shopping center would continue to meet minimum parking standards. As a condition of approval, the tent may not extend into the drive lane of the parking lot.

3) Must have written authorization from property owner;

**Finding:** The property owner and management company have authorized this use.

4) Business operator must secure all applicable licenses and approvals from the city, Hennepin county or other appropriate jurisdictions;

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

5) Sight visibility clearances at street intersections and access points must be provided in accordance with section 300.15, subd. 9(e) of this ordinance or as determined by the city to protect public safety;

**Finding:** The proposed sales tent would not impact sight visibility clearances.

6) No portion of the use may take place within 100 feet of any developed property zoned for residential use;

**Finding:** The proposed sales tent would be over 1000 feet from the closest residential property.

7) Signs are subject to the following:

   a. no more than four signs are allowed, which do not exceed 32 square feet in aggregate;
   b. incidental product or pricing signs must be placed directly next to the appropriate product;
   c. product advertising is permitted, but must be included in the maximum allowed sign area;
   d. the signs must have a professional appearance and must be securely mounted or erected in a safe location; and
e. these limitations apply to all signs associated with the use, including those affixed to vehicles;

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

8) Any display of items must be limited to representative samples and be arranged in as compact a manner as reasonably practicable;

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

9) The interim use permit will be issued in the name of the person requesting the permit and will be for the purpose of selling a particular item or range of items at a specific location. Any change in the person, location or items sold will render the permit invalid; and

**Finding:** This has been noted in the approval resolution.

10) Violation of the above standards or other conditions placed upon the interim use permit will result in immediate revocation of the interim use permit;

**Finding:** This has been noted in the approval resolution.

<table>
<thead>
<tr>
<th>Neighborhood Comments</th>
<th>The city sent notices to 39 area property owners and received no comments to date.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deadline for Decision</td>
<td>July 23, 2018</td>
</tr>
</tbody>
</table>
Location Map

Project: TNT Fireworks
Address: 4795 Co Rd 101
To Whom It May Concern:

In regards to the fireworks tent application located at Westwind Plaza in Minnetonka..

TNT Fireworks with a partnership with Brixmor (Westwind Plaza) would like to operate a fireworks tent sale. The tent will be a 20' x 40' (please reference site plan for location) If you reference the site plan, you can see that there are plenty existing parking stalls to satisfy the customers as well as people working in the tent.

The merchandise will be stored in a secured storage container after and during business hours, some inventory may be stored inside the tent, but under the table during the hours of operation.

We would like to have the tent sale from June 22, 2018 thru July 5, 2018, with reasonable time before and after for tent setup and tear down.

The hours of operation would be 9:00 am to 11:00pm daily.

All fireworks sold will be approved by the State of Minnesota, we have attached the proposed "order" for this location. Items may change due to availability, but all items are legal MN approved fireworks.

The manager of the tent will be attending an in-depth training on safe handling and selling of fireworks.

Please feel free to reach out if you have any questions.

Thank You,

Chris Ulmer
STATEMENT OF PURPOSE

American Promotional Events dba TNT Fireworks is submitting for approval for the attached application.

Location address: 4703-4795 County Road 101, Minnetonka, MN 55345

The purpose is to sell Minnesota State approved fireworks in a temporary tent from, approximately, June 20th 2018 - July 5th 2018. The tent will be erected about three days prior to the sale and removed within two to five days of completion of the sale. The hours of operation will be from 8am-10pm, or as dictated by local location ordinances.

There will be two fire extinguishers readily accessible. "No Smoking," age limit signs, as well as "No Discharging Fireworks within 300ft" signs will be posted and enforced. There will be a minimum of two people onsite at all times and the product will be secured 24/7 to ensure safety.

If you have any questions, please do not hesitate to call me at 256-740-6158.

Sincerely,

Virginia Daniel
Permitting Coordinator
danielv@tntfireworks.com

AMERICAN PROMOTIONAL EVENTS, INC.
P.O. BOX 1318 • 4511 HELTON DRIVE • FLORENCE, AL 35630
PHONE (256) 764-6131 • FAX (205) 533-6043
www.tntfireworks.com
Note: This site plan indicates the general layout of the shopping center and is not a warranty, representation, or agreement on the part of the landlord that the shopping center will be exactly as depicted herein.
Resolution No. 2018-

Resolution approving an interim use permit for fireworks sales at 4795 County Road 101

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

Section 1. Background.

1.01 TNT Fireworks is requesting an interim use permit for sale of Minnesota-legal fireworks at Westwind Plaza.

1.02 The property is located at 4795 County Road 10. It is legally described as follows:

Lot 1, Block 2, WILLOW WOOD including adjacent vacated Merchant Avenue, also South 385 feet of West 447 feet of South half of Northwest quarter of Northwest quarter of Section 29 Township 117 Range 11, except road.

1.03 On May 10, 2018, 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 §300.05, Subd.5, lists the following general standards that must be met for granting of the 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.

Section 3. Specific Standards.

3.01 City Code §300.18, Subd.7(a) lists the following specific standards that must be met for granting of the permits:

1. Must be located in a suitable off-street location and shall not extend into adjacent right-of-way or other public property;

2. Must not interrupt vehicular circulation on the site or obstruct parking spaces needed by permanent business established on the site;

3. Must have written authorization from property owner;

4. Business operator must secure all applicable licenses and approvals from the city, Hennepin county or other appropriate jurisdictions;

5. Sight visibility clearances at street intersections and access points must be provided in accordance with section 300.15, Subd.9(e) of this ordinance or as determined by the city to protect public safety;

6. No portion of the use may take place within 100 feet of any developed property zoned for residential use;

7. Signs are subject to the following:
   a. no more than four signs are allowed, which do not exceed 32 square feet in aggregate;
   b. incidental product or pricing signs must be placed directly next to the appropriate product;
   c. product advertising is permitted, but must be included in the maximum allowed sign area;
d. the signs must have a professional appearance and must be securely mounted or erected in a safe location; and
e. these limitations apply to all signs associated with the use, including those affixed to vehicles;

8. Any display of items must be limited to representative samples and be arranged in as compact a manner as reasonably practicable;

9. The interim use permit will be issued in the name of the person requesting the permit and will be for the purpose of selling a particular item or range of items at a specific location. Any change in the person, location or items sold will render the permit invalid; and

10. Violation of the above standards or other conditions placed upon the interim use permit will result in immediate revocation of the interim use permit;

Section 4. Findings.

4.01 The proposal meets the general interim use permit standards for transient sales outlined in City Code §300.05 Subd.5.

4.02 The proposal meets the specific interim use permit standards for transient sales outlined in City Code §300.18 Subd.7(a).

Section 5. City Council Action.

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

1. DATES OF SALES:
   a) This interim use permit is valid from 2018 to 2023. Display and sales of fireworks is allowed each calendar between the dates June 20 and July 5.

2. PRIOR TO BEGINNING SALES EACH CALENDAR YEAR:
   a) Obtain a Fire Protection Permit from the city’s fire marshal.
   b) Submit a letter to planning staff by June 1st stating the intention to operate and the days on which sales will occur. Upon receiving this letter, city staff will review any planning, fire department, and police department records pertaining to the previous year’s sales. If staff finds that excessive complaints have been received/recorded or that the sales have imposed unreasonable costs to the public in money or time, staff may revoke the permit.
3. **SALES TENT and STORAGE CONTAINER:**

   a) All fireworks must be placed into metal storage container at night and the container locked, unless an overnight security guard is on site.

   b) The sales tent and any metal storage containers must be located in general conformance with the staff drafted site plan dated April 28, 2018.

   c) The sales tent and any metal storage containers must not extend into any parking lot drive aisle.

   d) Display of fireworks within the tent must be arranged in as compact a manner as reasonably practicable.

   e) The sales tent and metal storage container cannot be placed on the property more than five days prior to the date of sales. The sales tent and metal storage container must be removed from the property within five days of the ending date of sales.

4. **ADDITIONAL CONDITIONS**

   a) Signs are subject to the conditions outlined in City Code §300.18 Subd.7(a)(7).

   b) An authorized representative of TNT Fireworks must agree in writing to the conditions of this interim use permit.

5. This interim use permit is issued in the name TNT Fireworks and will be for the purpose of selling Minnesota-legal fireworks. Any change in the seller, location, or items sold will render this permit invalid.

6. Violation of any of the interim use standards outlined in City Code 300.18 Subd.7 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 June 4, 2018.

Brad Wiersum, Mayor
ATTEST:

David E. Maeda, City Clerk

ACTIONS 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 June 4, 2018.

David E. Maeda, City Clerk

SEAL
Public Hearing: Non-Consent Agenda
MINNETONKA PLANNING COMMISSION
May 10, 2018

Brief Description  Variances to allow construction of a porch and attached garage at
                  5053 Woodland Road

Recommendation  Adopt the resolution approving the request

Proposal  Steve Hansen of Hansen Hometech Inc., on behalf of the property
          owners, is proposing to demolish an existing detached garage to
          construct a 228 square foot porch and 1,040 square foot attached
          garage. The proposed porch and attached garage would encroach
          into the required front yard setback. (See attached.)

Proposal requirements:
This proposal requires:

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

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<tr>
<th></th>
<th>Required</th>
<th>Existing</th>
<th>Proposed</th>
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<tbody>
<tr>
<td>Front Yard Setback</td>
<td>50 ft.</td>
<td>31.6</td>
<td>31.6 ft.*</td>
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* requires setback variance

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

1. Reasonableness:

   The existing property does not have an attached garage. The residents are currently using a detached garage that is within the required front yard setback. The request for a porch and attached garage is reasonable as it would enhance the existing structure, and would be an improvement from the current detached garage. The proposed addition would also be set back the same distance from the front property line as the existing detached garage. (See attached.)

2. Neighborhood Character:

   The area has several properties that are non-conforming due to the early platting of the land (1956) and construction of homes predating city ordinance. The city has approved one variance request within this area for a front yard setback variance. Additionally, based on aerial images and review of the area, it appears that 17 structures within 400 feet of the subject property encroach into the required front yard setback. As such, the proposed project would not alter the essential character of the neighborhood if the applicant’s variance request were approved. (See attached.)
3. Circumstance Unique to the Property:

The existing non-conformity of the detached garage and irregular right-of-way are unique characteristics of the property.

The subject home was originally constructed in 1956 without an attached garage. Currently, the residents of the property use a detached garage on the lot to store their vehicles. The detached garage is located 31.6 feet from the front property line. The proposed porch and attached garage would maintain this property line setback.

The Woodland Road right-of-way is irregular, as it does not run parallel with the road. Due to this circumstance, the proposed attached garage and porch are located closer to the front property line than would be expected based on the location of the road. As proposed, the curb of Woodland Road would be located just over 50 feet from the proposed attached garage and 80 feet from the proposed porch at the closest point. (See attached.)

**Staff Recommendation**

Adopt the attached resolution approving a front yard setback variance for a porch and attached garage at 5053 Woodland Road.

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

**Project No.** 18010.18a

**Property** 5053 Woodland Road

**Applicant** Steve Hansen of Hansen Hometech Inc., on behalf of the property owners

**Surrounding Land Uses** All properties to the north, east, west and south are zoned R-1, guided for low density residential, and improved with single family homes.

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

**Site Features** The subject property was platted in its current configuration in 1956; it is 17,500 square feet in size. The property is improved with a 1,286 square foot, rambler home that was originally constructed in 1956. The existing home meets all setback requirements; however, there is a 442 square foot, non-conforming, detached garage that is set back 31.6 feet from the front yard property line. (See attached.)

**Front Yard Setback** Typically, residential properties are located on local or neighborhood collector streets. Structures on these properties must be setback at least 35 feet from the front property line, or public right-of-way. However, some properties within the city are located adjacent to right-of-ways of major collector or arterial roadways, such as Woodland Road. Because these roads are busier and noisier than local or neighborhood streets, city code requires a 50-foot setback for structures.

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

As proposed, the property would comply with the McMansion Policy. Currently, the property’s FAR is 0.07. The proposed porch and attached garage additions would increase the property’s FAR to 0.15. This is still significantly below the largest FAR within 400 feet, which is 0.22.

**Expansion Permits and Variances** An expansion permit is required for an expansion of a non-conforming structure when that expansion maintains the same setbacks as the existing non-conformity. By definition, a non-conforming structure is one that is not in full compliance with the
regulations of the ordinance and either: (1) was legally established before the effective date of the ordinance provision with which it does not comply; or (2) became non-conforming because of other governmental action, such as a court order or a taking by a governmental body under eminent domain or negotiated sale.

Though the proposed attached structure has legal non-conforming status and the proposed home addition would maintain the same setback as the existing detached garage, it has not been considered for an expansion permit. It is not considered for an expansion permit because the request is for a different structure (detached vs. attached garage). If the applicant had submitted a request to build a detached garage with the same setbacks, staff would have reviewed for an expansion permit. As the applicant has submitted a request for an attached garage (differing from the existing detached structure), it has been reviewed as a variance request.

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)

Pyramid of Discretion

Natural Resources

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

Motion Options

The planning commission has three options:
1. Concur with staff’s recommendation. In this case a motion should be made approving the variance.

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

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

**Voting Requirement**

The planning commission action on the applicant's request is final subject to appeal. Approval requires the affirmative vote of five commissioners.

**Appeals**

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

**Neighborhood Comments**

The city sent notices to 48 area property owners and has received no comments.

**Deadline for Decision**

July 23, 2018
Location Map

Project: Knutson Residence
Address: 5053 Woodland Rd
LEGAL DESCRIPTION:
Lot 4, Block 2, Woodgate, Hennepin County, Minnesota

SCOPE OF WORK & LIMITATIONS:
1. Showing the length and direction of boundary lines of the legal description listed above. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
2. Showing the location of observed existing improvements we deem necessary for the survey.
3. Setting survey markers or verifying existing survey markers to establish the corners of the property.
4. Existing building dimensions and setbacks measured to outside of siding or stucco.
5. Showing and tabulating impervious surface coverage of the lot for your review and for the review of such governmental agencies that may have jurisdiction over these requirements to verify they are correctly shown before proceeding with construction.
6. While we show a proposed location for this home or addition, we are not as familiar with your proposed plans as you, your architect, or the builder are. Review our proposed location of the improvements and proposed yard grades carefully to verify that they match your plans before construction begins. Also, we are not as familiar with local codes and minimum requirements as the local building and zoning officials in this community are. Be sure to show this survey to said officials, or any other officials that may have jurisdiction over the proposed improvements and obtain their approvals before beginning construction or planning improvements to the property.
7. This survey has been completed without the benefit of a current title commitment. There may be existing easements or other encumbrances that would be revealed by a current title commitment. Therefore, this survey does not purport to show any easements or encumbrances other than the ones shown herein.
8. It should be noted that this survey was completed with significant snow coverage on site. We cannot be certain that all items were observed and located during the process of conducting the survey due to the snow cover. If this uncertainty is something you would like to remove, please expose all improvements and we can return to locate said items, if needed.

STANDARD SYMBOLS & CONVENTIONS:
"*" denotes iron survey marker, found, unless otherwise noted.

PRELIMINARY - FOR REVIEW ONLY
SUBJECT TO CHANGE
something you would like to remove, please expose all improvements and we can return to locate said items, if needed.

**STANDARD SYMBOLS & CONVENTIONS:**
- "" Denotes iron survey marker, found, unless otherwise noted.

**EXISTING HARD COVER**

| HOUSE   | 1,310 SQ. FT. |
| GARAGE  | 441 SQ. FT.  |
| DRIVEWAY | 1,098 SQ. FT. |
| DECK    | 192 SQ. FT.  |
| PATIO   | 440 SQ. FT.  |
| **TOTAL EXISTING HARD COVER** | **3,478 SQ. FT.** |

| AREA OF LOT | 17,540 SQ. FT. |
| LOT COVERAGE | **19.8%** |

**PROPOSED HARD COVER**

| HOUSE   | 1,310 SQ. FT. |
| PROP. GARAGE | 1,040 SQ. FT. |
| DECK    | 192 SQ. FT.  |
| PATIO   | 164 SQ. FT.  |
| PROP. PORCH | 227 SQ. FT. |
| PROP. WALK | 114 SQ. FT. |
| PROP. DRIVEWAY | 1,084 SQ. FT. |
| **TOTAL PROPOSED HARD COVER** | **4,111 SQ. FT.** |

| AREA OF LOT | 17,540 SQ. FT. |
| LOT COVERAGE | **23.4%** |
Front elev. (Proposed Plan: P1A)

1/4" = 1' - 0" Scale
FLOOR AREA RATIO AND NON-CONFORMING FRONT YARD SETBACK PROPERTIES

LEGEND

- **Subject Property**
- **Variance**
- **Non-conforming**
- **400 feet from subject property**

Map prepared by: City of Minnetonka

Not a Survey. Not to Scale
property Id 28-117-22-32-0010 Legal Description – Lot 4, Block 2, Woodgate, Hennepin County, Mn.

5053 Woodland Rd.- 3 car Garage / Front entry addition

Attachment for Variance application

**Describe:**

**why the proposed use is reasonable:**

Current garage is 20 feet wide a very tight fit for 2 cars. We would like a 3 car garage and by attaching an entryway it will improve safety, eliminating an icy walk between the buildings and enhance the curb appeal.

Describe:

**Circumstances unique to the property:** The lot line runs at a unique angle to the street that even though the existing Garage setback is 31-6” from the lot line it’s an additional 33’ to the street curb.

*Why the need for an expansion was not caused by the property owner; and why the need is not solely based on economic considerations.*

There is a need for a 3 car garage and is a standard in the Minnetonka area.

Describe:

*Why the variance would not alter the essential character of the neighborhood:* Trees are a big part of the property and we are working around saving as many Quality trees as possible. We did consider placing the garage on the south side yard but it would be limited to a two car, eliminate 3 large silver maple shade trees and block 4 south facing windows that let a lot of nice sunlight into the lower and main level of the home. The north side was not an option since that is where the lower level bedroom with egress is located, we would also lose 2 windows for the basement and all the utilities come in there. We also feel the enhancement of the entry way-porch addition would give the home a nice central focal point and balance to the home that is similar to the neighbors’ homes nearby.

Thank you for your time to consider our project.

Bob and Debbie Knutson
Planning Commission Resolution No. 2018-

Resolution approving a front yard setback variance for a porch and attached garage at 5053 Woodland Road

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

Section 1. Background.

1.01 Steve Hansen of Hansen Hometech Inc., on behalf of the property owners, is proposing to construct a porch and attached garage. The proposed attached garage would encroach into the required front yard setback.

1.02 The property is located at 5053 Woodland Road. It is legally described as:

Lots 4, Block 2, Woodgate, Hennepin County, Minnesota.

1.03 City Code §300.10 Subd. 5(b) requires a minimum front yard setback of 50 feet from major collector or arterial right-of-ways as identified in the comprehensive plan.

1.04 The applicant, on behalf of the property owners, is proposing a front yard setback of 31.5 feet for the porch and attached garage addition.

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

Section 2. Standards.

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

Section 3. Findings.

3.01 The proposal would meet the variance standard as outlined in City Code §300.07 Subd. 1:
1. INTENT OF THE ORDINANCE. The proposal is in harmony with the general purposes and intent of the zoning ordinance. The intent of the front yard setback requirement is to provide for consistent building lines within a neighborhood and to provide for adequate separation between homes and major collector or arterial roadways. Several homes on the subject street do not meet the required front yard setback requirements due to being constructed prior to the adoption of city ordinance or being granted a variance by the city. The proposed addition would be generally consistent with setbacks of the other existing homes within the neighborhood.

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

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

   a) REASONABLENESS: The existing property does not have an attached garage. The residents are currently using a detached garage that is within the front yard setback. The request for a porch and attached garage is reasonable as it would enhance the existing structure, and would be an improvement from the current detached garage. The proposed addition would also be set back the same distance from the front property line as the existing detached garage.

   b) UNIQUE CIRCUMSTANCE: The existing non-conformity of the detached garage and irregular right-of-way are unique characteristics of the property.

      1) The subject home was originally constructed in 1956 without an attached garage. Currently, the residents of the property use a detached garage on the lot to store their vehicles. The detached garage encroaches within 31.6 feet of the front property line. The proposed porch and attached garage would maintain this property line setback.

      2) The Woodland Road right-of-way is irregular, as it does not run parallel with the road. Due to this circumstance, the proposed attached garage and porch are located closer to the front property line than would be expected based on the location of the road. As proposed, the curb of Woodland Road would be located just over 50 feet from the proposed attached garage and 80 feet from the proposed porch at the closest point.
c) CHARACTER OF THE LOCALITY: The area has several properties that are non-conforming due to the early platting of the land (1956) and construction of homes. The city has approved one variance request within this area for a front yard setback variance. Additionally, based on aerial images and review of the area, it appears that 17 structures within 400 feet of the subject property encroach into the required front yard setback. As such, the proposed project would not alter the essential character of the neighborhood if the applicant’s variance request were approved.

Section 4. Planning Commission Action.

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

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:
   - Survey date stamped March 30, 2018.
   - Plans and elevations submitted with application and date stamped March 30, 2018.

2. Prior to issuance of a building permit:
   a) A copy of this resolution must be recorded with Hennepin County.
   b) The applicant must install erosion control fencing as required by staff for inspection and approval. These items must be maintained throughout the course of construction.
   c) Stormwater management will be required if the project exceeds 50 cubic yards of excavation or 5,000 square feet of disturbance.
   d) Driveway permit is required for the new access.
   e) The applicant must provide a drainage and utility easement across the portion of the property that would be 33 feet from the centerline of the street.

4. This variance will end on December 31, 2019, unless the city has issued a building permit for the project covered by this variance or has approved a time extension.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on May 10, 2018.
Brian Kirk, Chairperson

Attest:

Kathy Leervig, Deputy City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Planning Commission of the City of Minnetonka, Minnesota, at a duly authorized meeting held on May 10, 2018.

Kathy Leervig, Deputy City Clerk
Brief Description

Items concerning LEGACY OAKS:

1) Minor amendment of the existing master development plan; and
2) Site and building plans for a condominium building.

Recommendation

Adopt the resolution approving the final site and building plans

Background

In June 2013, the city council approved the LEGACY OAKS development and adopted a master development plan for general build-out of the residential site. As approved, LEGACY OAKS will include single-family homes, twinhomes, and condominium buildings. Final site and building plans were approved for the single-family and twinhomes components in 2013, with a requirement that site and building plan review be conducted before the planning commission for future construction of the condominium buildings.

In January 2015, the planning commission approved final site and building plans for the first of three, 20-unit condominium buildings. The building was constructed shortly thereafter.

In January 2016, the planning commission approved final site and building plans for the second 20-unit condominium building. The second building has not been constructed and the site and building plan approval have since expired.

Proposal

Since the 2016 approval, Ron Clark Construction has evaluated its plans for the remaining two, 20-unit condominium buildings. Instead of constructing two parallel buildings illustrated in the master development plan, the company is instead now proposing to construct just one, 38-unit, “L-shaped” building.

<table>
<thead>
<tr>
<th>Original Master Development Plan</th>
<th>Current Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building 1</td>
<td>20 units (constructed)</td>
</tr>
<tr>
<td>Building 2</td>
<td>20 units</td>
</tr>
<tr>
<td>Building 3</td>
<td>20 units</td>
</tr>
<tr>
<td>TOTAL UNITS</td>
<td>60 units</td>
</tr>
</tbody>
</table>

The proposed three-story building would have a footprint of roughly 26,700 square feet and total floor area of roughly 103,000 square feet. Common spaces would be located on the first floor and would include an exercise room and club room. The building’s façade design and materials would be consistent/complementary to the existing condo building.
The building would be served an underground garage, which would each contain 77 parking stalls, two for each of the building’s units. Visitor parking would be available along the private street directly north and northeast of the buildings.

**Staff Analysis**

Even with the modification from the overall development site plan, staff supports the proposed plan for the condominium building, finding:

1) The building would be generally consistent with the approved master development plan for the site.

2) The proposed private drive would ensure additional visitor parking within the medium-density development.

3) The 12-foot setback from the west property line, resulting from construction of the proposed private street, is consistent with other setbacks within LEGACY OAKS.

4) The building would increase the diversity of housing options within LEGACY OAKS, consistent with the city’s long term development goals for the site.

5) In keeping with the approved single-family and townhome plans, the building has been attractively designed and appropriately located.

**Staff Recommendation**

Adopt the resolution approving final site and building plans a condominium building within LEGACY OAKS.

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

**Surrounding Land Uses**
- Northerly: single-family homes, LEGACY OAKS
- Easterly: Parkers Lake Road, rental apartments beyond
- Southerly: condominium building, WYLDEWOOD
- Westerly: single-family and twinhomes, LEGACY OAKS

**Planning**
- Guide Plan designation: medium-density residential
- Existing Zoning: PUD

**Setbacks, Etc.**
The existing master development plan serves as the development guide. The proposed site plan is consistent with the master development plan. The following is intended for informational purposes only.

<table>
<thead>
<tr>
<th>MEASUREMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>SETBACK - North</td>
</tr>
<tr>
<td>SETBACK - South</td>
</tr>
<tr>
<td>SETBACK - East</td>
</tr>
<tr>
<td>SETBACK - West</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

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

1. Concur with the staff recommendation. In this case a motion should be made to adopt the resolution approving the final site and building plans.

2. Disagree with staff's recommendation. In this case, a motion should be made directing staff to prepare a resolution for denying the final site and building plans. This motion should include findings for denial.

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

**Neighborhood Comments**
Notice was sent to 503 area property owners. The city has received no written comments to date.

**Deadline for Action**
July 9, 2018
Location Map

Project: Legacy Oaks 3rd Addn
Address: 300 Parkers Lake Rd
LEGACY OAKS 3RD ADDITION
Oakcroft One, LLC
Minnetonka, MN 55391

LANDSCAPE PLANTINGS

1) Aspen, Quaking
2) Maple, Sienna Glen
3) Maple, Northwood
4) Maple, Autumn Blaze
5) Serviceberry, Autumn Brilliance
6) Nannyberry Shrub
7) Spruce, Black Hills
8) Pine, White

Foundation bed plantings:
15) Hydrangea, Limelight Shrub
40) Hydrangea, Quick Fire
40) Ninebark, Summer Wine
40) Arborvitae, Techy Globe
55) Echinacea (Coneflower)
50) Grass, Karl Forester

- Foundation maintenance strip rock mulch & edging,
- Wood mulch tree rings
- Sod
- Irrigation
KNOW ALL PERSONS BY THESE PRESENTS: That RE Clark Land Investments, LLC, a Minnesota limited liability company, owner of the following described property situated in the County of Hennepin, State of Minnesota, to wit:

Outlot B, LEGACY OAKS 2ND ADDITION.

Has caused the same to be surveyed and platted as LEGACY OAKS 3RD ADDITION and does hereby dedicate to the public for public use the easements for drainage and utility purposes as shown on this plat.

In witness whereof said RE Clark Land Investments, LLC, a Minnesota limited liability company, has caused these presents to be signed by its proper officer this _________ day of _______________________, 20____.

RE CLARK LAND INVESTMENTS, LLC
_____________________________________________
its: _________________________________________

STATE OF MINNESOTA
COUNTY OF ______________________
The foregoing instrument was acknowledged before me this _________ day of _________________________, 20____ by Eric B. Lindgren.
_____________________________________________
_____________________________________________
Notary Public, _________________ County, Minnesota
My Commission Expires _________________________

MINNETONKA, MINNESOTA

This plat of LEGACY OAKS 3RD ADDITION was approved and accepted by the City Council of Minnetonka, Minnesota at a regular meeting held on this _________ day of _________________________, 20____.

CITY COUNCIL OF MINNETONKA, MINNESOTA
By: _________________________________________ Mayor
By: _________________________________________ Clerk

RESIDENT AND REAL ESTATE SERVICES, HENNEPIN COUNTY, MINNESOTA

I hereby certify that taxes payable in _________ and prior years have been paid in full for all land described on this plat.

Dated this _________ day of __________________, 20____.
Mark V. Chapin, Hennepin County Auditor
By: _________________________________________ Deputy

SURVEY DIVISION, HENNEPIN COUNTY, MINNESOTA

Pursuant to Minnesota Statutes, Section 383B.565 (1995), this plat has been approved this _________ day of __________________, 20____.

Plat No. ____________

Chris F. Mavis, Hennepin County Surveyor
By: _________________________________________ Deputy

COUNTY RECORDER, HENNEPIN COUNTY, MINNESOTA

I hereby certify that the within plat of LEGACY OAKS 3RD ADDITION was recorded in this office this _________ day of _______________________ at ___ o'clock ___ M.

Martin McCormick, County Recorder
By: _________________________________________ Deputy

I, Eric B. Lindgren do hereby certify that this plat was prepared by me or under my direct supervision, I am a duly licensed land surveyor in the State of Minnesota, that all mathematical data and labels are correctly designated on this plat, that all monuments depicted on this plat have been, or will be correctly set within one year, that all water boundaries and wet lands, as defined in Minnesota Statutes, Section 505.01, Subd. 2, as of the date this certificate is signed and labeled on this plat, and all public ways are shown and labeled on this plat.

Dated this _________ day of __________________, 20____.

Eric B. Lindgren, Licensed Land Surveyor
Minnesota License Number 48176

I hereby certify that the within plat of LEGACY OAKS 3RD ADDITION was recorded in this office this _________ day of ____________________, 20____.

Martin McCormick, County Recorder
PARKING COUNTS
STANDARD: 45
HC: 2
TANDEM: 15
TOTAL: 77

21 MAR 2018
THIRD LEVEL FLOOR PLAN

21 MAR 2018

WHITTEN ASSOCIATES, INC. LEGACY OAKS NEW CONDO, MINNETONKA, MN RON CLARK CONSTRUCTION
Planning Commission Resolution No. 2018-

Resolution approving a minor amendment to the existing master development plan and final site and building plans for a condominium building within the LEGACY OAKS development

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

Section 1. Background.

1.01 In 2014, the Minnetonka City Council adopted Ordinance 2014-03 establishing a master development plan for the LEGACY OAKS development. The adopted plan illustrates construction of three, 20-unit condominium buildings on the east side of the development site. One of the three buildings has been constructed to date.

1.02 Ron Clark Construction is requesting a minor amendment to this master development plan as follows:

<table>
<thead>
<tr>
<th></th>
<th>Adopted Master Development Plan</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Condo Building 1</td>
<td>20 units (constructed)</td>
<td>20 units (constructed)</td>
</tr>
<tr>
<td>Condo Building 2</td>
<td>20 units</td>
<td>38 units</td>
</tr>
<tr>
<td>Condo Building 3</td>
<td>20 units</td>
<td>N/A</td>
</tr>
<tr>
<td>TOTAL UNITS</td>
<td>60 units</td>
<td>58 units</td>
</tr>
</tbody>
</table>

1.03 The property on which condo Building #2 would be constructed is legally described as: Lot 5, Block 1, LEGACY OAKS 3rd ADDITION.

1.04 On May 10, 2018, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution.
Section 2. General Standards.

2.01 Ordinance 2014-03 established a master development plan for the LEGACY OAKS development.

2.02 City Code §300.27, Subd. 5, outlines several items that must be considered in the evaluation of the site and building plans. Those items are incorporated by reference into this resolution.

Section 3. Findings.

3.01 The proposed condominium building would be generally consistent with the LEGACY OAKS master development plan.

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

1. The proposal would result in a medium-density residential development consistent with the comprehensive guide plan designation for the site. Further, the proposal has been reviewed by city’s planning, engineering, natural resources staff and found to be generally consistent with the city's development guides, including water resources management plan.

2. The larger LEGACY OAKS development altered the natural state of the site. However, the level of alteration was necessary to achieve the city's dual goals of maintaining the site's medium-density designation and achieving density through a variety of housing types.

3. The proposal would result in a harmonious relationship of buildings and open space. The location of housing types within LEGACY OAKS was carefully considered, with visual density of the site increasing as the development moves from northwest to southeast. The condominium building would be located in proximity to existing condominium buildings and across the street from an existing apartment complex.

4. The larger LEGACY OAKS development would result in a functional and harmonious site design. As proposed, streets would provide not only access to new homes, but connectivity between neighborhoods. General planning principals suggest such connectivity benefits vehicle and pedestrian movement, the provision of public services, and sense of community.

5. Energy conservation will be promoted through the southerly exposure enjoyed by many of the proposed units.

6. The larger LEGACY OAKS development visually and physically altered the site. However, appropriate setback, stormwater, and connectivity provisions are in place to mitigate such alteration.
Section 4. Planning Commission Action.

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

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

   • Site plan, dated March 20, 2018
   • Utility plan, dated March 20, 2018
   • Grading plan, dated March 20, 2018
   • Stormwater pollution prevention plan, dated March 20, 2018
   • Floor plans, dated March 20, 2018

2. Prior to issuance of a building permit:

   a) The final plat must be filed with Hennepin County.

   b) Submit final site, utility, grading, landscape plan, and stormwater pollution prevention plan (SWPPP) for staff approval.

      1) All final plans must show all easements.

      2) Final site plan must show driveway access to existing condominium building to the north for review in relation to proposed driveway access.

      3) Final utility plan.

         • The plan must note unused water and sanitary services removed back to the main.

         • Under previously approved plans, a drive aisle was located atop existing utilities affording easy access for future maintenance and repair. The final utility plan must include a profile of the sanitary sewer and building foundation, as well as a cross section, to confirm that the sanitary sewer can be maintained without undermining the building foundation. The building footprint may need to be modified or easement granted if this cannot be verified.

      4) Final landscape plan.

         • The plan must be consistent with previously approved landscape plans for the larger LEGACY OAKS development.
• The plan must meet minimum requirements as outlined in city code.

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

d) Submit all required hook-up fees.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on May 10, 2018.

Brian Kirk, Chairperson

Attest:

Kathy Leervig, Deputy City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Planning Commission of the City of Minnetonka, Minnesota, at a duly authorized meeting held on May 10, 2018.

Kathy Leervig, Deputy City Clerk
Brief Description
A conditional use permit, with parking variance, for WellHaven Pet Health at 1700 Plymouth Road

Recommendation
Recommend the city council adopt the resolution approving the request

Introduction
WellHaven is requesting a conditional use permit to operate a medical (veterinary) clinic within the existing building at 1700 Plymouth Road. The proposed lease space is approximately 2,600 square feet with exterior walls facing east towards Plymouth Road. The applicant has proposed interior changes to the subject lease space; no exterior changes are proposed. WellHaven has similar veterinary clinic locations in New Brighton and Burnsville.

Proposal requirements:
This proposal requires:

- **Conditional Use Permit:** The property is zoned Planned Unit Development (PUD). Medical clinics are a conditionally-permitted use in this zoning district.

- **Variance:** Clinics require one parking space for every 175 square feet of space (15 spaces needed for the subject space) with a minimum of 20 spaces. In 2014, a parking variance was approved for entire building. The variance assumed that the subject space would be retail, which requires one parking space for every 250 square feet (11 spaces needed for the subject space). The subject use would create a nine space-parking deficit from the approved variance (only a 4-space deficit if disregarding the 20-space minimum).

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

1. **Is the use generally reasonable?**

   Yes. The applicant has proposed using the site for a veterinary clinic. This type of use is defined as a medical clinic, which is conditionally-permitted by city code within a PUD. This proposed use of the building space is reasonable and, with the exception of parking, would meet the general conditional use permit (CUP) standards outlined in city code. The specific CUP standards include: (1) not being located adjacent to low density residential areas, (2) having direct access onto a collector or arterial road, and (3) not having emergency vehicle access adjacent to or across the street from any residential uses. The proposal would meet all of these standards. (See Supporting Information for more detail.)
Furthermore, staff believes that the proposed use, a pet-based business, would be harmonious with the existing uses on the property and the overall commercial area.

2. **Is the parking variance justified?**

Yes. Staff finds that the existing parking would be adequate to meet the parking demands of the proposed use, existing businesses, and future businesses on site based on the:

- Findings of the 2014 parking variance;
- Parking utilization study submitted by the applicant; and
- Proposed parking management plan.

The subject space is permitted to have a use that demands 11 spaces, based on a 2014 parking variance. (See “Supporting Information.”) However, the minimum parking stall requirement for a medical clinic is 20 spaces. This creates a parking deficit of nine spaces. In staff’s opinion, it is more reasonable to consider the parking space requirement based on the parking ratio, which would require only 15 spaces, instead of 20 minimum parking spaces. Based on this, the proposed use would demand only four additional parking spaces than what the 2014 variance permitted, from 11 to 15 spaces.

The 2014 parking variance outlined several reasons to support the parking variance from 362 spaces to 293 spaces. The rationale for this approval remain reasonable considerations for the subject request. Specifically, in 2014 staff found that:

- The Institute of Transportation Engineers (ITE) parking demand manual supported the parking reduction;
- A review of parking that would require one parking stall per bedroom calculation would support the parking variance; and
- The proposed project would have a variety of users that experience peak parking demands at different times. The proposed parking plan allowed for shared parking between individual uses and tenants that created a balanced parking demand throughout the day and night. Staff felt that this balance would ensure that there would be adequate parking provided to meet the parking associated with the development.

The applicant recently submitted a parking utilization study that reviewed parking on the site during a six-day period in April 2018. This study found that there is usually half of the 77-stall surface parking available on site, with the site’s day averages having approximately 60 percent of spaces available. It is important to note that there are two other lease spaces currently vacant. However, the subject lease space and these two other lease spaces, based on city code, project to demand approximately 50 percent of the parking on the site. This projection suggests that the subject site could accommodate the additional parking demand of the clinic and vacant spaces if they were all occupied.

To ensure the subject site has adequate parking for customers and resident guests, the property owner has decided to implement a new parking management plan. The owner will hire LAZ Parking (LAZ) to monitor parking from Monday to Saturday from 11 a.m. to 2 p.m. Customers will be restricted to two hour parking limits with active enforcement of time limits.
Summary Comments

Staff finds that the proposal would be an appropriate use of the site and that parking for the subject use could be accommodated on site.

Staff Recommendation

Recommend that the city council adopt the resolution approving a conditional use permit, with parking variance, for WellHaven Pet Health at 1700 Plymouth Road.

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

Project No. 87055.18a

Property 1700 Plymouth Road

Applicant WellHaven Pet Health

Surrounding Land Uses

Northerly: Verizon Store, zoned PID, guided for mixed use
Easterly: TCF Bank and Wells Fargo Banks, zoned PID and guided for mixed use
Southerly: Ridgedale Plaza (shopping center), zoned PID and guided for mixed use
Westerly: Ridge Square North (shopping center), zoned PID and guided for mixed use

Planning

Zoning: Planned Unit Development (PUD)
Guide Plan designation: Mixed Use

Site features

The subject property is just over two acres in size and is improved with a five-story building. The subject building is mixed use with underground parking (213 stalls, 12 of which are designated for the retail users), first floor commercial, and second through fifth floor residential. The gross building area is 235,500 square feet. There are 77 surface parking stalls located around all sides of the building.

Proposed Use

The applicant is proposing to operate a veterinary clinic at the subject site. The clinic will employ two full time doctors and seven support staff. The clinic will be open from 9 a.m.-7 p.m. and no animals would be lodged on subject property overnight.

The proposed lease space would be just under 2,600 square feet. As a part of this application, the applicant is proposing interior changes to the lease space, but has not proposed exterior changes. The interior space will consist of:

- A reception area
- four exam rooms;
- a surgery room;
- an x-ray room;
- a cat ward;
- a dog ward;
- and various other small work rooms.

(See attached).

Clinic Designation

The applicant is requesting to use a space for a veterinary clinic. The City of Minnetonka reviews this as a request to have a medical clinic, as the city ordinance does not specify different reviews for medical clinics for humans vs. animals.
Furthermore, city code does not consider medical users a medical clinic if their space is less than 2,000 square feet in area. This non-medical clinic designation would result in a reduced parking requirement and eliminate the need for a conditional use permit request. The subject request was considered a medical clinic as the proposed lease space would be 2,600 square feet.

2014 Parking Variance

In 2014, the subject site received a parking variance in 2014 from 362 parking stalls to 293 stalls. At that time, staff noted that the parking variance was a result of the parking requirement for the apartment units. The city’s parking requirement for multi-family residential developments does not distinguish between different types of multi-family developments. The same parking standard of two stalls for each dwelling unit applies to both a twin home or townhome development and a multi-story apartment building. However, the unit size for these types of developments is substantially different, and unit size has a direct impact on the number of residents and the number of cars associated with each unit. As such, staff found that the parking variance was reasonable as:

- The ITE parking demand manual recommended less parking than what was demanded by city code;
- Staff found that one parking stall per bedroom was appropriate and would meet the amount of parking being proposed;
- Public transit options are available in the immediate area; and
- The different uses of a mixed-use development experience peak parking demands at different times. The proposed uses would not have peak parking demand all at the same time. For example, the coffee shop would have its highest parking demand in the morning, the restaurant would have peak parking demand during the afternoon and evening, the bank would have peak parking during the day, and the apartments would have peak parking demand in the evening. The proposed parking plan allowed for shared parking between individual uses and tenants, and the proposed uses balance the parking demand throughout the day. This ensures that there would be adequate parking provided to meet the parking associated with the development.

Proposed Parking Variance

The 2014 parking variance assumed that the subject lease space would be occupied by a retail or service establishment. These types of establishments require one parking space for every 250 square feet, with a minimum of five spaces. City code does allow the alternate parking requirements for multi-tenant buildings with large parking lots has spaces that will be shared between users with different peak parking demand times. However, based on the parking ratio, the subject lease space would require 11 spaces for a retail or service store.

The applicant has requested to occupy the subject space with a medical clinic user (WellHaven Pet Health). Clinic users require one
parking space for each 175 square feet of floor area with a minimum of 20 spaces. Disregarding the minimum parking space requirement, the subject space would require 15 parking stalls. This is four more parking spaces than what would be required by ordinance.

At staff’s request, the applicant has provided supplemental parking information for their request. This information included a review of parking at other WellHaven Pet Health Clinics and a parking utilization study completed during three time periods (morning, midday, and afternoon/evening), over a six-day period in April 2018. (See attached). This supplemental information found:

- The subject site will most likely require no more than 15 peak parking demand spaces based on other WellHaven Pet Health Clinic locations; and
- The site has typically experienced at least 50 percent parking availability. It is important to note that there are currently two additional lease spaces available (a 2,600 square foot restaurant and a 900 square foot retail space). However, the subject lease space and these two other lease spaces project to demand approximately 50 percent of the parking on the site. A parking surplus would still be anticipated. (See tables below).

<table>
<thead>
<tr>
<th>Weekday Count of Available Parking Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Morning 7-10 a.m.</td>
</tr>
<tr>
<td>Thurs. (4/19/18)</td>
</tr>
<tr>
<td>Fri. (4/20/18)</td>
</tr>
<tr>
<td>Mon. (4/23/18)</td>
</tr>
<tr>
<td>Tues. (4/24/18)</td>
</tr>
<tr>
<td>Average Available</td>
</tr>
<tr>
<td>Total Available</td>
</tr>
<tr>
<td>Percentage Available</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Weekend Count of Available Parking Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Morning 7-10 a.m.</td>
</tr>
<tr>
<td>Sat. (4/21/18)</td>
</tr>
<tr>
<td>Sun. (4/22/18)</td>
</tr>
<tr>
<td>Average Available</td>
</tr>
<tr>
<td>Total Available</td>
</tr>
<tr>
<td>Percentage Available</td>
</tr>
</tbody>
</table>
Parking Management Plan

Effective May 1, 2018, the property owner at 1700 Plymouth Road has begun enforcing a parking restriction on site, Monday through Saturday, from 11 a.m.-2 p.m. During this time,

- Customer and residential guest surface parking on site will be restricted to two hours during the specified time;
- A parking ambassador will monitor parking and vehicles exceeding the time limit will be towed; and
- A camera system has been installed on the premises to monitor traffic to help manage needs in the future.

(See attached.)

Staff analysis

Staff finds that the applicant’s proposal is reasonable and would meet the conditional use permit standards (general and specific) and variance standards outlined in the zoning ordinance.

General CUP Standards

Staff finds that the proposal meets the general conditional use permit standards, as the use:

1) Is consistent with the intent of the ordinance;

   **Finding:** Medical clinics are a conditionally permitted use within a PUD.

2) Is consistent with the goals, policies and objectives of the comprehensive plan;

   **Finding:** The use is consistent with the goals, policies and objectives of the comprehensive plan. The subject site is guided for mixed-use. Clinic uses are consistent with the uses within this land use category.

3) Does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;

   **Finding:** The proposal has been reviewed by the city’s building, engineering, planning, natural resource, and fire staff. It is not anticipated to have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements.

4) Is consistent with the city’s water resources management plan;

   **Finding:** The use is consistent with the city's water resources management plan. No exterior additions are being proposed to the property at this time.

5) Is in compliance with the performance standards specified in §300.28 of the ordinance; and
Finding: The majority of the performance standards outlined in the zoning ordinance are related to development and construction. The proposal is for the use of an existing building. With the exception of the parking variance, to allow a reduction of parking, the proposal would meet the standards outlined.

6) Does not have an undue adverse impact on the public health, safety or welfare.

Finding: The use is not anticipated to have an undue adverse impact on the public health, safety or welfare.

Specific CUP Standards

Staff finds that the proposal meets the specific conditional use permit standards, as the use:

1) Shall not be adjacent to low density residential areas;

Finding: All of the surrounding land uses are commercial use, zoned Planned I-394 District, and guided for mixed use or commercial in the comprehensive plan. The site is not adjacent to any low-density residential properties.

2) Shall have direct access from the site to a collector or arterial street as defined in the comprehensive plan;

Finding: The site has direct access from Plymouth Road and Ridgedale Drive, both of which are defined as a collector or arterial 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 medical use is a veterinary clinic. As proposed, the use would not require emergency vehicle access. Additionally, the site access locations are not located adjacent to or across the street from any residential use properties.

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 proposed clinic would be just under 2,600 square feet in size, so a detailed parking study was not required. However, the applicant submitted parking utilization information covering a six-day period in April. The observation noted that a maximum number of 44 vehicles were parked in the 77-stall parking lot, with most times having 35 or less vehicles within the parking lot. Per city ordinance, the addition of the medical clinic
would require the site to have nine additional parking spaces on site. Staff finds that there is adequate parking available to meet the increased parking need that would result from the medical clinic.

Parking Variance

Staff finds that the proposal meets the variance standards, as:

1) Purpose and Intent of the Zoning Ordinance:

The proposal, and resulting variance request, would be in keeping with the city’s zoning ordinance. The intent of the ordinance, as it pertains to parking requirements, is to ensure adequate parking is provided to meet the anticipated parking demand of the subject site. A parking utilization study completed over six days during April 2018 found that at a generally 50 percent of the parking on the site is currently available. The subject site currently has a 2,600 square foot restaurant space and a 900 square foot retail space both vacant. With this consideration, staff still finds that the proposed reduction in parking spaces would meet the intent of the ordinance because, based on the parking utilization study, the proposed use would demand less parking than required by ordinance.

2) Consistent with the Comprehensive Plan:

The proposal would be consistent with the city’s comprehensive plan. The subject property is guided for mixed use. This designation has been established to allow flexibility in land use and creative site design. The proposed use of this property would be consistent with this objective.

3) Practical Difficulties:

There are practical difficulties in complying with the ordinance.

Reasonableness: Staff finds that the request for a variance from the required number of parking spaces is reasonable, as there is currently a high amount of parking available on the site.

Circumstance Unique to the Property: The applicant conducted a parking utilization study during various times during a six-day period in April 2018. With the exception of two time frames, the property had at least 50 percent of its parking available. Including the subject site, there are three vacant tenant spaces that are expected to demand approximately 50 percent of the parking. This evidence suggests that the subject site will be able to accommodate the additional uses based on
the existing parking demand and projected parking demand of the vacant uses.

Neighborhood Character: The parking variance would not adversely affect the character of the surrounding neighborhood as the site should meet the anticipated peak parking demand on site.

Neighborhood Comments
The city sent notices to 239 area property owners and received no comments.

Pyramid of Discretion

Motion options
The planning commission has the following motion options:

1. Concur with staff’s recommendation. In this case, a motion should be made recommending the city council approve the proposal based on the findings outlined in the staff-drafted resolution.

2. Disagree with staff’s recommendation. In this case, a motion should be made recommending the city council deny the request. The motion should include findings for denial.

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

Voting Requirement
The planning commission will make a recommendation to the city council on the applicant’s proposal. A recommendation for approval requires an affirmative vote of a simple majority.

The city council’s final approval requires affirmative votes of five members, given that the proposal includes a variance.

Deadline for Decision
July 21, 2018
Location Map

Project: WellHaven Pet Health
Address: 1700 Plymouth Rd
Exhibit A Site Plan:

CARTWAY LANE

Clinic Location

Mar 23 2018
Submitted by Applicant
WellHaven PetHealth Conditional Use Permit Narrative

WellHaven PetHealth ("WPH") is seeking a conditional use permit (CUP) to establish a veterinary clinic ("Clinic") in the commercial tenant space at 1700 Plymouth Road ("Property"), in the City of Minnetonka ("City"). The Minnetonka Clinic will be an approximately 2,700 sq. ft. location, located in Suite E of the Shops at 1700 building located off of Plymouth Road and Cartway Lane. The location of the Clinic within the building is shown on Exhibit A "Site Plan."

The Clinic will employ two (2) full-time doctors and a support staff of seven (7) additional Clinic associates. The hours will be 9:00 am-7:00 pm seven (7) days a week. Once fully up and running the Clinic will be able to service up to forty (40) pets per day. The majority of the pet visits will be routine check-up visits, though the facility will have the capability to handle minor same day surgeries, most of the Clinic’s patients will be seeking standard checkups and care. The typical visit for most patients is a 20-30 minute visit. The more invasive procedures consist of dropping a pet off early in the day and picking up later in the day with no animals kept on the Property overnight.

WellHaven strives to establish a premier veterinary care experience. Our facilities are designed and constructed for cleanliness, odor, and noise control. Should a pet have an accident, the waste is immediately disposed of and the area cleaned. It is critical to our business to have a clean, quiet, and welcoming space for our patients and their owners. The Minnetonka location floor plan is provided as Exhibit B "Floor Plan" below.

WellHaven’s CUP is consistent with the required findings under City Code Section 300.212, as follows:

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

   WellHaven’s CUP request is consistent with the intent of the City’s zoning ordinance. The Property is zoned Planned Unit Development (PUD) District, which is intended to provide flexibility through added public benefits, including: a mix of land use types and development that is compatible with existing surrounding development. WellHaven will contribute to the mix of uses in the district and provide a complementary service to the surrounding community and the residential uses on the Property. The service is consistent with the intent and purpose of the City’s zoning ordinance.

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

   The proposed Clinic is a retail and service use that is expressly consistent with the policy framework outlined in the City’s comprehensive plan. The Property is guided for mixed use in the 2030 comprehensive plan. The proposed Clinic contributes to the robust mix of land uses and complements the high-density residential apartments on the Property, which is consistent with the comprehensive plan’s vision. The proposed project is also consistent with the Ridgedale village center plan, which include transforming the primarily retail center into a mixed-use community. The village center plan specifically states that additional retail uses, such as the proposed Clinic, are appropriate elements for the Ridgedale area.

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

   The Clinic will not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements. The clinic will be operated similar to a traditional outpatient clinic with the exception
that it treats animals. All patient care activities will occur indoors and will not require overnight stays. There will likely be no impact on any government facilities, utilities, services, or improvements.

4. **The use is consistent with the city’s water resources management plan.**

The Clinic will be constructed within the existing development, is anticipated to have no impact on the City’s water resources and 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.**

The proposed clinic will be consistent with all applicable performance standards under Section 300.28 of the City Code. Noise attenuation is a primary concern and the clinic will be constructed to ensure noise does not transfer between common walls or to tenant spaces above the proposed clinic. Sound attenuation of STC rating of 55 or higher will be used for common walls and ceilings, and the existing structure of the building will be sprayed with 3 inches of cellulose insulation, which allows for the maximum sound absorption. The facility will also be constructed with an exhaust system that is intended to mitigate and eliminate both sound and odor transfer from the clinic to the outside. WellHaven prides itself on maintaining clean and sanitary facilities and will ensure compliance with the required performance standards.

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

The Clinic will not have an undue adverse impact on public health, safety, or welfare. The Clinic will be fully equipped with modern technology and veterinary healthcare technology to serve the residents of the community and ensure the health and care of their animals. The fully enclosed nature of the Clinic, along with the noise and odor attenuation measures will result in little if any impacts outside of the tenant space. Clinic staff will regularly clean the inside and outside of the facility to ensure the health and safety of employees, patients, and the surrounding residents. Staff will regularly inspect the premises outside of the proposed Clinic to ensure no litter or animal waste is present, even if it is not attributed to Clinic patients. The proposed Clinic will not have an adverse impact on the public health, safety, or welfare.
April 26, 2018

Mr. Drew Ingvalson
Planner
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345

Re: WellHaven Pet Health Services – 1700 Plymouth Road, Minnetonka, Parking Variance
Our File #40661-77

Dear Mr. Ingvalson:

We represent WellHaven Pet Health Services (“WellHaven”) with respect to the proposed veterinary clinic located at 1700 Plymouth Road (“Property”), in the City of Minnetonka (“City”). The Minnetonka Clinic will be an approximately 2,590 sq. ft. location, located in Suite E of the Shops at 1700 building located on Plymouth Road. The City has determined that a variance to the minimum off-street parking requirements is required due to the limited parking available on-site and the parking requirement of the proposed Clinic.

The proposed clinic has been classified by the City as a “medical and dental office,” subject to a minimum parking requirement of one (1) space per 175 square feet of floor area with a minimum of 20 spaces. When the Property was initially developed in 2014, the City approved a variance to reduce the parking requirement from 362 to 293 stalls, where 122 of the stalls were allocated towards retail uses.

WellHaven is seeking to occupy approximately 2,590 square feet of vacant tenant space in the building, which is subject to a minimum parking requirement of 20 spaces. The remaining tenant spaces are occupied, with the exception of a 900 square foot tenant space. Based on the City’s calculations, with the inclusion of WellHaven, the Property is subject to an aggregate non-residential parking requirement of 141 spaces; however, the actual parking demand has proven to be significantly lower. WellHaven is seeking a variance to reduce the parking requirement to allow the proposed use.

Anticipated Parking Demand On Site

Based on WellHaven’s substantial experience in the veterinary services business and operations at similarly-situated veterinary services facilities, WellHaven anticipates that the total on-site parking demand for the Minnetonka clinic (the “Clinic”) will not exceed fifteen (15) total spaces at peak operational capacity.
The Clinic will be approximately 2,590 sq. ft. and will employ two (2) full time doctors and a support staff of seven (7) additional clinic associates, for a total of nine (9) employees. All of the Clinic’s employees are unlikely to be working during the same hours. The Clinic will operate from 9:00 a.m. to 7:00 p.m., seven (7) days a week with four (4) exam rooms. Based on WellHaven’s experience and comparably-sized clinics, at maximum operational capacity the Clinic will be able service up to forty (40) pets per day, averaging four (4) animals an hour.

Based on WellHaven’s experiences with veterinary clinics, the anticipated parking demand is calculated at 1.5 vehicles per exam room and 1 space per employee. Using these parking ratios, WellHaven anticipates that the peak parking demand at the Clinic will not exceed 15 parking spaces at any one time.

WellHaven’s two most comparably sized and staff clinics in Minnesota are located in New Brighton and Burnsville. A comparison of these clinics to the proposed Clinic is as follows:

<table>
<thead>
<tr>
<th>Clinic Location</th>
<th>Gross Floor Area</th>
<th>Exam Rooms</th>
<th>Employees</th>
<th>Peak Parking Demand</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Brighton</td>
<td>2,000</td>
<td>3</td>
<td>9</td>
<td>14</td>
</tr>
<tr>
<td>Burnsville</td>
<td>2,790</td>
<td>4</td>
<td>8</td>
<td>14</td>
</tr>
<tr>
<td>Minnetonka (Proposed)</td>
<td>2,590</td>
<td>4</td>
<td>9</td>
<td>15</td>
</tr>
</tbody>
</table>

The estimated parking demand of 15 spaces for the Clinic is consistent with the ratios described above, as well as the observed parking demand at the New Brighton and Burnsville Clinics, which are mature and established facilities.

**Parking Inventory**

In order to demonstrate that the existing parking lot has ample necessary parking availability, WellHaven commissioned a parking inventory (the “Parking Analysis”) of the 77-space surface parking lot, conducted by Rani Engineering. The intent of the Parking Analysis was to identify the availability of parking in the surface parking lot during varying time periods. The Parking Analysis included parking counts for the surface parking lot over the period of six (6) days, running from a Thursday to a Tuesday, including Saturday and Sunday, in order to obtain a representative parking demand. Counts were taken during three general time periods: 7:00 a.m. to 10:00 a.m.; 11:00 to 2:00 p.m.; and 4:00 p.m. to 7:00 p.m. and varied from day to day during each period to obtain an adequate sample.

The Parking Analysis identified significant parking availability during all sampling periods. During the week, of the 77 available surface parking spaces, the Parking Analysis identified an average of 45 spaces available during the morning period; 42 spaces available during the midday period; and 55 spaces available during the afternoon/evening period. During the weekend, the parking availability was slightly higher than the same periods during the week.

The fewest parking spaces were available during the morning during the “coffee rush” and midday, during the lunch rush. During the morning, the fewest number of available spaces was 33; during the midday lunch rush, the fewest number of available spaces was 35. Given
WellHaven’s maximum anticipated parking demand of fifteen (15) vehicles, there is sufficient excess parking capacity to accommodate the Clinic on site.

Parking Management Plan

Paster Properties ("Paster"), the property owner, has implemented a new parking management plan for the Property, and engaged LAZ Parking ("LAZ") to monitor and implement the parking policies. LAZ will maintain a physical presence on the Property from Monday to Saturday from 11 a.m. to 2 p.m., serving as greets to guests and directing guests to available parking spaces. Paster’s parking management plan also includes a two (2) hour parking limit for guests, dedicated residential parking, and active enforcement of time limits. The parking management plan has been circulated to all tenants and Paster anticipates the plan will result an increased capacity in the parking lot throughout the day, and during the midday peak periods.

Required Findings

WellHaven’s request is consistent with the requirements under City Code Section 300.07, and Minnesota Statutes Section 462.357, subdivision 6(2), which requires demonstration of practical difficulties as follows:

Unique Circumstances

The Property is a large mixed-use development with both residential and non-residential uses. The non-residential uses include a coffee shop, restaurants, spa treatments, retail, and the proposed Clinic. The City Code imposes a minimum parking requirement on each land use, which is intended to accommodate the maximum parking demand such a land use without adverse impacts on adjacent properties. Here, however, City Code imposes a parking requirement on each use, the aggregate of which exceeds the overall demand for the site at any given time due to variations in peak parking demand periods for each of the use. As a result, the mixed-use Property can accommodate a lower parking requirement while still meeting the needs of the tenants and guests. These are circumstances unique to the mix of uses on the Property and were not created by the applicant.

Reasonable Use

WellHaven proposes to use the Property in a reasonable manner that is not currently permitted by the City Code as a result of the parking demand. Based on the City Code, all parking stalls available on site are required to accommodate the minimum parking requirements of the existing uses the Property, not including WellHaven. Thus, pursuant to the City Code, the Property could not accommodate any new tenant in the proposed WellHaven tenant space. Given the demonstrated capacity as shown in the Parking Analysis, the actual aggregate minimum parking requirement is significantly higher than the peak parking demand at any given time.

Essential Character of the Locality

The proposed use will not alter the essential character of the locality, as the Property is a large mixed-use site, within a regional commercial center. The Property is located in the Ridgedale
Center area, which includes a host of regional commercial uses primarily accessed by vehicles. The proposed Clinic will not adversely impact the character of the vicinity. The variance will allow the Clinic to operate in a currently vacant tenant space, providing a necessary service to the community without adversely impacting the health, safety, and public welfare of the community. Based on the above considerations, practical difficulties exist in complying with the aggregate parking demand because the parking requirement in the code is significantly higher than the actual demand as a result of the mix of uses on the Property.

Please contact me with any questions about this letter or the information contained herein.

Sincerely,

Jacob W. Steen, for
Larkin Hoffman

Direct Dial: 952-896-3239
Direct Fax: 952-842-1738
Email: jsteen@larkinhoffman.com

Cc: Brad Loucks, WellHaven Pet Health Services, via email
    Howard Paster, Paster Properties, via email
    Jim Susag, Larkin Hoffman, via email
Rani Engineering performed counts of available parking spaces for the parking lot at the address listed above. The counts were done at varying times, three times per day for six consecutive days, including four weekdays and two weekend days. Counts were done in the morning (between 7:00 and 10:00), during the lunch hour (between 11:00 and 2:00), and in the afternoon/ evening (between 4:00 and 7:00). Counts were taken at different times each day to obtain an accurate sample during each of the three time periods, and to accommodate for variations in peak demand periods and business hours. The results of the study are shown in the tables below.

PARKING STUDY - COUNT OF AVAILABLE SPACES

<table>
<thead>
<tr>
<th>WEEKDAY COUNT OF AVAILABLE PARKING SPACES</th>
<th>Morning (7:00 - 10:00)</th>
<th>Midday (11:00 - 2:00)</th>
<th>Afternoon/Evening (4:00 - 7:00)</th>
<th>Average per Day</th>
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</thead>
<tbody>
<tr>
<td>Th 4/19/18</td>
<td>33</td>
<td>46</td>
<td>59</td>
<td>46.0</td>
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<tr>
<td>F 4/20/18</td>
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<td>M 4/23/18</td>
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<td>58</td>
<td>48.3</td>
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<tr>
<td>Average Available</td>
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<td>55</td>
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<tr>
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<tr>
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<td>71.4%</td>
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<th>Morning (7:00 - 10:00)</th>
<th>Midday (11:00 - 2:00)</th>
<th>Afternoon/Evening (4:00 - 7:00)</th>
<th>Average per Day</th>
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<td>47</td>
<td>38</td>
<td>64</td>
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<td>S 4/22/18</td>
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<tr>
<td>Percentage Left Available</td>
<td>61.7%</td>
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April 3, 2018

Dear 1700 Retail Tenants:

In a continued effort to monitor our parking lot on an annual basis, we have updated the 1700 parking plan. Our initial goal is to address 11 am through 2 pm Monday through Saturday when the retail/restaurant uses are more likely to be busier. After monitoring the parking lot during the past year, we will make the following changes effective May 1, 2018:

- All retail employees that drive to work will be required to submit their name, vehicle make and model and license plate number to their Store Manager who will be responsible to submit this information to 1700 Management. Permits will be given to all employees to display on their vehicle, all permits will need to be displayed by May 1st. Unauthorized employee vehicles will be tracked and towed.
- Parking in the entire 1700 surface lot will be limited to 2 hours for any vehicle without an employee permit.
- A parking ambassador and will monitor the parking lot between the hours of 11 am and 2 pm Monday through Saturday. Vehicles remaining more than 2 hours will be towed.
- Signage at the entrances of the lot will be updated with the new 2 hour parking limit.
- Residential guest parking that occurs in the surface lot will also be limited to 2 hours if it occurs outside of the 5-designated resident guest parking spaces. All guests staying more than 2 hours will need to check in with the office and park in the underground garage below (spaces will be limited). This change will be communicated to the Residents in April.
- We are in the process of hiring a new towing company to monitor and ensure vehicles illegally parking in the evening are moved for plowing and also to keep the lot clear for morning retail traffic.
- A camera system has been installed on the premises to monitor traffic during time of day to effectively help manage needs in the future.

Pam Larson, the 1700 Property Manager, will check in with retail managers weekly to gain feedback and keep an open line of communication. We will continue to evaluate our parking management plan as necessary, but at a minimum on an annual basis, to ensure parking is working for all retailers and customers. Please feel free to reach out with any questions or concerns.

Sincerely,

1700 MANAGEMENT

Pam Larson, Property Manager  
1700manager@steven-scott.com  
952-544-4000

Lisa Walters, Regional Manager  
lisawalters@steven-scott.com  
952-540-8679
Resolution No. 2018-

Resolution approving a conditional use permit, with parking variance, for WellHaven Pet Health at 1700 Plymouth Road

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

Section 1. Background.

1.01 The subject property is located at 1700 Plymouth Road. It is legally described within Exhibit A.

1.02 WellHaven Pet Health has requested a conditional use permit to operate a medical (veterinary) clinic within a tenant space of the existing mixed-use building located on the subject property. The request includes a parking variance.

1.03 In 2014, the city approved a parking variance for the property from 362 to 293. At that time, the tenant space was expected to demand 11 spaces (one space per 250 square feet). The parking stall requirement for a medical clinic is one space per 175 square feet with a minimum of 20 spaces. This creates a parking deficit by code.

1.04 City Code §300.22 Subd. 3(n) allows all uses allowed by conditional use permit within any other district within the Planned Unit Development District.

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

1.06 On May 10, 2018, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit, with variance.

Section 2. Standards.

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

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

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

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

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

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

2.02 City Code §300.31 Subd. 4(b)(2)(d) outlines the following specific standards that must be met for granting a conditional use permit for hospitals and medical clinics. Hospitals and clinics:

1. Shall not be adjacent to low density residential areas;

2. Site shall have direct access to collector or arterial street as defined in the comprehensive plans; and

3. Emergency vehicle access shall not be adjacent to or located across a street from any residential use.

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.

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

Section 3. Findings.

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

1. Medical clinics are a conditionally permitted use within the Planned Unit Development (PUD) District.

2. The use is consistent with the goals, policies and objectives of the comprehensive plan. The subject site is guided for mixed use. Clinic uses are consistent with the uses within this land use category.
3. The proposal has been reviewed by the city’s building, engineering, planning, natural resource, and fire staff. It is not anticipated to 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. No exterior additions are being proposed to the property at this time.

5. The majority of the performance standards outlined in the zoning ordinance are related to development and construction. The proposal is for the use of an existing building. With the exception of the parking variance, to allow a reduction of parking, the proposal would meet the standards outlined.

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

3.02 The proposal would meet all of the specific conditional use permit standards outlined in §300.31 (4)(b)(2)(d).

1. All of the surrounding land uses are commercial uses, zoned Planned I-394 District, and guided for mixed use or commercial in the comprehensive plan. The site is not adjacent to any low-density residential properties.

2. The site has direct access from Plymouth Road and Ridgedale Drive, both of which are defined as a collector or arterial street in the comprehensive plan.

3. The proposed medical use is a veterinary clinic. As proposed, the use would not require emergency vehicle access. Additionally, the site access locations are not located adjacent to or across the street from any residential use properties.

4. The proposed clinic would be just under 2,600 square feet in size, so a detailed parking study was not required. However, the applicant submitted parking utilization information covering a six-day period in April. The observation noted that a maximum number of 44 vehicles were parked in the 77-stall parking lot. Generally, 35 or less vehicles were observed within the parking lot. Per city ordinance, the addition of the medical clinic would require the site to have nine additional parking spaces on site. However, based on the utilization study, there is adequate parking available to meet the increased parking need that would result from the medical clinic.

3.03 The proposal would meet the variance standard as outlined in City Code §300.07 Subd. 1(a):
1. Intent of Ordinance. The proposal, and resulting variance request, would be in keeping with the city’s zoning ordinance. The intent of the ordinance, as it pertains to parking requirements, is to ensure adequate parking is provided to meet the anticipated parking demand of the subject site. A parking utilization study completed over six days during April 2018 found that at a generally 50 percent of the parking on the site is currently available. The subject site currently has a 2,600 square foot restaurant space and a 900 square foot retail space both vacant. With this consideration, the proposed reduction in parking spaces would meet the intent of the ordinance because, based on the parking utilization study, the proposed use would demand less parking than required by ordinance.

2. Comprehensive Plan. The proposal would be consistent with the city’s comprehensive plan. The subject property is guided for mixed use. This designation has been established to allow flexibility in land use and creative site design. The proposed use of this property would be consistent with this objective.

3. Practical Difficulties. There are practical difficulties in complying with the ordinance:
   a) Reasonableness. The request for a variance from the required number of parking spaces is reasonable, as there is currently a high amount of unused parking on the site and the proposed use would require only slightly more parking than the previously assumed.
   b) Uniqueness. The applicant conducted a parking utilization study during various times during a six-day period in April 2018. With the exception of two time frames, the property had at least 50 percent of its parking available. Including the subject tenant space, there are three vacant tenant spaces that are expected to demand approximately 50 percent of the parking. This evidence suggests that the subject site would be able to accommodate the additional uses based on the existing parking demand and projected parking demand of the vacant uses.
   c) Neighborhood Character. The parking variance would not adversely affect the character of the surrounding neighborhood as the site should meet the anticipated peak parking demand on site.

Section 4. City Council Action.

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

1. Subject to staff approval, the property must be developed and maintained in substantial conformance with the following documents:
• Narrative date-stamped March 23, 2018
• Letter dated April 26, 2018
• Letter to Retail Tenants dated April 3, 2018

2. This resolution must be recorded with Hennepin County.

3. The tenant space must comply with all requirements of the Minnesota state building code, fire code, and health code.

4. Sign permits are required for any exterior signs.

5. Animals are not allowed to be lodged overnight.

6. The applicant must enforce parking based on the letter to retail tenants, dated April 3, 2018, within the attachments of the staff report.

7. The applicant must inform city staff in writing if any significant changes in programming that would increase the parking demand on site. This includes, but is not limited to, service changes, hours of operation, and user increases, as it may require an updated parking study. If an updated study indicates a negative impact on the parking demand, staff may require the conditional use permit be brought back to the city council for further review.

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, parking 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 June 4, 2018.

_______________________________________
Brad Wiersum, Mayor
Resolution No. 2018-                                                                                                         Page 6

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 June 4, 2018.

________________________________
David E. Maeda, City Clerk
Exhibit A

LOT 1, BLOCK 1, RIDGEDALE STATE BANK FIRST ADDITION; AND THAT PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 117, RANGE 22, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE EASTERLY LINE OF RIDGEDALE DRIVE AS NOW LAID OUT AND UTILIZED ACCORDING TO THE DULY RECORDED PLAT OF RIDGE SQUARE SECOND ADDITION, AND A LINE PARALLEL WITH AND 285 FEET SOUTH FROM THE NORTH LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER; THENCE EAST ALONG SAID PARALLEL LINE TO A POINT 704 FEET EAST FROM THE WEST LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH AT RIGHT ANGLES A DISTANCE OF 50 FEET; THENCE WEST AT RIGHT ANGLES TO SAID EASTERLY RIGHT-OF-WAY LINE OR RIGEDALE DRIVE; THENCE NORTHERLY ALONG SAID RIGHT-OF-WAY TO THE POINT OF BEGINNING; AND AND THAT PART OF THE NORTH 85 FEET OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 117, RANGE 22, LYING WEST OF OF THE WEST LINE OF COUNTY ROAD NO. 72, ALSO KNOWN AS PLYMOUTH ROAD, AND EASTERLY OF A LINE DESCRIBED AS: BEGINNING AT THE MOST NORTHERLY NORTHEAST CORNER OF LOT 1, BLOCK 1, RIDGEDALE STATE BANK FIRST ADDITION; THENCE SOUTH 11 DEGREES 54 MINUTES 52 SECONDS EAST ALONG AN EAST LINE OF SAID LOT 1, A DISTANCE OF 86.89 FEET TO THE SOUTH LINE OF SAID NORTH 85 FEET THEROF, AND SAID LINE THERE TERMINATING.