Planning Commission Agenda

Oct. 18, 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: September 20, 2018

5. Report from Staff

6. Report from Planning Commission Members

7. Public Hearings: Consent Agenda

   A. Resolution approving an aggregate side yard setback variance for construction of new home at 13228 Orchard Rd.

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

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

8. Public Hearings: Non-Consent Agenda Items

   A. Resolution approving a conditional use permit for a licensed daycare facility at 12301 Whitewater Drive

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

         • Recommendation to City Council (Tentative Date: November 5, 2018)
         • Project Planner: Susan Thomas

   B. Resolution denying a front yard setback variance construct a screened porch and covered porch at 2300 Ford Rd.

      Recommendation: Adopt the resolution denying the request (4 votes)

         • Final Decision Subject to Appeal
         • Project Planner: Drew Ingvalson
C. Resolution approving final site and building plans for a restaurant at 11390 Wayzata Blvd.

   Recommendation: Adopt the resolution approving the request (4 votes)
   - Final Decision Subject to Appeal
   - Project Planner: Ashley Cauley

D. Ordinance repealing and replacing City Code 325, Sign Regulations

   Recommendation: Recommend the city county adopt the ordinance (4 votes)
   - Recommendation to City Council (Tentative Date: November 5, 2018)
   - Project Planner: Drew Ingvalson

9. Other Business

   A. Concept plan review for Highcroft Meadows at 14410 Orchard Rd.

      Recommendation: Discussion only. No formal action required.
      - Concept Plan to City Council (Tentative Date: November 5, 2018)
      - Project Planner: Susan Thomas
Notices

1. Please call the planning division at (952) 939-8290 to confirm meeting dates as they are tentative and subject to change.

2. Applications and items scheduled for the November 1, 2018 planning commission meeting:

<table>
<thead>
<tr>
<th>Project Description</th>
<th>The Mariner, a multi-family rental building</th>
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<tr>
<td>Project Address</td>
<td>10400/10500/10550 Bren Rd East</td>
</tr>
<tr>
<td>Project No.</td>
<td>18021.18a</td>
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<tr>
<td>Assigned Staff</td>
<td>Susan Thomas</td>
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<tr>
<td>Ward Councilmember</td>
<td>Bob Ellingson, Ward 1</td>
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<tr>
<th>Project Description</th>
<th>Highwood Ridge, a two-lot subdivision</th>
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<tr>
<td>Project Address</td>
<td>14916 Highwood Dr</td>
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<tr>
<td>Project No.</td>
<td>18030.18a</td>
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<tr>
<td>Assigned Staff</td>
<td>Susan Thomas</td>
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<tr>
<td>Ward Councilmember</td>
<td>Mike Happe, Ward 3</td>
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<tr>
<th>Project Description</th>
<th>Buss/Jones Residence, a front yard setback variance</th>
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<td>4425 Tonkawood Rd</td>
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<td>Assigned Staff</td>
<td>Drew Ingvalson</td>
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<tr>
<td>Ward Councilmember</td>
<td>Mike Happe, Ward 3</td>
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WELCOME TO THE MINNETONKA PLANNING COMMISSION MEETING

This outline has been prepared to help you understand the public meeting process. The review of an item usually takes the following form:

1. The chairperson of the meeting will announce the item to be reviewed and ask for the staff report on the subject.
2. Staff presents their report on the item.
3. The commission will then ask city staff questions about the proposal.
4. The chairperson will then ask if the applicant wishes to comment.
5. The chairperson will open the public hearing to give an opportunity to anyone present to comment on the proposal.
6. This is the time for the public to make comments or ask questions about the proposal. Please step up to the podium, speak clearly, first giving your name (spelling your last name) and address and then your comments.
7. At larger public hearings, the chair will encourage speakers, including the applicant, to limit their time at the podium to about 8 minutes so everyone has time to speak at least once. Neighborhood representatives will be given more time. Once everyone has spoken, the chair may allow speakers to return for additional comments.
8. After everyone in the audience wishing to speak has given his or her comments, the chairperson will close the public hearing portion of the meeting.
9. The commission will then discuss the proposal. No further public comments are allowed.
10. The commission will then make its recommendation or decision.
11. Final decisions by the planning commission may be appealed to the city council. Appeals must be written and filed with the planning department within 10 days of the planning commission meeting.

It is possible that a quorum of members of the city council may be present. However, no meeting of the city council will be convened and no action will be taken by the city council.
1. **Call to Order**

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

2. **Roll Call**

Commissioners Knight, Powers, Sewall, Hanson, Henry, and Kirk were present.

Staff members present: Assistant City Planner Susan Thomas and Natural Resource Manager Jo Colleran.

3. **Approval of Agenda**

_Hanson moved, second by Sewall to approve the agenda as submitted with additional comments and a modification provided in the change memo dated Sept. 20, 2018._

_Knight, Powers, Sewall, Hanson, Henry, and Kirk voted yes. Motion carried._

4. **Approval of Minutes**: Sept. 6, 2018

_Powers moved, second by Henry, to approve the Sept. 6, 2018 meeting minutes as submitted._

_Knight, Powers, Sewall, Hanson, Henry, and Kirk voted yes. Motion carried._

5. **Report from Staff**

Thomas briefed the commission on land use applications considered by the city council at its meeting of Sept. 17, 2018:

- Adopted a resolution approving a conditional use permit and variance for a restaurant, DelSur, at 14725 Excelsior Blvd.
- Reviewed a concept plan for redevelopment of the property at 1809 Plymouth Road.
- Reviewed a concept plan for the proposal for Hennepin County Medical Examiner’s Office at 14300 County Road 62.

Multiple Comprehensive Guide Plan meetings are scheduled to be held in October, November, and December. Please visit [eminnetonka.com](mailto:eminnetonka.com) to obtain details on the meetings.

The regular Oct. 4, 2018 planning commission meeting has been cancelled. The next meeting will be Oct. 18, 2018.
6. Report from Planning Commission Members

Powers stated that he and Knight found the tour of the proposed Hennepin County Medical Examiner’s Office site beneficial. Having another tour outside of work hours was suggested.

Sewall mentioned that Rock at Ridgedale will be held Sept. 22, 2018.

7. Public Hearings: Consent Agenda: None

8. Public Hearings

A. Items concerning Villas of Glen Lake, a five-lot residential development at 5517/5525 Eden Prairie 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.

Sewall asked how holding pond locations would be determined. Thomas explained the site’s topography and drainage pattern. She explained how the city holds a financial guarantee from the developer until the project is completed according to plans approved by the city engineer.

In response to Chair Kirk’s question, Thomas reviewed the proposed stormwater treatments to be used including an underground vault and infiltration basin. A stormwater maintenance agreement would be required.

Blaine Waters, of Quest Development, applicant, stated that Thomas did a great job of presenting the project. He was available for questions.

Powers asked if he considered four units. Mr. Waters stated that the applicant hoped to have six lots with R-1 zoning. Due to site restrictions, the applicant opted for five lots. The economics of the end product require the density to keep the desired price point and five lots would create a sense of community. The goal is to keep the price around $550,000 to $650,000. That would be a good fit for the area.

Sewall asked how snow would be handled. Mr. Waters stated that the applicant would work with staff to create an acceptable snow removal and storage plan. It is a condition of approval.

In response to Henry’s question, Thomas explained that the applicant was amenable to including a sidewalk in the project, but after considering the county’s requirements to construct a sidewalk, the overhead power lines, and the number of trees that would need
to be removed, staff determined that it would be better to wait until a larger project provided an opportunity to add a sidewalk along a longer stretch of Eden Prairie Road rather than the 200-foot portion this project would provide.

The public hearing was opened.

Ann Hossfeld, 14616 Glen Dale Street, stated that:

- The public storm sewer system is on her property. She provided photos of the stormwater inlets on Eden Prairie Road. Water flows into the inlet on her property. There is a pond on her property today.
- She was concerned that the proposal’s hard-surface coverage would add more water running onto her property.
- She met with staff on Monday. Staff were very responsive and she appreciated Thomas talking with her and showing her the diagrams of the proposed grading. She learned that the project triggers a requirement for stormwater management. The plan includes infiltration basins and adds protection for stormwater management. There would be a place to hold water and infiltrate it on the site without the water running onto Eden Prairie Road.
- The stormwater management plan was reviewed by the city engineers and the Nine Mile Creek Watershed District staff who approved the plan. Development is not allowed to alter a water-flow pattern or increase the volume. The proposal would not increase the amount of water that would flow onto Eden Prairie Road. So the proposal would not increase her current water problems.
- She was concerned the models could be wrong; there could be many more 100-year storms; the infiltration basins could overflow; and the volume of water could cause more water to flow onto her property. She questioned what her options would be if that would happen. Staff gave her an answer, but she has not processed that information yet. She knows that the city could monitor the infiltration basin and fixes could be made to solve a problem. She accepts the explanation from the city, understands it, and hopes it works.
- She referenced her letter that lists her concerns with snow management. Snow management has been addressed by a condition of approval.
- She quoted the staff report that made a suggestion to restripe a center turn lane on Eden Prairie Road. She asked if that would happen.

Kris Olson, part owner of 5509 Eden Prairie Road, stated that:

- She was concerned with a plow making a large snow pile on the north side that would melt, run down the hill and into the building. She asked that be considered when creating the snow removal plan.
No additional testimony was submitted and the hearing was closed.

Chair Kirk asked if the basin would usually be dry. Thomas answered affirmatively. Water would sit in the basin after a heavy rain, but it should be dry within 48 hours. The design would accommodate a 2-year, 10-year, and 100-year storm. There is a one-percent chance of a 100-year storm happening every year. A property owner is required to control the rate and volume traveling off of a site post-development to the same level as it was pre-development. A 100-year storm is equal to 7.2 inches of rain falling within 24 hours.

Chair Kirk asked if three houses would require stormwater management. Thomas explained that a three-house subdivision on the proposed site would also be required to have stormwater management because of the site’s proximity to Glen Lake.

Thomas explained that Eden Prairie Road currently has a striped median area. It would not require an expansion of the paved area of the street to restripe it and create a turn lane. The county would acquire seven additional feet of road easement.

In response to Henry’s question, Thomas explained that the pre-development stormwater runoff rate and volume are provided by the applicant’s engineer. That is reviewed by the city engineer and watershed district engineer. There is also a model to show the post-development stormwater rate and volume.

Colleran explained that the watershed district rules were just updated to reflect the increase in precipitation.

Chair Kirk asked if Tree 1310 would be impacted. Colleran answered affirmatively. The tree is a Colorado blue spruce, 12 inches in diameter. Grading of the site would require the tree to be removed. It appears that the tree north of Tree 1310 would probably survive the grading, but she will confirm that before the city council meeting.

Chair Kirk was concerned with snow removal management.

Powers noted that the Olson’s were concerned that people would walk on their property to reach Eden Prairie Road. Thomas stated that a property owner may choose to add a permanent barrier to prevent trespassing. Mr. Waters was sympathetic. Landscaping might be the most aesthetically pleasing deterrent. He did not foresee the future homeowners creating an issue by trespassing.

In response to Powers’ question, Mr. Waters stated that he spoke to the Olsons at a neighborhood meeting at Unmapped Brewing and other meetings. In response to the Olson’s request, the applicant tried to add a sidewalk to the project and the north setback was increased from 5 feet to 20 feet to preserve a number of trees. Having people walk on someone else’s property is not a new or unique issue for the area. It has been happening for a long time. The applicant is willing to do what can be done with landscaping. The landscape plan would be approved by staff.
Chair Kirk was not as concerned with trespassing. There is a four-foot contour change over about 30 feet. The proposal would not be an apartment complex.

Chair Kirk was concerned with vehicles being able to turn around. Mr. Waters explained that the applicant’s engineers discussed the plan with the city’s engineers and the plan reflects that agreement. Thomas noted that there appears to be some room to extend the north and south sides without impacting the grading plan. The proposed drive width is 16 feet. A standard parking stall is 18 feet deep. Colleran noted that extending the driveway north would have to take into consideration the root zones of the Olson’s trees.

Chair Kirk thought that the rooflines appear massive. Mr. Waters stated that the houses were included in the plan to provide an illustration of what could possibly be built. His vision did not include that architectural design. Each house would go through building permit review. There are a number of variations that could fit in each footprint.

Knight likes the rearrangement of the driveway better in this proposal than the earlier proposal.

Powers likes this proposal better than the previous one. He would prefer four lots. He likes the developer’s attitude toward the neighbors and city staff. It is a very good idea and adds vitality to the Glen Lake area.

Chair Kirk clarified that he would rather see the layout of the house and driveway change than the extension of the turnarounds moved closer to the property lines. He recognized that the price points would have to increase if the number of lots would be decreased to four, so he accepts five lots.

Henry supports staff’s recommendation. The proposal is well thought out. He could see an issue with the driveways of Lots 1 and 5 butting up against each other and vehicles having trouble backing if there would be a parked vehicle in the other driveway. The plan could be modified to address that issue. He was a little concerned with pedestrian access. He was glad there would be a condition to prevent storing snow on the north side.

*Powers moved, second by Sewall, to recommend that the city council adopt the following pertaining to the properties at 5517 and 5525 Eden Prairie Road: an ordinance rezoning properties to R-3, low-density residential, and a resolution approving the preliminary and final plats with variances for the Villas of Glen Lake.*

*Knight, Powers, Sewall, Hanson, Henry, and Kirk voted yes. Motion carried.*

Chair Kirk stated that the city council is tentatively scheduled to review this item on Oct. 8, 2018.
9. **Adjournment**

   Sewall moved, second by Knight, to adjourn the meeting at 8:30 p.m. Motion carried unanimously.

   By: ____________________________
   Lois T. Mason
   Planning Secretary
Minnetonka Planning Commission Meeting
Oct. 18, 2018

Agenda Item 7

Public Hearing: Consent Agenda
MINNETONKA PLANNING COMMISSION  
Oct. 18, 2018

**Brief Description**  
Aggregate side yard setback variance to construct a new single-family home at 13228 Orchard Rd.

**Recommendation**  
Adopt the resolution approving the requested variance

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**Background**

The applicant is proposing to construct a new house at 13228 Orchard Rd. The zoning ordinance requires that the sum of the side yard setbacks must be at least 30 feet. The proposed house would have an aggregate side yard setback of 25 feet, which requires a variance.

**Proposed Building and Site Plan**

The subject lot is 7,500 square feet in size and the new house would be two stories in height with a gross floor area of 2,790 square feet, which includes the basement. The footprint of the house meets all setback requirements, including the aggregate side yard setback requirement. However, the second floor includes a cantilevered area on the east side. This building area extends five feet closer to the property line than the footprint of the building. The cantilevered building area meets the 10-foot minimum property line setback, but does not meet the 30-foot minimum aggregate side yard requirement. The proposed house would also have a 660-square foot detached garage which would meet all zoning requirements.

**McMansion Policy**

The city’s McMansion policy applies to homes constructed in existing neighborhoods that require a variance. The McMansion policy is one tool to analyze neighborhood character. The McMansion policy states that a new home which requires a variance must have a floor area ratio (FAR) that is no more than the highest FAR of the homes within 400 feet of the lot and within 1,000 feet of the lot on both sides of the same street.

The city may waive or modify the floor area requirement where the applicant submits a specific home design and site plan and the city determines that the proposed house would not adversely impact the neighborhood character because of specific setbacks, building orientation, building height, or massing. The architectural design of the home is not considered in making this determination. The condition of approval of the variance is on the specific site and building plans that are proposed.

The proposed house would have 1,830 square feet of above-grade floor area and an FAR of 0.24. The maximum FAR in the neighborhood is 0.17. The proposed house would therefore exceed the maximum FAR suggested by the McMansion policy. However, the subject property is the smallest lot in the neighborhood and is significantly smaller than the surrounding lots. The median lot size in the neighborhood is 21,800 square feet, and there is only one other lot that is less than 15,000 square feet. Although the proposed house is less than the average house size in the neighborhood, the FAR is larger because of the small lot size.
As a policy, the city has flexibility in applying the McMansion policy in specific circumstances. In 2014, staff recommended that the planning commission approve the proposed site and building plans, based on the following:

- The variance does not result in a larger home being constructed on the lot than could be built with meeting all setback requirements. The lot has 1,500 square feet of buildable area. The proposed house occupies 960 square feet of the buildable area. The 112.5-square foot cantilevered area on the second floor is the only part of the proposed house that requires a variance. If this area were removed and the house footprint were expanded within the buildable area, a house could be constructed with 3,000 square foot of above-grade floor area. This would be larger than the proposed house which has an above-grade floor area of 1,830 square feet.

**2014 Decision**

The planning commission approved this same variance requested in the 2014, finding:

- It is reasonable to include a cantilevered building area that extends into the setback requirement because of the reduced lot width. The lot is only 50 feet in width, which is substantially less than the 110-foot width required by the ordinance. There is only 20 feet of buildable width on the lot, which presents a practical difficulty in constructing a new house on the property.

- The reduced lot width is a circumstance unique to the property. The subject lot does not meet the current minimum lot width requirement and this circumstance is not common to single-family residential properties.

- The proposed house would not adversely impact the character of the locality. The majority of the new house complies with all setback requirements. The variance is only required for a 112.5-square foot area of the second floor which is cantilevered closer to the side property line. This setback intrusion maintains separation from the adjacent house and does not adversely impact the character of the neighborhood.

The variance expired on December 31, 2015.

**Staff Recommendation**

Adopt the resolution approving the aggregate side yard setback variance for a new home at 13228 Orchard Road.

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

Property 13228 Orchard Road

Owner Rodney Miller

Surrounding Land Uses
Northerly: Low density residential
Easterly: Low density residential
Southerly: Low density residential
Westerly: Low density residential

Planning
Guide Plan designation: Low Density Residential
Zoning: R-1 Single Family Residential

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

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

Pyramid of Discretion

Motion Options
The planning commission has three options:

1. Concur with the staff recommendation. In this case a motion should be made to adopt the resolution approving the request.

2. Disagree with staff’s recommendation. In this case, a motion should be made denying the request. 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 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 request may appeal such decision to the city council. A written appeal must be submitted to the planning staff within ten days of the date of the decision.

**Neighborhood Comments**

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

**Deadline for Decision**

November 5, 2018
Location Map

Project: Ram Construction
Address: 13228 Orchard Rd
SURVEY FOR: RAM CONSTRUCTION
PROPERTY ADDRESS: 13228 Orchard Road, Minnetonka, Minnesota.

LEGAL DESCRIPTION:
The Westerly 50 feet of that part of Lot 6, "MINNETONKA MILLS ACRES", lying South of a line drawn parallel to the North line of said Lot 6 and 116.55 feet South of said North line measured at right angles thereto, Hennepin County, Minnesota.

CERTIFICATION:
I hereby certify that this is a true and correct representation of a survey of the boundaries of the land above described and of the location of all buildings, if any, thereon, and all visible encroachments, if any, from or on said land.

Dated: July 28, 2014
Anderson Engineering of Minnesota, LLC

Jack Bjelke
Minnesota License No. 20281

1. The orientation of this bearing system is the south line of Lot 6, Block 7, MINNETONKA MILLS ACRES, which is assumed to bear South 89 degrees 57 minutes 05 seconds West.

2. No title work was furnished for the preparation of this survey to verify the legal description or the existence of any easements or encumbrances.

3. The location and extent of underground utilities, if shown, are based upon existing drawings provided by the utility companies, city as built plans and/or by above ground evidence. There is no guarantee as to the accuracy or completeness of this information. The size and location should be considered approximate. Additional underground utilities may be present. Verification of the existence and location of all utilities should be obtained from the utility owners prior to any planning or design. In accordance with Minnesota Statutes, the location of utilities shall be confirmed prior to any demolition or construction.

4. The project benchmark is the top nut of hydrant located on the north side of Orchard Road approximately 100 feet east from the southeast corner of Lot 6. Elevation = 984.25

5. The area of the property described hereon is 7,530 square feet or 0.1728 acres.

NOTE: The relationship between proposed floor elevations to be verified by builder.

PROPOSED ELEVATIONS:
BASEMENT FLOOR = 975.55
FIRST FLOOR = 985.55
GARAGE FLOOR = 985.0

LEGEND
\[ POWER POLE \]
\[ MANHOLE \]
\[ GATE VALVE \]
\[ OVERHEAD WIRES \]
\[ PROPOSED CONTOURS \]
\[ CONTOUR ELEVATION \]
\[ BENCHMARK \]
\[ TOP NUT OF FIRE HYDRANT ELEV = 984.25 \]
\[ FOUND MONUMENTATION \]
\[ SET A" IRON PIPE MARKED WITH R.L.S. CAP NO. 20281 \]

SCALE IN FEET
0 40

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<th>ANDERSON ENGINEERING</th>
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<tbody>
<tr>
<td>10365 1st Ave North</td>
</tr>
<tr>
<td>Suite 100</td>
</tr>
<tr>
<td>Plymouth, MN 55441</td>
</tr>
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<td>763-412-4000 (10)</td>
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<td><a href="http://www.andersonengineer.com">www.andersonengineer.com</a></td>
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ANDERSON ENGINEERING OF MINNESOTA, LLC
13651 S-1 5-1
P.O.V.

BETUNIUM ROADSAY

NEW DECK
NEW CONCRETE DRIVE

ORNCHARD ROAD
McMansion Map

Legend

- McMansion Area
- Parcels

City of Minnetonka
Where quality is our nature

McMansion Area
Parcels

0 110 220 330 440
Feet

0 55 110 220 330 440
Feet

Legend

- McMansion Area
- Parcels

City of Minnetonka
Where quality is our nature

McMansion Area
Parcels

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Feet

0 55 110 220 330 440
Feet
Brief Description  Setback variance for a new house at 13228 Orchard Road

Recommendation  Adopt the resolution approving the request

Project No.  14016.14a

Property  13228 Orchard Road

Applicant  Ram Homes, Inc.

Proposal  The applicant is proposing to tear down the existing house and construct a new house on the property. The zoning ordinance requires that the sum of the side yard setbacks must be at least 30 feet. The proposed house would have an aggregate side yard setback of 25 feet, which requires a variance.

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

Site Features  The lot is 7,500 square feet in size and currently contains a single family home that was constructed in 1954. The existing house is 960 square feet in size and is in very poor condition.

Proposed  The applicant is proposing to demolish the existing house and construct a new house. The new house would be two stories in height with a gross floor area of 2,790 square feet, which includes the basement. The footprint of the house meets all setback requirements, including the aggregate side yard setback requirement. However, the second floor includes a cantilevered area on the east side. This building area extends five feet closer to the property line. The cantilevered building area meets the 10-foot minimum property line setback, but does not meet the 30-foot minimum aggregate side yard requirement. The proposed house would also have a 660-square foot detached garage which would meet all zoning requirements.

McMansion Policy  The city’s McMansion policy applies to homes constructed in existing neighborhoods that require a variance. The McMansion policy is one tool to analyze neighborhood character. The McMansion policy states that a new home which requires a
variance must have a floor area ratio (FAR) that is no more than the highest FAR of the homes within 400 feet of the lot and within 1,000 feet of the lot on both sides of the same street.

The city may waive or modify the floor area requirement where the applicant submits a specific home design and site plan and the city determines that the proposed house would not adversely impact the neighborhood character because of specific setbacks, building orientation, building height, or massing. The architectural design of the home is not considered in making this determination. The condition of approval of the variance is on the specific site and building plans that are proposed.

The proposed house would have 1,830 square feet of above-grade floor area and an FAR of 0.24. The maximum FAR in the neighborhood is 0.17. The proposed house would therefore exceed the maximum FAR allowed by the McMansion policy. The subject property is the smallest lot in the neighborhood and is significantly smaller than the surrounding lots. The median lot size in the neighborhood is 21,800 square feet, and there is only one other lot that is less than 15,000 square feet. Although the proposed house is less than the average house size in the neighborhood, the FAR is larger because of the small lot size.

As a policy, the city has flexibility in applying the McMansion policy in specific circumstances. In this case, staff recommends that the planning commission approve the proposed site and building plans, based on the following:

- The variance does not result in a larger home being constructed on the lot than could be built with meeting all setback requirements. The lot has 1,500 square feet of buildable area. The proposed house occupies 960 square feet of the buildable area. The 80-square foot cantilevered area on the second floor is the only part of the proposed house that requires a variance. If this area were removed and the house footprint were expanded within the buildable area, a house could be constructed with 3,000 square foot of above-grade floor area. This would be larger than the proposed house which has an above-grade floor area of 1,830 square feet.

- The maximum 0.17 FAR allowed by the McMansion policy does not allow for a reasonable size house. Given the much smaller lot size compared to the surrounding neighborhood, the FAR only allows a house size with 1,280 square feet of above-grade floor area.
• The proposed house design reduces the mass of the house, which is the goal of the McMansion policy. The house has full basement rather than a walk-out or look-out basement, and the garage is detached rather than attached to the house. This reduces the mass of the house as viewed from surrounding properties.

• The size of the proposed house is consistent with the size of the other homes in the neighborhood. The proposed house would have 1,830 square feet of above-grade floor area and the neighborhood average is 1,930 square feet. The proposed house would therefore have a floor area that is less than the average floor area of homes in the neighborhood.

• The proposed house would have a floor area ratio of 0.24. This is less than the 0.25 maximum FAR currently being considered by the planning commission and city council for the R-1A ordinance pertaining to small lots in the community.

Staff Analysis

Staff finds that the applicant’s proposal meets the variance standard outlined in city code. There are practical difficulties in complying with the ordinance:

• REASONABLENESS: It is reasonable to include a cantilevered building area that extends into the setback requirement because of the reduced lot width. The lot is only 50 feet in width, which is substantially less than the 110-foot width required by the ordinance. There is only 20 feet of buildable width on the lot, which presents a practical difficulty in constructing a new house on the property.

• UNIQUE CIRCUMSTANCE: The reduced lot width is a circumstance unique to the property. This does not meet the current minimum lot width requirement, and is not common to single family residential properties.

• CHARACTER OF LOCATION: The proposed house would not adversely impact the character of the locality. The majority of the new house complies with all setback requirements. The variance is only required for an 80-square foot area of the second floor which is cantilevered closer to the side property line. This setback intrusion maintains separation from the adjacent house and does not adversely impact the character of the neighborhood.
Staff Recommendation

Adopt the resolution on pages A10-A13 which approves a setback variance for a new house at 13228 Orchard Road.

Originator: Jeff Thomson, Associate Planner
Through: Loren Gordon, AICP, City Planner
## Supporting Information

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

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

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

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

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

### Neighborhood Comments
The city sent notices to 54 area property owners and received no comments.

### Deadline for Decision
September 12, 2014
Planning Commission Resolution No. 2018-

Resolution approving an aggregate side yard setback variance for a new house at 13228 Orchard Road

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

Section 1. Background.

1.01 The property is located at 13228 Orchard Road. It is legally described as:

The Westerly 50 feet of that part of Lot 6, “Minnetonka Mills Acres”, lying South of a line drawn parallel to the North line of said Lot 6 and 116.55 feet South of said North line measured at right angles thereto, Hennepin County, Minnesota

1.02 The applicant, Rodney Miller, is proposing to construct a two-story home that does not meet the 30-foot aggregate side yard setback requirement.

1.03 The applicant received approval for this aggregate side yard setback in 2014 (Resolution No. 2014-09). However, this approval expired on December 31, 2015 and the applicant has submitted for the reaffirmation of the variance.

1.04 The proposed new home would have the following setbacks:

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard (South)</td>
<td>35 ft.</td>
<td>40 ft.</td>
</tr>
<tr>
<td>Side Yard (West)</td>
<td>10 ft.</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Side Yard (East)</td>
<td>10 ft.</td>
<td>15 ft.</td>
</tr>
<tr>
<td>Aggregate Side Yard Setback</td>
<td>30 ft.</td>
<td>25 ft.*</td>
</tr>
<tr>
<td>Rear Yard (North)</td>
<td>30 ft.</td>
<td>63 ft.</td>
</tr>
</tbody>
</table>

* requires variance
1.05 City Code §300.10 Subd. 5(c) requires the sum of the side yard setbacks must be at least 30 feet. The applicant is proposing an aggregate side yard setback of 25 feet.

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

Section 2. Standards.

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

Section 3. Findings.

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

1. Purpose and intent of the zoning ordinance: The intent of the setback requirement is to provide adequate separation between surrounding properties. The proposed house meets the side yard setback requirement, except for the small cantilevered area on the second floor, which would still be located 25 feet from the house to the east. This meets the intent of the setback requirement.

2. Consistent with Comprehensive Plan: The new house is consistent with the low density land use designation for the property.

3. Practical Difficulties: There are practical difficulties in complying with the ordinance:

   a) Reasonableness: It is reasonable to include a cantilevered building area that extends into the setback requirement because of the reduced lot width. The lot is only 50 feet in width, which is substantially less than the 110-foot width required by the ordinance. There is only 20 feet of buildable width on the lot, which presents a practical difficulty in constructing a new house on the property.

   b) Unique Circumstance: The reduced lot width is a circumstance unique to the property. The lot does not meet the current minimum width requirement, and is not common to single-family residential properties.
Planning Commission Resolution No. 2018-

Character of locality: The proposed house would not adversely impact the character of the locality. The majority of the new house complies with all setback requirements. The variance is only required for a small portion of the second floor area which is cantilevered closer to the side property line. This setback intrusion maintains separation from the adjacent house and does not adversely impact the character of the neighborhood.

Section 4. Planning Commission Action.

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

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, excepted as modified by the conditions below:
   - Survey dated July 28, 2014
   - Floor plans and building elevations dated December 12, 2013

2. Prior to issuance of a building permit:
   
   a) A copy of this resolution must be recorded with Hennepin County.
   
   b) Install erosion control fencing as required by staff for inspection and approval. These items must be maintained throughout the course of construction.

3. 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 Oct. 18, 2018.

Brian Kirk, Chairperson

Attest:

________________, 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 Oct. 18, 2018.

__________________________
__________________________, Deputy City Clerk
Minnetonka Planning Commission Meeting
Oct. 18, 2018

Agenda Item 8

Public Hearing: Non-Consent Agenda
MINNETONKA PLANNING COMMISSION
Oct.18, 2018

Brief Description
Conditional use permit for a licensed daycare facility at 12301 Whitewater Drive

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

Proposal
The French Académie (FAC) is a French immersion childhood education center serving children between 16 months and five years of age. For the past several years, the center has been a tenant of the St. Louis Park School District. Due to changes in the district’s programming, FAC must relocate.

FAC is now proposing to occupy space in the existing office building at 12301 Whitewater Drive. To accommodate the center, the interior of an 8,500 square foot tenant would be remodeled to contain four classrooms, an indoor playroom, bathrooms, and office areas. But for the addition of a roughly 1,100 square foot play area over existing parking, no exterior changes to the building are contemplated at this item. As proposed, FAC would operate Monday through Friday from 7:30 to 5:30 p.m. Child drop-off would occur in the building, generally between 8:40 and 9:00 a.m. Pick-up would similarly occur in the building, generally between 3:20 and 3:45 p.m.

Early childhood education centers do not neatly “fit” into a city code land use definition. Given their educational focus, one could argue that these facilities should be defined as schools by city code. However, one could also argue that they should be considered licensed daycare facilities under city code, as they are licensed as such by the State of Minnesota. While both schools and daycare facilities are conditionally-permitted uses, staff has determined that the proposal should be reviewed as the later to ensure consistency with state review and licensing.

Primary Questions and Analysis
A land use proposal is comprised of many details. In evaluating a proposal, staff first reviews these details and then aggregates them into a few primary questions or issues. The following outlines both the primary questions and staff findings for the proposed daycare center.

- Is the proposed use appropriate for the site?
  Yes. The proposal would meet all conditional use permit standards as outlined in city code. These standards are detailed in the Supporting Information section of this report.

- Can parking demand be met?
  Yes. Seven parking stalls would be removed to accommodate the proposed FAC play area. With this removal, 353 parking stalls would be available on site. This far exceeds the 260 stalls required for the existing office and proposed daycare uses.
Staff Recommendation

Recommend the city council adopt the resolution approving a conditional use permit for a licensed day care facility at 12301 Whitewater Drive.

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

**Surrounding Land Uses**
- Northerly: city-owned property, Nine-Mile Creek
- Easterly: city-owned property, Nine-Mile Creek
- Southerly: city-owned property, Nine-Mile Creek
- Westerly: GE Osmonics, zoned I-1

**Planning**
- Guide Plan designation: mixed use
- Existing Zoning: PUD

**Wetland and Floodplain**
There is a large wetland and floodplain area located southwest of the office building. The proposed outdoor play area would be located over existing parking area and roughly 27 feet from the wetland edge. This would meet requirements pertaining to both wetland and floodplain.

**CUP Standards**
The proposed daycare facility would be generally consistent with the general CUP standards as outlined in City Code §300.21 Subd.2:

1. The use is consistent with the intent of this ordinance;
2. The use is consistent with the goals, policies and objectives of the comprehensive plan;
3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;
4. The use is consistent with the city's water resources management plan;
5. The use is in compliance with the performance standards specified in section 300.28 of this ordinance; and
6. The use does not have an undue adverse impact on the public health, safety or welfare.

The proposal requires variances from the specific conditional use permit standards for licensed daycare centers as outlined in City Code §300.21 Subd.3(j):

1. Shall have loading and drop-off points designed to avoid interfering with traffic and pedestrian movements;
   **FINDING:** As proposed, all loading and drop-off would occur within the building. As such, no interference with traffic or pedestrian movements is anticipated.
2. Outdoor play areas shall be located and designed in a manner which mitigates visual and noise impacts on adjoining residential areas;
FINDING: The closest residential area is over 1000 feet from the proposed playground space.

3. One parking space for each six children based on the licensed capacity of the center; and

FINDING: Seven parking stalls would be removed to accommodate the proposed FAC play area. With this removal, 353 parking stalls would be available on site. This far exceeds the 260 stalls required for the existing office and proposed daycare uses.

4. Shall obtain all applicable state, county and city licenses.

FINDING: This is included as a condition of approval.

**Pyramid of Discretion**

**Motion Options**

The planning commission has three options:

1. Concur with the staff recommendation. In this case a motion should be made recommending the city council adopt the resolution approving the request.

2. Disagree with staff's recommendation. In this case, a motion should be made recommending the city council deny the request. This motion must include a statement as to why denial is recommended.

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

**Voting Requirement**

The planning commission will make a recommendation to the city council. The city council's final approval requires an affirmative vote of a simple majority.

**Neighborhood Comments**

The city sent notices to 15 area property owners and has received no written comments to date.
Deadline for Action  December 17, 2018
Location Map

Project: French Academie (The)
Address: 12301 Whitewater Dr
September 17, 2018

Planning and Zoning Division
City of Minnetonka
14600 Minnetonka Blvd
Minnetonka, MN 55345

Re: Written Statement for Conditional Use Permit to relocate Childcare Center at 12301 Whitewater Drive.

Dear City Staff and Planning Commission of Minnetonka:

The purpose of this letter is to apply for a Conditional Use Permit for The French Académie at 12301 Whitewater Drive in Minnetonka, MN.

The French Académie (FAC), formerly French American School of Minneapolis, is licensed by the Department of Human Services as a Daycare Center (DHS Rule 3) and serves children from 16 months old to age 5. The program was established in 1998, and settled in St. Louis Park in 2005. We are local leaders in French Immersion education in the Twin Cities, with a rich, 20 year history. In the fall 2018, we are expanding our focus to French Immersion in Early Childhood Education.

For the last 13 years, The FAC has been a tenant of the St. Louis Park School District. Unfortunately, the District of St. Louis Park needs to relocate their Spanish Immersion program, and a referendum last November designated that their program would be moving to the Cedar Manor School building. This means that they no longer have space for our program, and our lease will be ending on December 31, 2018. Therefore, The FAC requires relocation by January 1, 2019.

It has been a challenging experience to find a new location, as there are not many buildings that meet the licensing standards to provide a safe environment for a childcare center. These requirements include: a safe outdoor space, proper zoning, parking, and the necessary square footage for each child.
The building at 12301 Whitewater Drive in Minnetonka meets all of our needs; it will allow our program to continue to thrive in a city where language immersion programs are highly respected and in high demand. The building is easily accessible for our current families, and we are enthusiastic to bring our unique French Immersion Early Childhood experience to the city of Minnetonka.

The French Académie is licensed for a capacity of 54 children, and currently has 42 students enrolled. The new facility will allow us to expand to welcome up to 68 children. We currently have a team of 6 teachers and 2 administrative staff. The 8,500 square feet we will lease in our new facility will provide us with ample space to have four classrooms, an indoor playroom for inclement weather, adequate bathroom facilities etc., and will also comply with all city and licensing requirements.

Our hours of operation are 7:30 am to 5:30 pm. The peak traffic times for our center are between 8:40 am and 9:00 am for drop off, and between 3:20 pm and 3:45 pm for pick up. Parents and caregivers bring their child to the classroom, and pick up their child from their classroom. There is no direct drop off and/or pick up at the curb of the building.

Regarding the, "Conditional Use Permit Standards for business and industrial districts," we evaluated the following criteria:

Section 300.21.2.

a) The use is consistent with the intent of this ordinance.

b) The use is consistent with the goals, policies and objectives of the comprehensive plan.

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

- The proposed use does not have any impact on governmental facilities, utilities, services or existing or proposed improvements.

d) The use is consistent with the city’s water resources management plan.

- The proposed use will be meeting the goals of the City.
e) The use is in compliance with the performance standards specified in section 300.28 of this ordinance.
   - The proposed use is in compliance with the performance standards.

f) And the use does not have an undue adverse impact on the public health, safety or welfare.
   - The use is intended to provide a safe and enriching environment for all children. The designated entrance will be secure and only accessible with a magnetic access cards provided to staff and families. Visitors will be monitored with an intercom system including a video camera.

Section 300.21.4.a.j. – Licensed day care facilities

1) Shall have loading and drop-off points designed to avoid interfering with traffic and pedestrian movements.
   - Parents have to bring their child into the classroom at drop off, and pick up their child in the classroom at pick up. Therefore, they have to park their car in a parking stall at drop off and pick up which will not interfere with traffic and pedestrian movements.

2) Outdoor plan areas shall be located and designed in a manner, which mitigates visual and noise impacts on adjoining residential areas.
   - There are no residential areas close enough to the facility that could be impacted by children’s outdoor play.

3) One parking space for each six children based on the licensed capacity of the center.
   - For the current licensed capacity of 54 children, 9 parking stalls are required. If the center license capacity reaches 70 students, 12 parking stalls will be required. The parking ratio at the Whitewater Business Center is 5.5 per 1,000rsf. Our space would allow a designation of approximately 49 parking stalls.

4) And shall obtain all applicable state, county and city licenses.
   - The project will comply with all requirements.
Language immersion programs have a strong presence in the City of Minnetonka, and we hope that The French Académie Early Childhood Center will be a valuable addition to the diverse culture of the city.

Thank you for your review and consideration. As we are getting so close to the end of our current lease, time is of the essence towards the review of this application.

Feel free to contact me if you have any questions and/or need any additional information.

Sincerely,

Véronique Liebmann
Founder and Director

The French Académie
9400 Cedar Lake Road
St. Louis Park, MN 55426
Cell: (952) 393-8053
Email: vliebmann@thefrenchacademie.org
12301 Whitewater Drive, Minnetonka MN 55343

Aerial View
Inside building space

Outdoor Play Area

FAC dedicated entrance

12301 Whitewater Drive, Minnetonka MN 55343

Aerial View - CUP Applicant Building Occupancy
FAC South Wing Occupancy with dedicated entrance
EXISTING BUILDING
NORTH WING

EXISTING BUILDING
SOUTH WING

EXISTING RETENTION POND

EXISTING CONCRETE CURB / EDGE OF PARKING LOT

APPROXIMATE EDGE OF EXISTING RETENTION POND

APPROXIMATE EDGE OF FLOODPLAIN

APPROXIMATE EDGE OF WETLAND

NEW 4'-0" HIGH VINYL COATED CHAINLINK FENCE AREA (2,000 SF) FOR DAYCARE PLAY EQUIPMENT (2 GATES AS SHOWN, LOCATION TO BE VERIFIED WITH TENANT)

7 PARKING STALLS AND DRIVE AISLE BEING REMOVED AT THIS AREA

4'-6" WIDE PEDESTRIAN ACCESS AISLE AT BOTTOM OF CURB RAMP

NEW CURB RAMP AND CONCRETE WALK TO PLAY AREA GATE

NEW CURB RAMP AND CONCRETE WALK TO PLAY AREA GATE

EXTEND EXISTING CONCRETE WALK TO NEW CURB LOCATION

EXISTING CONCRETE CURB BEING REMOVED SHOWN DASHED

NEW CURB RAMP

NEW CONCRETE CURB AND GUTTER - PATCH AND REPAIR EXISTING AS REQUIRED

EXISTING CURB & GUTTER TO REMAIN

RE-STRIPPING OF PARKING STALLS AS SHOWN AT THESE AREAS RESULTS IN A NET LOSS OF 1 STALL (6 LOST, 5 GAINED)

PARKING CALCULATIONS:
PROPOSED WORK RESULTS IN LOSS OF 8 STALLS TOTAL.
357 EXISTING STALLS (INCLUDES 5 INDOOR STALLS) - 8 LOST = 349 STALLS REMAINING, WHICH IS MORE THAN REQUIRED.
252 = REQ'D STALLS FOR TOTAL GROSS BUILDING OFFICE SPACE - 62,877 SF (1 PER 250)
+11 = REQ'D FOR DAYCARE WITH 68 CHILDREN - 1 PER 6 CHILDREN
263 = TOTAL REQ'D
Resolution No. 2018-

Resolution approving a conditional use permit for a licensed daycare facility at 12301 Whitewater Drive

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 12301 Whitewater Drive and is zoned PUD, planned unit development.

1.02 The property is legally described as:

LOT 1, BLOCK 3, MINNETONKA TECHNOLOGY PARK.

1.03 Véronique Liebmann is proposing to operate a licensed daycare facility within the existing office building on the site.

1.04 By City Code §300.22 Subd.3, all uses allowed by conditional use permit within any other district are allowed by conditional use permit in a PUD.

1.05 By City Code §300.17 Subd.4(j) licensed daycare facilities are conditionally-permitted uses in the B-1, office zoning district.

1.06 On Oct. 18, 2018, the planning commission held a hearing on the request. 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 the city council approve the conditional use permit.

Section 2. Standards.

2.01 City Code §300.21 Subd.2 lists the following general conditional use permit standards:

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

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

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

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

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

2.02 City Code §300.21 Subd.3(j) lists the following specific conditional use permit standards for licensed daycare facilities:

1. Shall have loading and drop-off points designed to avoid interfering with traffic and pedestrian movements;

2. Outdoor play areas shall be located and designed in a manner which mitigates visual and noise impacts on adjoining residential areas;

3. One parking space for each six children based on the licensed capacity of the center; and

4. Shall obtain all applicable state, county and city licenses.

Section 3. FINDINGS.

3.01 The proposed daycare facility would meet the general conditional use permit standards as outlined in City Code §300.21 Subd.2 and the staff report associated with the applicant’s request.

3.02 The proposed daycare facility would meet the specific conditional use permit standards as outlined in City Codes §300.21 Subd.3(j).

1. As proposed, a loading and drop-off would occur within the building. As such, no interference with traffic or pedestrian movements is anticipated.

2. The closest residential area is located over 1000 feet from the proposed outdoor play area.

3. 353 parking stalls would be available on site. This far exceeds the 260 stalls required for the existing office and proposed daycare uses.

4. As a condition of this resolution, all applicable state, county and city licenses must be secured.
Section 4. City Council Action.

4.01 The above-described conditional use permit is approved. Approval is based on the findings outlined in the associated staff report and section 3 of this resolution. Approval is subject to the following conditions:

1. The facility is allowed to serve up to 70 children. An increase in licensed capacity would require an amended conditional use permit.

2. All applicable state, county and city licenses must be secured.

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

4. Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.

Adopted by the City Council of the City of Minnetonka, Minnesota, on Nov. 5, 2018.

Brad Wiersum, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held Nov. 5, 2018.

David E. Maeda, City Clerk

SEAL
MINNETONKA PLANNING COMMISSION
Oct. 18, 2018

Brief Description
Front yard setback variances to construct a screened porch and covered porch at 2300 Ford Rd.

Recommendation
Adopt the resolution denying the request

Proposal
The applicant, Duane Myers, is proposing to build a screened porch and covered porch on the front of the existing home at 2300 Ford Rd. The home previously had a deck that was non-conforming with the front yard setback. (See attached). The applicant has since demolished this deck and proposes to replace it with a 105 square foot screened porch and a 42 square foot covered porch with stairs. (See attached.)

This proposal requires:

- **Variances:** The proposed screen porch and covered porch would both encroach farther into the required front yard setback.

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Existing</th>
<th>Proposal</th>
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<tbody>
<tr>
<td>Front yard (screened porch)</td>
<td>35 ft.</td>
<td>36.5 ft.</td>
<td>28.5 ft.*</td>
</tr>
<tr>
<td>Front Yard (covered porch)</td>
<td>30 ft.</td>
<td>28.5 ft.</td>
<td>25.5 ft.*</td>
</tr>
</tbody>
</table>

* requires variance

Staff Analysis
Staff finds that the applicant’s request is not reasonable:

1. **INTENT OF THE ORDINANCE.** The proposal is not 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 roadways. Only three homes within 1,000 feet of the subject property on Ford Rd. appear to have non-conforming front yard setbacks (one of which received a variance).

2. **CONSISTENT WITH COMPREHENSIVE PLAN.** The proposed variance would not be consistent with the comprehensive plan. The guiding principles in the comprehensive guide plan provide for maintaining, preserving and enhancing existing single-family neighborhoods. While the subject request would enhance the subject property, it would establish a front yard setback that is less than area homes.
3. REASONABLENESS: The request to build a covered, open, porch on the front of the home is reasonable. City code permits covered porches, without walls, to encroach 5 feet into the front yard setback, creating a required 30-foot front yard setback. As such, the applicant would be permitted by city code to add a 6-foot deep covered porch onto the home without a variance. Alternatively, the applicant’s request to add an enclosed space and a covered porch that encroach further into the front yard setback is not reasonable, as there is an option to cover individuals visiting the home while meeting city code.

4. CIRCUMSTANCE UNIQUE TO THE PROPERTY: The previous front yard setback encroachment of the deck is a unique circumstance, but this unique circumstance does not create a practical difficulty for the property owner. The applicant would be permitted by city code to maintain this slight non-conformity, and even cover a large portion of the deck, without the need for a variance. Due to this available alternative, the applicant design wishes have created the need for the variance.

5. NEIGHBORHOOD CHARACTER: The proposed screened porch and covered porch additions would encroach further into the front yard setback than other neighboring properties. The subject home is currently setback 36.5 feet from the front property line and the previously existing deck was setback 28.5 feet from the front property line. However, the proposed additions would seek to extend closer to the front property line, which would not be consistent with the rest of the neighborhood. Of the homes within 1,000 feet of the subject property, only three appear to have non-conforming front yard setbacks. One of these homes was granted a variance for a 30-foot front yard setback for a garage addition. The other two homes were constructed prior to the adoption of city code.

Staff Recommendation

Adopt the resolution denying a variance to construct a screened porch and covered porch addition on to the single-family home at 2300 Ford Rd.

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

<table>
<thead>
<tr>
<th>Project No.</th>
<th>18033.18a</th>
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<tbody>
<tr>
<td>Property</td>
<td>2300 Ford Rd.</td>
</tr>
<tr>
<td>Applicant</td>
<td>Duane Myers (Myers Construction Management)</td>
</tr>
<tr>
<td>Surrounding</td>
<td>All of the properties to the north, south, east, and west are zoned R-1, single family residential, and guided for low density residential.</td>
</tr>
</tbody>
</table>
| Land Uses        | Planning Guide Plan designation: Low Density Residential  
|                  | Zoning: R-1 Single Family Residential |
| Property         | The Clear Spring Hills Addition was platted in 1957. The subject property is undersized, as it is only 18,000 square feet in area. However, the property has adequate frontage, lot width, and lot depth. |
| Existing Home    | The subject home was originally constructed in 1954, prior to the adoption of city ordinance. The property is improved with a one and a half story home with a three-stall garage. The gross building area of the home is 2,600 square feet. The subject home is setback 36.5 feet from the front property line, meeting the 35-foot front yard setback. Recently, the subject home had a non-conforming deck located on the front side of the home. At the entrance, this deck projected 8 feet out from the subject home and was located 28.5 feet from the front property line (30-foot setback requirement). This deck has since been removed by the property owner. |
| Front Yard Setback| Principle structures located on properties adjacent to neighborhood streets have a 35-foot setback requirement from the road right-of-way. However, city code permits a 5-foot exemption from any front, side or rear yard setbacks for:  
|                  | • Decks;  
|                  | • Heating, air conditioning, and ventilation equipment;  
|                  | • Open terraces;  
|                  | • Canopies, swimming pool aprons and pool equipment;  
|                  | • Fire places; and  
|                  | • Architectural features. |
|                  | As a principle structure, the subject home must meet the 35-foot front yard setback; however, a proposed deck or open, non-enclosed, porch would be permitted 5-foot exemption, or a 30-foot setback. Screen porches, as an enclosed structure, are reviewed as part of the principle structure and are not granted the 5-foot exemption allowed for the previously stated structures. |
Given the home’s existing setback, the applicant would be permitted to construct a covered, open porch that extends 6 feet out from the house without the need for a variance. However, enclosing any portion of the structure within 35 feet of the front property line requires a variance.

**Non-conforming Properties**

There are several properties within 400 feet of the subject property that do not conform to the required front yard setback. Specifically, there are nine homes with non-conforming front yard setbacks within this area, based on aerial photography. (See attached.) However, none of these homes access off Ford Rd., as the subject home does.

Staff followed up with this analysis by reviewing the setbacks of homes within 1,000 feet of the subject home on Ford Rd. to get a better understanding of the character of the subject homes within the neighborhood. After review, staff found only three homes within this area with non-conforming front yard setbacks (See attached.) One of these homes was granted a front yard setback variance in 1996 and the other two were constructed prior to the adoption of city code.

**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 0.23. The proposed attached garage addition would increase the property’s FAR to 0.24. This is still below the largest FAR within 400 feet, which is 0.49.

**Measuring Setbacks**

The city of Minnetonka measures front yard setbacks from property lines to the structure. Means of access structures, such as stairs, are permitted to encroach within the front yard setback. Alternatively, decks, porches, and other similar structures are required to meet setback requirements.

**Variance Standard**

A variance may be granted from the requirements of the zoning ordinance when: (1) it is in harmony with the general purposes and intent of the ordinance; (2) it is consistent with the comprehensive plan; and (3) when an applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties mean that the applicant proposes to use a property in a reasonable manner not permitted by the ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and, the variance if granted, would not alter the essential character of the locality. (City Code §300.07)
Neighborhood Comments
The city sent notices to 49 area property owners and received no comments.

Pyramid of Discretion

Motion Options
The planning commission has three options:

1. Concur with the staff recommendation for denial. In this case a motion should be made to adopt the resolution denying the variance request.

2. Disagree with staff’s recommendation and approve the applicant’s variance request. In this case, a motion should be made directing staff to prepare a resolution approving the applicant’s proposal. This motion must include findings for approval.

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.

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 variance 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.

Deadline for
December 17, 2018
Location Map

Project: Carlson Residence
Address: 2300 Ford Rd
EXISTING 36" DIA TREE TO REMAIN

REMOVE ALL SIDING ON THE EXISTING HOUSE

REMOVE ALL ITEMS ASSOCIATED WITH THE OUTSIDE DECK - STAIRS, POSTS, RAILINGS, DECKING ETC.

REMOVE CONCRETE PAD

DEMOPLION PLAN

PROJECT
Home Remodel
2200 Ford Road
St. Louis, MN

SCALE: 1/4" = 1'-0"
CERTIFICATE OF SURVEY FOR
MYERS CONSTRUCTION MANAGEMENT
OF LOT 22, BLOCK 1, WESTVIEW HILLS
HENNEPIN COUNTY, MINNESOTA

LEGAL DESCRIPTION:
Lot 22, Block 1, WESTVIEW HILLS

* Denotes found iron marker
○ Denotes set iron marker

This survey intends to show the boundaries of the above described property, an existing house, decks, and driveway. It does not purport to show any other improvements or encroachments.
LEGAL DESCRIPTION:
Lot 22, Block 1, WESTVIEW HILLS

* Denotes found iron marker
+ Denotes set iron marker

This survey intends to show the boundaries of the above described property, an existing house, decks, and driveway. It does not purport to show any other improvements or encroachments.
- 30 YEAR ROOF SHINGLE
- SYNTHETIC ROOFING FELT
- 1/2" ROOF SHEATHING
- 2" X 10 ROOF FRAMING @ 16" O.C.
- STAIN ROOF FRAMING MEMBER AND SHEATHING

NEW ROOF

DRIP CAP, METAL SOFFIT
FASCIA AND GUTTER /
DOWNSPOUT SYSTEM

HALF WALL
- LP SIDING (OUTSIDE)
- AIR AND MOISTURE BARRIER
- 1/2" SHEATHING
- 2X6 FRAMING WITH BATT INSULATION
- 6 MIL VAPOR BARRIER
- LP SIDING (INSIDE)

NEW SIDING

FLOOR
SEE SECTION

OPEN

SIDE ELEVATION

SCALE 1/4" = 1'-0"
FLOOR SLOPED 1/4" PER FOOT
- 1 1/4" DECKING
- MOISTURE BARRIER
- 1/2" TREATED PLYWOOD
- 2X4'S @ 12" O.C. TREATED
- BATT INSULATION
- 1/2" TREATED PLYWOOD
- 2X10'S 12" O.C.
Non-conforming Front Yard
Setbacks within 400 feet of the Subject Property

- Subject Property
- Variance Approved
- Non-conforming

Map prepared by: City of Minnetonka

Not a Survey. Not to Scale
Non-conforming
Front Yard
Setbacks within 1,000 feet of the
Subject Property
on Ford Rd.

- **Subject Property**
- **Variance Approved**
- **Non-conforming**

Map prepared by: City of Minnetonka

Not a Survey. Not to Scale
August 30, 2018

To: Whom it may concern
Re: Variance request for 2300 Ford Road
    Minnetonka, MN

The attached request for variance to replace the front entry porch on the home located at the above address, is being submitted without the required Survey and electronic copy of the proposed changes to the existing entryway.

The requirement for a variance was communicated to me less than a week ago, and in speaking with the planning department about the time required to engage a Surveyor to schedule and actually do the Survey and Drawings being two weeks at this time of the season, I was advised that I should submit the hard copies of the variance and the changes proposed with the application and add the Survey and electronic copies as soon as they are available, in order to be placed on the next available planning meeting docket.

I have retained a Survey Company, they began their process on 8-29-18, and expect to have the information completed and forwarded to me within the next week. I will forward that information to the City as soon as I receive it.

We appreciate the flexibility offered, and thank you for your understanding.

Duane Myers
Myers Construction Management, Inc.
612-801-5544
By state law, variances may be granted from the standards of the city’s zoning ordinance only if:

1) The proposed variance is in harmony with the general purpose and intent of the zoning ordinance;

2) The proposed variance is consistent with the comprehensive plan; and

3) An applicant establishes that there are practical difficulties in complying with the ordinance standard from which they are requesting a variance. Practical difficulties means:

- The proposed use is reasonable;
- The need for a variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations; and
- The proposed use would not alter the essential character of the surrounding area.

### Practical Difficulties Worksheet

**PRACTICAL DIFFICULTIES**

| Describe why the proposed use is reasonable | The homeowner is replacing the roof, siding & windows of the home in order to give it a more contemporary look. The home was constructed in such a way as to require that the main entrance be accessed only by a stairway & deck. Upgrading the deck/area is the only entry to upper level. |
| Describe: | The front stairs and deck are the only access to the main level of the home. The homeowner purchased this home in the past few years & the current entry system existed then. The homeowner is upgrading the look of the home. The deck & stairs reflect the current “low-cost, low-maintenance” look she wants to provide more curb appeal. Doing this is not an economic hardship. |
| Describe why the variance would not alter the essential character of the neighborhood | This home is a very prominent sight, on the main access to the neighborhood. The “low-cost, low-maintenance” look the original owners installed no longer fits with the surrounding homes. This variance would allow the homeowner to have a much more desirable front entry which will be an asset to the neighborhood. |

VARIANCE APPLICATIONS WILL NOT BE ACCEPTED IF THIS WORKSHEET IS NOT COMPLETE.
Planning Commission Resolution No. 2018-

Resolution denying a variance for construction of a screened porch and covered porch at 2300 Ford Rd.

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

Section 1. Background

1.01 The subject property is located at 2300 Ford Rd. It is legally described as: Lot 22, Block 1, Westview Hills, Hennepin County, Minnesota.

1.02 A previously existing deck on the subject property had a non-conforming front yard setback of 28.5 feet. A setback of 30 feet is required.

1.03 The applicant, Duane Myers, has submitted a proposal to build a screen porch and covered porch within the front yard setback. As proposed, the screen porch addition would extend 7.6 feet towards the front property line and the covered porch would extend an additional 3 feet beyond the screen porch.

<table>
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<tr>
<th></th>
<th>Required</th>
<th>Existing</th>
<th>Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front yard (screened porch)</td>
<td>35 ft.</td>
<td>36.5 ft.</td>
<td>28.5 ft.*</td>
</tr>
<tr>
<td>Front Yard (open porch)</td>
<td>30 ft.</td>
<td>28.5 ft.</td>
<td>25.5 ft.*</td>
</tr>
</tbody>
</table>

* requires variance

1.04 On October 18, 2018, the planning commission held a hearing on the application. The applicant was provided the opportunity to present information to the planning commission. The planning commission considered all of the comments and the staff report, which are incorporated by reference into this resolution.

Section 2. Standards

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

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

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 requested variance would not meet the variance standard as outlined in City Code §300.07 Subd. 1.

1. INTENT OF THE ORDINANCE: The proposal is not 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 roadways. Only three homes within 1,000 feet of the subject property on Ford Rd. appear to have non-conforming front yard setbacks (one of which received a variance).

2. CONSISTENT WITH COMPREHENSIVE PLAN. The proposed variance would not be consistent with the comprehensive plan. The guiding principles in the comprehensive guide plan provide for maintaining, preserving and enhancing existing single-family neighborhoods. While the subject request would enhance the subject property, it would also establish a front yard setback that is less than homes in the area.

   a) REASONABLENESS: The request to build a covered, open, porch on the front of the home is reasonable. City code permits covered porches, without walls, to encroach 5 feet into the front yard setback, creating a 30-foot front yard setback requirement. Based on the location of the existing home, the applicant would be permitted to add a 6-foot deep covered porch on to the home without a variance. Alternatively, the applicant’s request to add an enclosed space and a covered porch that encroach further into the front yard setback is not reasonable, as there is an option to cover individuals visiting the home while meeting city code.

3. CIRCUMSTANCE UNIQUE TO THE PROPERTY: The previous front yard setback encroachment of the deck is a unique circumstance, but this unique circumstance does not create a practical difficulty for the property owner. The applicant would be permitted by city code to maintain this slight non-conformity, and even cover a large portion of the deck, without the need for a variance. Due to this available alternative, the applicant’s design wishes has created the need for the variance.

4. NEIGHBORHOOD CHARACTER: The proposed screened porch and covered porch additions would encroach farther into the front yard setback than other neighboring properties. The subject home is currently
set back 36.5 feet from the front property line and the previously existing
deck was set back 28.5 feet from the front property line. However, the
proposed additions would extend closer to the front property line, which
would not be consistent with the rest of the neighborhood. Of the Ford
Rd. homes within 1,000 feet of the subject property, only three appear to
have non-conforming front yard setbacks. One of these homes was
granted a variance for a 30-foot front yard setback for a garage addition.
The other two homes were constructed prior to the adoption of city code.

Section 4. Planning Commission Action

4.01 The above-described variance is hereby denied based on the findings outlined in
section 3.01 of this resolution.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on October 18,
2018.

____________________________
Brian Kirk, Chairperson

Attest:

____________________________, Deputy City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the
Planning Commission of the City of Minnetonka, Minnesota, at a duly authorized meeting held
on October 18, 2018.

____________________________
Deputy City Clerk
Brief Description

Site and building plan review for Olive Garden at 11390 Wayzata Boulevard

Recommendation

Adopt the resolution approving final site and building plans

Introduction

West Ridge Market, part of the BOULEVARD GARDEN SECOND ADDITION, was approved in 1995. The overall development consists of 63 acres and includes a retail area surrounded by a mix of housing options. As part of the development, the city approved a site and building plans and a conditional use permit for the construction and operation of a freestanding restaurant, Macaroni Grill, which operated until late 2014.

In 2015, the city approved a conditional use permit and a minor amendment to the master development plan for an outdoor patio for Salsa a la Salsa (Avendia). Avendia operated within the existing restaurant building until December of 2017.

Consolidated Development Services (CDS) is proposing to remove the existing restaurant building in order to construct a new freestanding restaurant building for Olive Garden. The proposal requires site and building plan approval.

Proposal Summary

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

- **Existing Site Conditions.**

  The subject property, which is part of West Ridge market, is roughly 6.5 acres in size and is currently improved with two buildings and a large surface parking lot. The eastern building is a multi-tenant shopping center. The western building is a freestanding 7,500 square foot restaurant building, most recently occupied by Avenida. The property is improved with a 510-stall parking lot and drive-aisles serving the subject property and the adjacent West Ridge Market property.
• **Proposal.**

The existing freestanding restaurant building and outdoor patio would be removed in order to construct a new 7,800 square foot building. The new building would be in roughly the same location as the existing building as shown in Figure 1.

The restaurant would have seating for up to 225 people and would be open 11 a.m. to 10 p.m. on Sunday – Thursday and 11 a.m. – 11 p.m. on Fridays and Saturdays.

Four of the northern eight parking stalls would be removed in order to reconfigure the trash enclosure area. However, additional parking stalls would be added on the west side with the removal of the outdoor patio.

**Figure 1: Site Plan**

**Primary Questions and Analysis**

In evaluating the proposed restaurant, staff notes:

• The proposed restaurant would be consistent with the surrounding land uses of West Ridge Market and would occupy a location previously occupied by a restaurant.

• The existing West Ridge Market parking lots have more than the required number of parking stalls. As such, parking for the restaurant could easily be accommodated onsite.

• If the project is approved by December of 2018, the proposed restaurant could operate under the current conditional use permit. Nonetheless, staff evaluated the proposed restaurant and found that it would meet all conditional use permit standards. More information can be found in the “Supporting Information” section of this report.

• The proposed restaurant would meet all minimum setback requirements and site and building plan standards.

**Staff Recommendation**

Adopt the resolution approving site and building plans for the construction of a new restaurant at 11390 Wayzata Boulevard.

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

Project No. 15022.18a

Property 11390 Wayzata Boulevard

Applicant Christie Schacter, on behalf of CDS Development

Surrounding Properties to the North, East and West are improved with multi-tenant shopping centers and zoned PID, Planned I394 District. Wayzata Blvd, I394 and Crane Lake are to the south.

Planning Guide Plan designation: Service Commercial
Zoning: PID, Planned I394 District

Conditional Use Permit Within the PID, Planned I394 District, a conditional use permit is required for freestanding restaurants on properties guided for service commercial or retail by the city’s comprehensive guide plan. Once a conditional use permit is approved, it is valid until the normal operation of the use has been discontinued for 12 or more months. The most recent restaurant, Avenida, occupied the building until December 2017. As such, Olive Garden would be allowed to operate under the existing conditional use permit provided all approvals are received prior to December 2018.

Despite the proposed restaurant being able to operate under the current conditional use permit, staff evaluated the proposal and finds that it would comply with the standards outlined in City Code §300.31 Subd. 4(n):

1. Shall have a minimum seating capacity of 150;

   Finding: The restaurant would have seating for up to 225 people.

2. Shall be part of an overall master development plan consisting of more than one structure;

   Finding: The restaurant is part of the West Ridge Market master development plan which consists of a number of buildings and uses.

3. Shall be architecturally consistent and compatible with other structures in the master development plan;

   Finding: While many of the surrounding buildings have brick facades, the stone façade of the restaurant would generally be architecturally consistent with the other structures in the plan.
4. Shall have parking in compliance with the requirements of section 300.28 of this code;

Finding: By ordinance, West Ridge Market would require 666 parking stalls. The properties are improved with 1,170 stalls with an additional 62 stalls available as proof of parking. As such, the parking for the proposed restaurant could be accommodated onsite.

5. Shall be permitted only when it can be demonstrated that operation will not lower significantly the existing level of service as defined by the institute of traffic engineers on the roadway system;

Finding: The proposed restaurant would occupy a space previously occupied by a similar restaurant use. Staff does not find that the proposed restaurant would impact the existing level of service.

6. Shall not include a drive-up window; and

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

7. Shall not be included within 100 feet of any low density residential parcel or adjacent to medium or high density residential parcels. The city may reduce separation requirements if the following are provided:

a) Landscape and berming to shield the restaurant use;

b) Parking lots not located in proximity to residential uses; and

c) Lighting plans which are unobtrusive to surrounding uses.

Finding: The proposed restaurant is not located within 100 feet of a low density residential parcel and is not adjacent to medium or high density residential parcels.

SBP Standards

The proposal would comply with all site and building standards as outlined in City Code 300.27 Subd.5

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

Finding: The proposal has been reviewed by city planning, engineering, natural resources, public works and fire staff and found to be generally consistent with the city’s development guides.
2. Consistency with this ordinance;

   **Finding:** The proposal would comply with all city ordinance requirements.

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

   **Finding:** The proposed restaurant would be located in an area previously occupied by a restaurant. As such, the general visual appearance would not substantially change.

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

   **Finding:** The proposed restaurant would be constructed in an area previously occupied by a restaurant. As such, the harmonious relationship of buildings and open space would be minimally disturbed.

5. Creation of a functional and harmonious design for structures and site features, with special attention to the following:

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

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

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

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

   **Finding:** The proposed restaurant would not adversely impact site circulation. The building would have a stone veneer with landscaping surrounding the building.

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

**Finding:** The proposal would be required to meet all building and energy codes.

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

**Finding:** The proposal would not adversely impact adjacent or neighboring properties. Staff anticipates the proposal would complement the surrounding uses.

**Natural Resources**

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

**Motion Options**

The 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.
| **Appeals** | Any person aggrieved by the planning commission’s decision regarding 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 196 area property owners and have received no comments. |
| **Deadline for Decision** | January 3, 2019 |
Location Map

Project: Olive Garden
Address: 11390 Wayzata Blvd
August 30, 2018

City of Minnetonka Planning Department  
Attn: Susan Thomas  
14600 Minnetonka Boulevard  
Minnetonka, MN 55345  
Phone: 952.939.8292

Project Narrative – Olive Garden Restaurant

Dear Planning Development Representatives:

They said it couldn't be done: matching a dinner-house concept against the independently-owned restaurants that were the mainstay of Italian dining. But Darden's homegrown concept, Olive Garden, proved the skeptics wrong.

Olive Garden exceeded $500 million in sales only five years after the decision was made to expand. Just three years later, in 1994, sales had doubled to more than $1 billion. Today, Olive Garden is the largest company of casual, full-service Italian restaurants in the world.

At the heart of Olive Garden's success is its unique Hospitaliano! culture. Much more than a slogan, Hospitaliano! expresses the Olive Garden team's passion for offering guests more than they expect and being committed to doing it right the first time. "When you're here, you're family!"

Olive Garden restaurants are full-service, casual dining serving both lunch and dinner. Emphasizing high quality, Olive Garden appeals to all guests with its distinctive combination of attentive personalized service and flavorful entrees served in an inviting, comfortable atmosphere.

Subject to State and City of Minnetonka approvals, Darden Restaurants plans to construct a new building with code compliant parking and landscape amenities to be located at 11390 Wayzata Blvd, Minnetonka, MN 55305.

The project data is as follows:

- Building Floor Area – 7,794 sq. ft.
- Seating/Dining – 255
- Hours of Operation – normal hours are 11am-10pm Sunday through Thursday, and 11am-11pm on Friday and Saturday.
- Number of employees – +/- 25 maximum per shift, with three shifts = +/- 90 total (Full and Part-time)
Olive Garden typically has two (2) trash bins and recycles cardboard - pick up is approximately 4 times per week. All deliveries and pick-ups are coordinated before 10am.

Sincerely,

Kourtnie Airheart
Property Development Manager
GHA ARCHITECTURE / DEVELOPMENT
14110 Dallas Parkway, Suite 310, Dallas, TX 75254

Office: (972) 850-0816
Mobile: (214) 966-5992
email: kairheart@CDSdevelopment.com
Call

Know what's

below.

Drawing

MN, 55305

Naperville, IL  |  Pittsburgh, PA  |  Irvine, CA

Brookfield, WI  |  Appleton, WI  |  Madison, WI  |  Cedarburg, WI  |  Mount Pleasant, WI

DECORATIVE ROCK

P76REN-VEST-L

6428

Restaurant #:

(3)

AC4

AC4

(3)

BNS

GLS

(10)

(4)

BNS

(1)

PL1

(7)

LAWN

BNS

(GLS)

DECORATIVE ROCK

TX

(47)

(1)

DSC

(1)

BNS

(TYP.)

DECORATIVE ROCK

TX

(47)

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DSC

(1)

RIVER ROCK MULCH

DSC

(1)

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IRRIGATION PIPE AND IRRIGATION EQUIPMENT SHOWN IN HARDSCAPE IS FOR CLARITY PURPOSES ONLY. INSTALL ALL PIPE, CONTROL WIRE AND IRRIGATION EQUIPMENT WITHIN LANDSCAPED AREAS OR SLEEVE.
LEFT ELEVATION

ITALIAN RESTAURANT
Minnetonka, MN

MATERIAL LEGEND

105. PAINT & WOOD TRIM; WINDOWS & DOORS
Benjamin Moore "Olive Branch"
18" STONE VENEER (Pop-Brick Finish) - Ceramica Stone
Color: "Mountain Sand" - Gray; Natural Gray
151. CONCRETE ROOF TILE
Eagle Roof Tile - Capri Series: "Olive Garden Blend" 
17" Brick Lintel - Ceramica Stone
2" x 3" x 1/2" Thin Brick Thinset
133. BRICK CLADDINGS - Ceramica Stone
2.16 x 3.16 Thin Brick Thinset w/ 3/8" Mortar Joint
146. PAINT & WOOD TRIM
Benjamin Moore - Mediterranean Olive #1440-10

For: Darden Restaurants
Orlando, FL 407 245 4000
By: CRHO Architects
Santa Ana, CA 714 832 1834
July 20th, 2018 Sheet 4 of 4
Resolution 95-10006B
RESOLUTION NO. 95-10006B

RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR A RESTAURANT IN AN AREA DESIGNATED FOR SERVICE COMMERCIAL WITHIN THE I-394 CORRIDOR

Section 1. Background

1.01 Chili’s of Minnesota is requesting a conditional use permit for a restaurant in an area designated for service commercial within the I-394 corridor. The property is legally described as follows:

Boulevard Gardens, Second Addition, Block 1, Lots 1 and 4

1.02 City Code Section 300.31, subdivision 2(n) lists the standards that must be met for granting of the permit:

1) shall have minimum seating capacity of 150;

2) shall be part of an overall master development plan consisting of more than one structure;

3) shall be architecturally consistent and compatible with other structures in the master development plan;

4) shall have parking in compliance with the requirements of section 300.28 of this code;

5) shall be permitted only when it can be demonstrated that operation will not lower significantly the existing level of service as defined by the Institute of Traffic Engineers on the roadway system;

6) shall not include a drive-up window; and,

7) shall not be located within 100 feet of any low density residential parcel or adjacent to medium or high density residential parcels. The City may reduce separation requirements if the following are provided:

a. landscaping and berming to shield the restaurant use.

b. parking lots not located in proximity to residential uses.

c. lighting plans which are unobtrusive to surrounding uses.
Section 2. Findings

2.01 The proposed site plan meets the criteria for granting of the conditional use permit.

Section 3. City Council Action

Adopted by the Minnetonka City Council on December 11, 1995.

KAREN J. ANDERSON, MAYOR

ATTEST:

Elizabeth L. Norton, City Clerk

Action on this resolution

Motion for adoption: __ Tauer ________________________________
Seconded by: __ Countryman ________________________________
Voted in favor of: ________________________________
    Callison, Schneider, Hanus, Tauer, Countryman, Allendorf, Anderson
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 the 11th day of December, 1995.

Elizabeth L. Norton, City Clerk
Resolution No. 2018-

Resolution approving a final site and building plan for Olive Garden, a freestanding restaurant at 11390 Wayzata Blvd.

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

Section 1. Background.

1.01 Christie Schacter, on behalf of CDS Development, has requested final site and building plan approval for Olive Garden. (Project 15022.18a).

1.02 The property is located 11390 Wayzata Boulevard. It is legally described as follows:

Lot 4, Block 1, BOULEVARD GARDENS SECOND ADDITION, Hennepin County, Minnesota. (Certificate No. 860838).

1.03 On October 18, 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 City Code §300.27, Subd. 5, states that in evaluating a site and building plan, the city will consider its compliance with the following:

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

2. Consistency with the ordinance;

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

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

5. Creation of a functional and harmonious design for structures and site features, with special attention to the following:
   a) an internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors and the general community;
   b) the amount and location of open space and landscaping;
   c) materials, textures, colors and details of construction as an expression of the design concept and the compatibility of the same with the adjacent and neighboring structures and uses; and
   d) vehicular and pedestrian circulation, including walkways, interior drives and parking in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking.

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

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

Section 3. Findings.

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

1. The proposal has been reviewed by city planning, engineering, natural resources, public works, and fire staff and found to be generally consistent with the city’s development guides.

2. The proposal would comply with all city ordinance requirements.

3. The proposed restaurant would be located in an area previously occupied by a restaurant. As such, the general visual appearance would not substantially change.

4. The proposed restaurant would be constructed in an area previously occupied by a restaurant. As such, the harmonious relationship of
building sand open space would be minimally disturbed.

5. The proposed restaurant would not adversely impact site circulation. The building would have a stone veneer with landscaping surrounding the building.

6. The proposal would be required to meet all building and energy codes.

7. The proposal would not adversely impact adjacent or neighboring properties. Rather, it is anticipated that the proposal would complement the surrounding uses.

Section 4. Planning Commission Action.

4.01 The Planning Commission approves final site and building plans. Approval is based on the findings outlined in section 4 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:
   - Demolition plan, dated August 27, 2018.
   - Civil site plan and dimensional control, dated August 27, 2018.
   - Utility plan and details, dated August 27, 2018.
   - Paving, grading and drainage plans and details, August 27, 2018.
   - Elevations and floor plans, dated August 27, 2018.

2. Prior to issuance of a building permit, submit the following:
   a) An electronic PDF copy of all required plans and specifications.
   b) Final site, grading, drainage, utility, landscape, and tree mitigation plans, and a stormwater pollution prevention plan (SWPPP) for staff approval.
      1) Final landscaping plan must minimum landscaping and mitigation requirements as outlined in ordinance. However, at the sole discretion of natural resources staff, mitigation may be adjusted based on site conditions.
      2) Final stormwater stormwater management plan must:
• Meet the requirements of the city’s Water Resources Management Plan, Appendix A, supplemental calculations must be submitted detailing conformance with the city’s:

  ◦ Rate Control: maintain existing rates leaving the site for the 2-, 10-, and 100-year storm events.

  ◦ Volume: Provide onsite retention for up to 1.0” of runoff from the proposed impervious surfaces within the disturbance limits. If site conditions allow, the City of Minnetonka prefers the implementation of infiltration practices.

  ◦ Water Quality: materials must be submitted (MIDS or p8 model) to demonstrate that 60% annual total phosphorus and 90% annual total suspended solids removal.

3) Final utility plan that utilizes approved materials and installation procedures per the Minnesota plumbing code.

c) Stormwater maintenance agreement. This agreement must outline maintenance responsibilities for the stormwater facility and must provide a detailed maintenance plan for all specific facilities. The agreement must be filed against the property at Hennepin County.

d) Declaration of restrictive covenants and easement related to a privately owned fire hydrant.

e) Final material board and color palate board for staff review and approval.

f) A construction management plan. This plan must be in a city-approved format and outline minimum site management practices and penalties for non-compliance.

g) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to construct comply with grading permit and landscaping requirements and to restore the site. One itemized letter of credit is permissible, if approved by staff. The city will not fully release the letters of credit or cash escrow until:

  ◦ as-built drawings have been submitted;
• letter certifying that the underground facility has been completed according to the plans approved by the city has been submitted;

• vegetated ground cover has been established; and

• required landscaping or vegetation has survived one full growing season.

h) Cash escrow in an amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge:

• The property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and

• If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.

3. Prior to issuance of a permit:

 a) This resolution must be recorded at Hennepin County.

 b) Pay all outstanding utility bills.

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

4. All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.

5. Parking lot must be striped to meet ADA requirements.

6. The property owner is responsible for replacing any required landscaping that dies.

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

8. Permits may be required from other outside agencies including, Hennepin County, the Nine-Mile Creek Watershed District, and the MPCA. It is the
applicant’s or property owner’s responsibility to obtain any necessary permits.

9. If the building permit has not been submitted by Dec. 31, 2018, a conditional use permit is required.

10. Construction must begin by Dec. 31, 2019 unless the planning commission grants a time extension.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on Oct. 18, 2018.

____________________
Brian Kirk, Chairperson

ATTEST:

____________________
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 Oct. 18, 2018.
MINNETONKA PLANNING COMMISSION  
October 18, 2018

Brief Description  
Ordinance repealing and replacing City Code 325, Sign Regulations

Recommendation  
Recommend the city council adopt the ordinance

Introduction

Minnetonka’s first sign ordinance was adopted in 1966 and was updated in its entirety in 1991. Twenty-five years later, in 2016, staff again proposed to update the entire ordinance. The update would occur in two phases.

Phase 1 was completed in response to a United States Supreme Court decision that all sign regulations must be content-neutral. Adopted in 2016, the first phase:

- **Removed content-based regulations from the ordinance.** The previous sign ordinance was largely based on a sign’s content or wording. For example, in residential zoning districts, there were separate regulations for leasing, real estate, and construction signs. Several court cases have found constitutional issues with sign ordinances that include content-based standards. The 2015 United Stated Supreme Court decision struck down a sign ordinance involving “directional signs” as a content-based regulation. Content-based regulations are subject to higher judicial scrutiny under First Amendment analysis and are more vulnerable to legal challenge than are regulations based on size, location, and number.

- **Improved the organization and user-friendliness of the sign ordinance.** Because the city code is often downloaded and interpreted by others, it is important to make the ordinance easy to read and follow.

Phase 2 of the update is intended to focus on regulatory standards:

- **Update for current industry trends and standards.** Technology in the sign industry has changed significantly since the adoption of the 1991 sign ordinance. Additionally, staff has noticed changes in the branding and marketing goals of companies. Some examples of the branding changes include incorporating the logo into a company’s trade name and adding trade slogans or catch phrases into signs. These changes impact the types, styles and design of signage.

- **Provide for more flexibility in the ordinance.** The existing ordinance has very limited flexibility. This has resulted in an increased number of variances and sign plans reviewed by the planning commission and city council. Additional flexibility is needed to recognize differing site characteristics and visibility needs, while maintaining community aesthetics and traffic safety.
Feedback and Outreach

Staff presented an overview of a draft of Phase 2 updates to the city council during an October 2017 study session. The council was generally supportive of the proposed revisions. Following the study session, outreach to the sign industry was conducted. The draft was provided to six sign contractors that regularly do work in the city. Two contractors provided responses. Below are excerpts from those respondents:

- “I have looked this over and I like the changes. It will make signs in Minnetonka much more impactful and beneficial for the community and the business owner. Thanks for taking a progressive stance and being willing to change as the needs of the community change. It is refreshing to see.”

- “…thank you for the opportunity to review and comment on the proposed sign ordinance draft. We do welcome changes to sign ordinances that make them more user friendly and reflective of the needs of businesses and residents. That said, while we see some positive changes in the draft you sent we also believe that Minnetonka will remain one of the more challenging cities in which to obtain sign permit approval.”

Process

The proposed ordinance replacement was introduced to the city council at the October 8, 2018 meeting. The city council referred the proposed repeal and replacement of the sign ordinance to the planning commission.

The planning commission will review the subject ordinance proposal and provide a recommendation to city council. The council will then make the final decision on the repeal and replacement of the ordinance.

Phase 2 Proposed Changes

Staff is proposing regulatory changes identified below.

- Definitions. The following types of signs have been added to the Definitions Section.
  a. “Blade sign” (p. 2)
  b. “Conditionally permitted uses” (p. 2)
  c. “Feather flag” (p. 3)
  d. “Monument Area” (p. 3)
  e. Changing “Multi-tenant Center” to “Multi-tenant building” (p. 3)
  f. “Projecting Sign” (p. 4)
  g. “Sandwich sign” (p. 4)

- Permits, Procedure and Variances.
  a. Remove section 325.04 (3)(a)(7). This section requires that the applicant provide the name of the licensed electrician who will make the final connections of an illuminated sign. (p. 6)
  b. Amend section 325.04 (3)(b). This amendment changes the review time for sign permits from 10 days to 15 business days. (p. 6)

- General Regulations
a. Prohibited feather flags and pennants. (p. 6) (See attached photo.)
b. Increased the changeable message size maximum from 30 percent to 50 percent (p. 9)
c. Font size requirement changed from a varying size requirement based on speed limits to a 4-inch minimum for all signs. (p. 9)
d. Increased dynamic display maximums from 30 percent to 50 percent. (p.11) (See attached)
e. Removed section 325.05 (11)(a)(5). This section prohibits wall signs from projecting more than 18 inches from the face of the building. (See attached photo.)
f. Removed section 325.05 (11)(a)(8). This section requires signs be constructed to withstand the following wind loads:
   i. For solid signs, 30 pounds per square foot on the one face of the sign; and
   ii. For other signs, 36 pounds per square foot of the total face area of the letters and other sign surface, or 10 pounds per square foot of the gross area of the sign as determined by the overall dimensions of the sign, whichever is greater.

- District Regulations
  a. Residential Districts
     i. Educational, religious, institutional or nursing homes uses redefined as conditionally-permitted principal uses. (p.16)
     ii. Requirement added that non-commercial signage at least five feet from the edge of a public street, must not obstruct driver visibility at intersections and must be placed with the consent of the property owner. These changes are consistent with the standard for off-premise commercial signs. (p.17)
     iii. Conditionally-permitted principal uses to be allowed temporary signage via permit (previously allowed only through city council approval). (p.17)

  b. Office Districts
     i. Buildings with multiple street frontages to be permitted a wall sign on each street frontage. (p.18)
     ii. Maximum wall sign height to be based on the number of stories of the building. (p.18) (See attached photo.)
     iii. Temporary signage times clarified. (p.19)
     iv. Sandwich board signs added as a permitted temporary sign. (p.19) (See attached)
     v. Requirement added that non-commercial signage at least five feet from the edge of a public street, must not obstruct driver visibility at intersections and must be placed with the consent of the property owner. These changes are consistent with the standard for off-premise commercial signs. Currently, non-commercial signage must be setback 10 feet off all property lines. (p.19)

  c. Commercial Business and Industrial Districts
     i. Combined B-2, B-3, and I-1 Districts into one signage section. (p.19)
ii. Revised section to increase the allowed wall signage from one sign per multi-tenant leaseholder to one wall sign per exterior wall face, not to exceed two total signs. (p.20) (See attached photo.)

iii. Projecting signage added as a permitted sign with regulations. (p.21) (See attached)

iv. Sandwich signs added as a permitted temporary sign. (p.22) (See attached)

v. Requirement added that non-commercial signage at least five feet from the edge of a public street, must not obstruct driver visibility at intersections and must be placed with the consent of the property owner. These changes are consistent with the standard for off-premise commercial signs. Currently, non-commercial signage must be set back 10 feet off all property lines. (p.22)

In an effort to efficiently relay information, many existing regulations were placed into tables and were reorganized within subsections to create more logical organization. These “rearrangements” are not expressed in the outline above, as the regulation or standard were generally not changed.

**Staff Recommendation**

Recommend the city council adopt the attached ordinance.

Originator: Drew Ingvalson, Planner
Through: Loren Gordon, AICP, City Planner
Ordinance No. 2018-

An Ordinance amending the city’s sign regulations; repealing and replacing section 325 of the Minnetonka City Code

The City of Minnetonka Ordains:

Section 1. Section 325 of the Minnetonka City Code, a copy of which is attached as Exhibit A, is repealed.

Section 2. The Minnetonka City Code is replaced by adding a new section 325, in the form of the attached Exhibit B.

Section 3. This ordinance is effective on the date of its adoption.

Adopted by the city council of the City of Minnetonka, Minnesota, on ________________

________________________________________
Brad Wiersum, Mayor

Attest:

________________________________________
David E. Maeda, City Clerk

Action on this Ordinance:

Date of introduction: Oct. 8, 2018
Date of adoption: 
Motion for adoption: 
Seconded by: 
Voted in favor of: 
Voted against: 
Abstained: 
Absent: 
Ordinance adopted.

Date of publication:
I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on ________________.

____________________________________________
David E. Maeda, City Clerk
SECTION 325. SIGN REGULATIONS

SECTION 325.01 PURPOSE AND FINDINGS

1. Purpose. The sign ordinance is intended to establish a comprehensive and balanced system of sign control that accommodates the need for a well-maintained, safe, and attractive community, and the need for effective communications including business identification. It is the intent of this section, to promote the health, safety, general welfare, aesthetics, and image of the community by regulating signs that are intended to communicate to the public, and to use signs that meet the city's goals by authorizing:
   a) permanent signs that establish a high standard of aesthetics;
   b) signs that are compatible with their surroundings;
   c) signs that are designed, constructed, installed and maintained in a manner that does not adversely impact public safety or unduly distract motorists;
   d) signs that are large enough to convey the intended message and to help citizens find their way to intended destinations;
   e) signs that are proportioned to the scale of, and are architecturally compatible with, principal structures;
   f) permanent signs that give preference to the on-premise owner or occupant; and
   g) temporary commercial signs and advertising displays that provide an opportunity for grand openings and occasional sales events while restricting signs that create continuous visual clutter and hazards at public right-of-way intersections.

2. Findings. The city of Minnetonka finds it is necessary for the promotion and preservation of the public health, safety, welfare and aesthetics of the community that the construction, location, size and maintenance of signs be controlled. Further, the city finds:
   a) permanent and temporary signs have a direct impact on and relationship to the image of the community;
   b) the manner of installation, location and maintenance of signs affects the public health, safety, welfare and aesthetics of the community;
   c) an opportunity for viable identification of community businesses and institutions must be established;
   d) the safety of motorists, cyclists, pedestrians and other users of public streets and property is affected by the number, size, location and appearance of signs that unduly divert the attention of drivers;
   e) installation of signs suspended from, projecting over, or placed on the tops of buildings, walks or other structures may constitute a hazard during periods of high winds and an obstacle to effective fire-fighting and other emergency service;
f) uncontrolled and unlimited signs adversely impact the image and aesthetic attractiveness of the community and thereby undermine economic value and growth;
g) uncontrolled and unlimited signs, particularly temporary signs which are commonly located within or adjacent to public right-of-way or are located at driveway/street intersections, result in roadside clutter and obstruction of views of oncoming traffic. This creates a hazard to drivers and pedestrians and also adversely impacts a logical flow of information;
h) commercial signs are generally incompatible with residential uses and should be strictly limited in residential zoning districts; and
i) the right to express noncommercial opinions in any zoning district must be protected, subject to reasonable restrictions on size, height, location and number.

3. Severability. Every section, subdivision, clause or phrase of this section 325 is declared separable from every other section, subdivision, clause or phrase. If any such part is held to be invalid by competent authority, no other part shall be invalidated by such action or decision.

SECTION 325.02. DEFINITIONS.
1. “Commercial sign” - any sign that advertises or identifies a product, business, service, entertainment, or any other matter of a commercial nature, even though the matter may be related to a nonprofit organization.
2. “Copy and graphic” - the wording and other display messages such as logos or symbols on a sign.
3. “Copy and graphic area” - the area in square feet of the smallest four-sided figure which encloses the copy and graphic of a sign.
4. “Dynamic display” - any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays.
5. “Freestanding sign” - a sign which is self-supporting and affixed to a frame structure not attached to a building.
6. “Illumination, internal” - a light source within the sign.
7. “Illumination, external” - a light source which is not internal to the sign.
8. “Items of information” - individual copy and graphic items situated in a manner which presents separate messages. An item of information can only be a name, an address, a logo, or geographic directions.

9. “Limited tenant building” - a commercial retail establishment or a group of commercial retail establishments with the designed occupancy of three or less tenants. It must have shared parking and a visual appearance as a contiguous structure which may or may not be planned, constructed or managed as a total entity. This includes single tenant retail structures.

10. “Merchandise box” - a sign which is affixed on or located adjacent to a gas pump and used to advertise services and goods.

11. “Monument sign” - a sign not supported by exposed posts or poles which is architecturally designed and located directly at grade where the base width dimension is 50% or more of the greatest width of the sign.

12. “Multi-tenant center” - a group of commercial retail establishments with a designed occupancy of four or more tenants with shared parking and visual appearance as a contiguous structure which may or may not be planned, constructed or managed as a total entity.

13. “Non-commercial sign” - any sign that is not a commercial sign, including but not limited to signs that convey messages concerning political, religious, social, ideological, public service and informational topics.

14. “On-premise sign” - a sign relating in its subject matter to, or which directs attention to, a business, person, activity, commodity, service or entertainment located on the site where the sign is installed.

15. “Off-premise sign” - a sign relating in its subject matter to, or that directs attention to, a business, person, activity, commodity, service, entertainment or any other matter that is not available, or does not take place, on the same premises as the sign. A discontinued sign is an off-premise sign.


17. “Permanent sign” - any sign other than a temporary sign.

18. “Portable sign” - a sign with or without copy and graphic that is designed or intended to be moved or transported. Examples of portable signs are: A - or T - frame signs; sandwich signs; signs designed to be transported by trailer or on wheels; signs mounted on a vehicle for advertising purposes, when the vehicle is parked and visible from public right-of-way, except signs identifying a business when the vehicle is being used in the normal day-to-day operation of that business. A sign may be a portable sign even if it has wheels removed, was designed without wheels, or is attached temporarily or permanently to the ground, a structure, or other sign.

19. “Private road open to public travel” has the meaning given that term under the Manual of Uniform Traffic Control Devices.

20. “Pylon sign” - a sign supported by a post or posts so that the sign and supports are finished to grade by encasing the posts in a material consistent with the sign
and where the base width dimension is a minimum of 10% up to and including 50% of the greatest width of the sign.

21. “Sign” - any writing, pictorial presentation, number, illustration or decoration, flag, banner or other device that is used to announce, direct attention to, identify, advertise, or otherwise make anything known. The term “sign” shall not be deemed to include: the terms “building” or “landscaping”, or any architectural embellishment of a building not intended to communicate information; works of art that do not convey commercial messages and that are painted on a building wall; flags that do not convey commercial messages; or any sign structure or device that is not visible from an adjacent street, property line or building on adjacent property.

22. “Temporary sign” - a sign constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and that appears to be intended to be displayed for a limited period of time. This includes items such as banners, pennants, beacons, sandwich or curb signs, balloons or other air or gas filled figures.

23. “Wall sign” - a single faced sign attached to or erected against an exterior wall of a building with the face in a parallel plane to the plane of the building wall.

SECTION 325.03. CITATION; ADMINISTRATION AND ENFORCEMENT.

1. Citation.
   This section 325 may be cited as the Minnetonka Sign Ordinance.

2. Administration and enforcement.
   Administration and enforcement of this section 325 is governed by section 300.03.

SECTION 325.04. PERMITS, PROCEDURE AND VARIANCES.

3. Permit not required.

   The following signs do not require a permit but must meet the regulations in this section:

   a) Signs required or allowed by section 325.05, subd. 3.
   b) Temporary signs in residential districts as allowed by section 325.06, subd. 1(d)(1).

4. Permit required.

   a) No person may erect or install any of the following signs without first obtaining a permit from the community development director or designee:
b) All permanent signs permitted in section 325.06 require a sign permit. The permit must be received prior to installation of the sign. The permit and inspection fee for all permanent signs is specified in city code section 710.

c) All temporary signs permitted in section 325.06, subdivision 8 require a temporary sign permit. The permit and inspection fee for permitted signs, banners, search lights, or inflatable advertising devices is specified in city code section 710.

5. **Permit procedure.**

a) Application for a permit must be on a form provided by the city and must include the following information:
   1) name and address of the owner of the sign;
   2) street address or location of the property on which the sign is to be located, along with the name and address of the property owner;
   3) the type of sign as defined in this section;
   4) site plan showing the location of the proposed sign;
   5) specifications and scale drawings showing the materials, design, dimensions, structural supports, method of attachment and electrical components of the sign;
   6) plan showing the location and size of all existing signs located on the same premises upon city request;
   7) name of licensed electrician who will make the final connection of an illuminated sign; and
   8) sign permit fee as specified in city code section 710.

b) The community development director or designee must approve or deny a sign permit application within 10 days after a complete application is submitted. A decision must be made in writing and must be mailed or electronically delivered to the applicant at the address or email address provided in the application. If a permit is denied, the reason must be stated in writing.

c) An applicant may appeal a denial by submitting a request in writing within 10 days after the decision was mailed or electronically delivered. The appeal must be scheduled for planning commission review as soon as practicable, but no later than 30 days after the appeal was submitted. The applicant may appeal a planning commission denial by submitting a request in writing within 10 days after the decision. The appeal must be scheduled for city council review as soon as practicable, but no later than 30 days after the appeal was submitted. All review of a sign permit application must be based solely on whether the application complies with city ordinances.
6. **Variance.**

A variance from the regulations in this section requires a separate application, according to the procedures in section 300.07 of this code. The fee for application for variance from this section or approval of a sign plan for a development is specified in city code section 710.

7. **Permit expiration.**

A sign permit becomes null and void if the sign is not installed within 180 days after issuance of the permit, and a new application must be submitted.

**SECTION 325.05 GENERAL REGULATIONS.**

1. **Scope.** The regulations in this section 325.05 apply to signs in all zoning districts.

2. **Prohibited Signs.**
   a) Signs are prohibited in all districts unless authorized under this section 325.
   b) Portable signs are prohibited in all districts, except for temporary traffic control devices in temporary traffic control zones as required by the Manual on Uniform Traffic Control Devices.
   c) Signs designed to resemble official traffic control devices are prohibited in all districts, except signs that are used to control traffic on private property.
   d) abandoned signs;
   e) blank signs;
   f) merchandise boxes or signs not affixed to a principal structure excluding signs permitted in subdivision 8(d);
   g) permanent off-premises signs are not permitted in any zoning district.

3. **Permitted signs.**

The following signs are required or permitted in every zoning district:

   a) The owner of any property with an assigned street address must mark its property with the street address numerals, so that emergency services providers can easily identify the address from the public street. The identification may be on the curb or on the principal building of the property. The size and location of the identifying numerals must be proportional to the size of the building and the distance from the street to the building. In cases where the building is not located within view of the public street, or where the building is located more than 150 feet from the public street, the identifier must be located on the mailbox or other suitable device that is visible from the street.
b) Traffic control devices on private or public property must be erected and maintained to comply with the Manual on Uniform Traffic Control Devices adopted in this state.

c) Permanent and temporary signs required by law or ordinance for regulatory/notification purposes.

d) Permanent freestanding signs are permitted on properties with more than 20 parking spaces, provided the signs comply with the requirements in Table 325.1:

<table>
<thead>
<tr>
<th>Table 325.1 Parking lot signs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum sign area</td>
</tr>
<tr>
<td>Maximum height</td>
</tr>
<tr>
<td>Location requirement</td>
</tr>
<tr>
<td>Numerical limit</td>
</tr>
</tbody>
</table>

e) Temporary off-premise commercial signs are permitted in all districts, provided the signs comply with the following:
1) must be at least 5 feet from the edge of a public street and must not obstruct driver visibility at intersections;
2) may not be on the right-of-way of county and state roads and municipal state-aid streets;
3) are limited to one per parcel of property as defined in subdivision 9 below for the same topic, location, event, or matter;
4) may only be displayed between 6:00 a.m. on a Thursday and 6:00 p.m. on the following Sunday; and
5) must be no larger than 3 square feet in area and no higher than 6 feet above the ground to which it is attached.

f) In all districts, any sign authorized in this chapter is allowed to contain noncommercial copy in lieu of any other copy. For new signs posted with a noncommercial message, the sign fee is waived until such time as the sign is converted to contain a commercial message.

4. Location requirements.

a) Signs may not be located on property without the permission of the property owner. For signs located in public right-of-way as allowed under subdivision 3(e)
of this section 325.05, the permission of the immediately adjacent property owner must be obtained.

b) Unless specifically noted otherwise, all signs must maintain a 10 foot setback from all lot lines. The city may require a greater or lesser setback because of public safety reasons which may include the following conditions: vehicle sight distance, distance from intersection, designation of adjacent right-of-way.

c) Signs may not be mounted on a roof surface and may not project above the roof line of a structure if either attached to the structure or cantilevered over the structure.

d) Signs may not be attached to trees or utility poles.

e) Signs may not be located within public right-of-way except for official traffic control devices and those allowed by section 3(e) of this section 325.05;

f) Signs attached to fences;

g) Signs may not be located so as to obstruct the vision of pedestrians, cyclists, or motorists traveling on or entering public streets in a manner that presents a hazard to public safety;

h) Signs may not be located so as to obstruct any window, door, fire escape, stairway or opening intended to provide light, air, ingress or egress for any structure;

5. **Approved sign plans.**
   The city may enforce, in the same manner as the requirements of this section, the terms of a sign plan or sign covenants which it has approved. Any violation of an approved sign plan or sign covenants is a misdemeanor.

6. **Changeable messages.**
   A message that is not permanently attached to the sign face but that is not a dynamic display may occupy no more than 35 percent of the actual copy and graphic area. The remainder of the sign must not have the capability to change messages even if not used.

7. **Font size.**
   Every line of copy and graphics in a sign must be at least seven inches in height on a road with a speed limit of 25 to 34 miles per hour, nine inches on a road with a speed limit of 35 to 44 miles per hour, 12 inches on a road with a speed limit of 45 to 54 miles per hour, and 15 inches on a road with a speed limit of 55 miles per hour or more.

8. **Sign illumination.**
   a) All illuminated signs must meet the following standards:
      1) External illumination on signs must be directed so that the illumination does not interfere with safe traffic operations;
2) Externally illuminated signs must not be directly oriented to any residential district;
3) No sign may be brighter than is necessary for clear and adequate visibility.
4) No sign may be of such intensity or brilliance as to impair the vision of a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle.
5) No sign may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device or signal.

b) The person owning or controlling the sign must adjust the sign to meet the brightness standards in accordance with the city's instructions. The adjustment must be made immediately upon notice of non-compliance from the city. The person owning or controlling the sign may appeal the city's determination through the following appeal procedure:
1) After making the adjustment required by the city, the person owning or controlling the sign may appeal the city's determination by delivering a written appeal to the city clerk within 10 days after the city's non-compliance notice. The written appeal must include the name of a person unrelated to the person and business making the appeal, who will serve on the appeal panel.
2) Within five business days after receiving the appeal, the city must name a person who is not an official or employee of the city to serve on the appeal panel. Within five business days after the city names its representative, the city's representative must contact the sign owner's representative, and the two of them must appoint a third member to the panel, who has no relationship to either party.
3) The appeal panel may develop its own rules of procedure, but it must hold a hearing within five business days after the third member is appointed. The city and the sign owner must be given the opportunity to present testimony, and the panel may hold the hearing, or a portion of it, at the sign location. The panel must issue its decision on what level of brightness is needed to meet the brightness standards within five business days after the hearing commences. The decision will be binding on both parties.

c) All signs installed after June 25, 2007 that will have illumination by a means other than natural light must be equipped with a mechanism that automatically adjusts the brightness in response to ambient conditions. These signs must also be equipped with a means to immediately turn off the display or lighting if it malfunctions, and the sign owner or operator must immediately turn off the sign or lighting when notified by the city that it is not complying with the standards in this section.

9. **Outdoor advertising displays.**
Outdoor advertising signs which exist as of March 13, 1991 are nonconforming signs. A permanent outdoor advertising sign is a principal use of property. No permitted or conditionally permitted use or any part of such use may be located on the same parcel of property as such a sign. The parcel on which such a sign is located may not be subdivided to segregate the sign from the remaining property. For the purposes of this paragraph, “parcel of property” means any property for which one property identification number has been issued by the county, or all contiguous property in common ownership as of October 15, 1997, whichever is greater.

10. Dynamic Displays.
   a) Findings. Studies show that there is a correlation between dynamic displays on signs and the distraction of highway drivers. Distraction can lead to traffic accidents. Drivers can be distracted not only by a changing message, but also by knowing that the sign has a changing message. Drivers may watch a sign waiting for the next change to occur. Drivers are also distracted by messages that do not tell the full story in one look. People have a natural desire to see the end of the story and will continue to look at the sign in order to wait for the end. Additionally, drivers are more distracted by special effects used to change the message, such as fade-ins and fade-outs. Finally, drivers are generally more distracted by messages that are too small to be clearly seen or that contain more than a simple message. Time and temperature signs appear to be an exception to these concerns because the messages are short, easily absorbed, and become inaccurate without frequent changes.

Despite these public safety concerns, there is merit to allowing new technologies to easily update messages. Except as prohibited by state or federal law, sign owners should have the opportunity to use these technologies with certain restrictions. The restrictions are intended to minimize potential driver distraction and to minimize proliferation in residential districts where signs can adversely impact residential character.

Local spacing requirements could interfere with the equal opportunity to use such technologies and are not included. Without those requirements, however, there is the potential for numerous dynamic displays to exist along any roadway. If more than one dynamic display can be seen from a given location on a road, the minimum display time becomes critical. If the display time is too short, a driver could be subjected to a view that appears to have constant movement. This impact would obviously be compounded in a corridor with multiple signs. If dynamic displays become pervasive and there are no meaningful limitations on each sign’s ability to change frequently, drivers may be subjected to an unsafe degree of distraction and sensory overload. Therefore, a longer display time is appropriate.
A constant message is typically needed on a sign so that the public can use it to identify and find an intended destination. Changing messages detract from this way-finding purpose and could adversely affect driving conduct through last-second lane changes, stops, or turns, which could result in traffic accidents. Accordingly, dynamic displays generally should not be allowed to occupy the entire copy and graphic area of a sign.

In conclusion, the city finds that dynamic displays should be allowed on signs but with significant controls to minimize their proliferation and their potential threats to public safety.

b) Regulations. Dynamic displays on signs are allowed subject to the following conditions:

1) Dynamic displays are allowed only on monument and pylon signs for conditionally permitted uses in residential districts and for all uses in other districts. Dynamic displays may occupy no more than 35 percent of the actual copy and graphic area. The remainder of the sign must not have the capability to have dynamic displays even if not used. Only one, contiguous dynamic display area is allowed on a sign face;

2) A dynamic display may not change or move more often than once every 20 minutes, except one for which changes are necessary to correct hour-and-minute, date, or temperature information. Time, date, or temperature information is considered one dynamic display and may not be included as a component of any other dynamic display. A display of time, date, or temperature must remain for at least 20 minutes before changing to a different display, but the time, date, or temperature information itself may change no more often than once every three seconds;

3) The images and messages displayed must be static, and the transition from one static display to another must be instantaneous without any special effects;

4) The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign;

5) Every line of copy and graphics in a dynamic display must be at least seven inches in height on a road with a speed limit of 25 to 34 miles per hour, nine inches on a road with a speed limit of 35 to 44 miles per hour, 12 inches on a road with a speed limit of 45 to 54 miles per hour, and 15 inches on a road with a speed limit of 55 miles per hour or more. If there is insufficient room for copy and graphics of this size in the area allowed under clause 1 above, then no dynamic display is allowed;

6) Dynamic displays must be designed and equipped to freeze the device in one position if a malfunction occurs. The displays must also be equipped
with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the city that it is not complying with the standards of this ordinance;

7) Dynamic displays must comply with the brightness standards contained in subdivision 15;

8) Dynamic displays existing on June 25, 2007 must comply with the operational standards listed above. An existing dynamic display that does not meet the structural requirements in clause 1 may continue as a non-conforming development subject to section 300.29. An existing dynamic display that cannot meet the minimum size requirement in clause 5 must use the largest size possible for one line of copy to fit in the available space.

c) Incentives. Outdoor advertising signs do not need to serve the same way-finding function as do on-premises signs. Further, outdoor advertising signs are no longer allowed in the city, and there is no potential that they will proliferate. Finally, outdoor advertising signs are in themselves distracting and their removal serves public safety. The city is extremely limited in its ability to cause the removal of those signs. This clause is intended to provide incentives for the voluntary and uncompensated removal of outdoor advertising signs in certain settings. This removal results in an overall advancement of one or more of the goals set forth in this section that should more than offset any additional burden caused by the incentives. These provisions are also based on the recognition that the incentives create an opportunity to consolidate outdoor advertising services that would otherwise remain distributed throughout the community.

1) A person may obtain a permit for an enhanced dynamic display on one face of an outdoor advertising sign if the following requirements are met:
   
   (a) The applicant agrees in writing to permanently remove, within 15 days after issuance of the permit, at least two other faces of an outdoor advertising sign in the city that are owned or leased by the applicant, each of which must satisfy the criteria of parts (b) through (d) of this subsection. This removal must include the complete removal of the structure and foundation supporting each sign face. The applicant must agree that the city may remove the sign if the applicant does not timely do so, and the application must be accompanied by a cash deposit or letter of credit acceptable to the city attorney sufficient to pay the city’s costs for that removal. The applicant must also agree that it is removing the sign voluntarily and that it has no right to compensation for the removed sign under any law.

   (b) The city has not previously issued an enhanced dynamic display permit based on the removal of the particular faces relied upon in this permit application.

   (c) Each removed sign has a copy and graphic area of at least 288 square feet and satisfies two or more of the following additional criteria:
(1) The removed sign is located adjacent to a highway with more than
two regular lanes and with a general speed limit of 45 miles per hour
or greater, but that does not have restrictions on access equivalent to
those of an interstate highway;

(2) All or a substantial portion of the structure for the removed sign was
constructed before 1975 and has not been substantially improved;

(3) The removed sign is located in a noncommercial zoning district;

(4) The removed sign is located in a special planning area designated in
the 1999 comprehensive plan; or

(5) The removed copy and graphic area is equal to or or greater than the
area of the copy and graphic area for which the enhanced dynamic
display permit is sought.

(d) If the removed sign face is one for which a state permit is required by
state law, the applicant must surrendered its permit to the state upon
removal of the sign. The sign that is the subject of the enhanced dynamic
display permit cannot begin to operate until proof is provided to the city
that the state permit has been surrendered.

(e) The applicant must agree in writing that no dynamic displays will ever be
used on one additional outdoor advertising sign that has a copy and
graphic area of at least 288 square feet in size. This agreement will be
binding on the applicant and all future owners of the sign. If the sign is
subsequently removed or destroyed and not replaced, the holder of the
enhanced dynamic display permit is not required to substitute a different
sign for the one that no longer exists.

2) If the applicant complies with the permit requirements noted above, the city
will issue an enhanced dynamic display permit for the designated outdoor
advertising sign. This permit will allow a dynamic display to occupy 100
percent of the potential copy and graphic area and to change no more
frequently than once every eight seconds. The designated sign must meet all
other requirements of this ordinance.

11. Sign construction and maintenance.
   All signs must conform to the following standards.
   a) Construction specifications. All permanent signs must be constructed in
      accordance with the following:
      1) the Minnesota state building code;
      2) all electric signs must be approved and labeled as conforming to the
         standards of the Underwriters' Laboratories, Inc., the United States bureau of
         standards or other similar institutions of recognized standing. All illuminating
         elements must be kept in satisfactory working condition or immediately
         repaired or replaced. Signs that are partly illuminated must meet all
         electrical requirements for the portion that is illuminated;
3) all permanent freestanding signs must have self-supporting structures erected on and permanently attached to concrete foundations;
4) for wall signs, the wall must be designed for and have sufficient strength to support the sign;
5) wall signs must be mounted parallel to the building and may not project more than 18 inches from the face of the building;
6) signs may not be painted on the wall of a building;
7) Unless otherwise specified in this section, the maximum angle permitted between faces of a double face freestanding sign is 45 degrees; and
8) signs must be constructed to withstand the following wind loads:
   (a) for solid signs, 30 pounds per square foot on one face of the sign; and
   (b) for other signs, 36 pounds per square foot of the total face area of the letters and other sign surface, or 10 pounds per square foot of the gross area of the sign as determined by the overall dimensions of the sign, whichever is greater.

b) Sign maintenance and repair. All signs must be maintained in a safe, presentable and good structural condition at all times, including the replacement of defective parts, cleaning and other items required for maintenance of the sign. Vegetation around, in front of, behind, and underneath the base of ground signs for distance of 10 feet must be neatly trimmed and free of weeds. Rubbish or debris under or near the sign that would constitute a fire or health hazard must be removed.

12. **Removal of Abandoned Signs, Signs in Disrepair and Signs Located in Public Right-of-Way.**
   a) Abandoned signs and signs in disrepair. An abandoned sign or sign in disrepair is prohibited and shall be removed by the owner of the premises within 30 days after notification. If compliance with the provisions of this section is not achieved within 30 days, the city may remove the sign as a public nuisance by following the procedure as specified in section 1120.045 of the municipal code of ordinances. If an abandoned sign remains in good condition and without holes or other evidence of disrepair or damage, the sign shall not be considered as abandoned for a period of one year.

   b) Signs on public property or within public right-of-way: The city may at any time and without notice impound signs which have been installed on public property or within public right-of-way or easement. The sign owner may retrieve the signs according to the following:
      1) a fee must be paid to the city as established in city code section 710. For each subsequent impoundment in a calendar year, the specified fee shall be doubled;
2) the sign may be retrieved from a designated impound area during routine business hours and within 15 days from the date of impounding. After 15 days, the city will dispose of the sign; and
3) the city may not be held liable for any damage to impounded signs.

13. **Nonconforming Signs.**
Any sign that complied with all applicable laws and ordinances at that time that it was erected but that has been or is made nonconforming due to a subsequently enacted amendment of this city code is governed by section 300.29.

**SECTION 325.06. DISTRICT REGULATIONS.**

1. **Residential Districts.**
Within residential zoning districts, signs are permitted as provided in this subsection. Except as expressly permitted in this subsection, commercial signs are not allowed:
   a) Permanent wall signs:
      1) for each single family or multi-family residential structure, one wall sign not to exceed 2 square feet in area;
      2) for each educational, religious, public or private institution, or nursing home property one wall mounted sign that complies with the requirements in Table 325.5:
   b) Permanent monument signs:
      1) Low density residential: or each single family subdivision containing at least 6 lots and each two family subdivision containing a potential for at least 12 dwellings, one or two monument style signs, provided the signs meet the requirements in Table 325.5. A neighborhood or homeowner's association must be responsible for perpetual maintenance of the sign.
      2) Medium and high density residential: for each medium or high density residential development, one or two monument style signs, provided the signs meet the requirements in Table 325.5. The sign must be perpetually maintained by a homeowner's association or responsible property owners.
      3) Educational, religious and public institution signs: for each educational, religious, public or private institution, and nursing home property, one monument sign, provided it complies with the requirements in Table 325.5.
      4) Public and private parks: for each public or private park property, one monument sign, provided it complies with the requirements in Table 325.5
   c) Permanent pylon signs:
      One pylon sign is allowed per athletic playing field with structured seating capacity for 2000 or fewer people, or one or more pylon signs per athletic playing field with structured seating capacity for greater than 2000 people; provided, that sign(s) must meet the requirements in Table 325.5.
   d) Temporary signs.
1) Within all residential zoning districts, temporary noncommercial signage is permitted provided it meets the requirements of Table 325.5.

2) Within all residential zoning districts, on-premises commercial signage is permitted on properties where new construction activity is taking place, provided the signs comply with the requirements in Table 325.2:

<table>
<thead>
<tr>
<th>Property type</th>
<th>Low density with at least four lots under development; medium or high density</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sign type</td>
<td>Pylon</td>
</tr>
<tr>
<td>Numerical limit</td>
<td>One per development project number, according to the records of the community development department</td>
</tr>
<tr>
<td>Maximum sign area</td>
<td>32 square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>8 feet, but if sign width does not exceed 4 feet, then 12 feet</td>
</tr>
<tr>
<td>Maximum duration</td>
<td>Low density – when building permits have been issued for 90 percent of the lots</td>
</tr>
<tr>
<td></td>
<td>Medium and high density – 18 months after building permit issuance or 7 days after issuance of certificate of occupancy for last building, whichever is sooner</td>
</tr>
<tr>
<td>Other requirement</td>
<td>Signage under this provision is in lieu of all other permanent or temporary signage on the property</td>
</tr>
</tbody>
</table>

3) One temporary on-premises commercial sign is permitted on a low or medium density residential property that is for lease or sale, subject to the requirements in Table 325.3.

<table>
<thead>
<tr>
<th>Sign type</th>
<th>Freestanding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum area</td>
<td>6 square feet</td>
</tr>
<tr>
<td>Maximum height</td>
<td>6 feet</td>
</tr>
<tr>
<td>Maximum duration</td>
<td>Seven days after property is no longer for lease or sale</td>
</tr>
</tbody>
</table>

Table 325.3. Temporary signage per 325.06(1)(d)(3)
4) One temporary on-premises commercial sign is permitted on a medium or high density residential property that is for lease or sale, subject to the requirements in Table 325.4; except, that no temporary sign is allowed if the graphic area of a permanent monument sign, as allowed under subdivision 1(b)(2) of this section, is increased as allowed by Table 325.5.

<table>
<thead>
<tr>
<th>Table 325.4. Temporary signage per 325.06(1)(d)(4)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sign type: choice of one:</td>
</tr>
<tr>
<td>Freestanding</td>
</tr>
<tr>
<td>Banner attached to wall</td>
</tr>
<tr>
<td>Maximum area</td>
</tr>
<tr>
<td>32 square feet</td>
</tr>
<tr>
<td>60 square feet</td>
</tr>
<tr>
<td>Maximum height</td>
</tr>
<tr>
<td>12 feet, unless width exceeds 4 feet, then</td>
</tr>
<tr>
<td>8 ft.</td>
</tr>
<tr>
<td>30 ft.</td>
</tr>
<tr>
<td>Maximum duration</td>
</tr>
<tr>
<td>12 months after issuance of certificate of</td>
</tr>
<tr>
<td>occupancy for last building</td>
</tr>
<tr>
<td>12 months after issuance of certificate of</td>
</tr>
<tr>
<td>occupancy for last building</td>
</tr>
</tbody>
</table>

5) The city council may approve temporary on-premises signs on public or institutional property. The first approval for a site may allow only one use of the sign for a specified duration. Subsequent approvals for the same type of sign may allow recurring use of the sign for limited durations over a period of up to 5 years.

<table>
<thead>
<tr>
<th>Table 325.5: Residential District Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sign type</td>
</tr>
<tr>
<td>Max. Area Sign Structure</td>
</tr>
<tr>
<td>Max. Graphic Area</td>
</tr>
<tr>
<td>Max. Height</td>
</tr>
<tr>
<td>Illumination</td>
</tr>
<tr>
<td>Other</td>
</tr>
<tr>
<td>Permanent wall sign – residential use</td>
</tr>
<tr>
<td>325.06(1)(a)(1)</td>
</tr>
<tr>
<td>2 sq ft</td>
</tr>
<tr>
<td>2 sq ft</td>
</tr>
<tr>
<td>1 ft</td>
</tr>
<tr>
<td>External only</td>
</tr>
<tr>
<td>Permanent wall sign – educational, religious,</td>
</tr>
<tr>
<td>institutional or nursing home use</td>
</tr>
<tr>
<td>325.06(1)(a)(2)</td>
</tr>
<tr>
<td>Lesser of 50 sq ft or 10% of wall on which</td>
</tr>
<tr>
<td>sign is located</td>
</tr>
<tr>
<td>Lesser of 50 sq ft or 10% of wall on which</td>
</tr>
<tr>
<td>sign is located</td>
</tr>
<tr>
<td>Individual letters not more than 24 in.</td>
</tr>
<tr>
<td>External only</td>
</tr>
<tr>
<td>Sign type</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Permanent monument sign – low density residential use</td>
</tr>
<tr>
<td>Permanent monument sign – medium and high density residential use</td>
</tr>
<tr>
<td>Permanent monument sign – educational, religious, institutional or nursing home use</td>
</tr>
<tr>
<td>Permanent monument sign – public or park use</td>
</tr>
<tr>
<td>Permanent sign – athletic field use with structured</td>
</tr>
</tbody>
</table>
### Table 325.5: Residential District Requirements

<table>
<thead>
<tr>
<th>Sign type</th>
<th>Max. Area Sign Structure</th>
<th>Max. Graphic Area</th>
<th>Max. Height</th>
<th>Illumination</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>seating for 2000 or fewer people 325.06(1)(c)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Permanent sign – athletic field use with structured seating for more than 2000 people 325.06(1)(c)</td>
<td>500 sq. ft. per sign face; 1000 sq. ft. aggregate</td>
<td>500 sq. ft. per sign face; 1000 sq. ft. aggregate</td>
<td>35</td>
<td>Internally illuminated</td>
<td></td>
</tr>
<tr>
<td>Temporary freestanding noncommercial signs – any residential use 325.06(1)(d)(1)</td>
<td>6 square feet per sign; 18 square feet aggregate per property</td>
<td>6 square feet per sign; 18 square feet aggregate per property</td>
<td>3 ft.</td>
<td>None</td>
<td></td>
</tr>
</tbody>
</table>

2. **Office Business District Sign Regulations.**
   
   Within the B-1, office business district, signs are permitted according to the following standards:
   
   a) Permanent monument signs: one permanent monument sign is permitted per development, provided the sign complies with the requirements of Table 325.6.
   
   b) Permanent wall signs: one permanent wall sign per building, either individually mounted letter type (option 1) or wall mounted type (option 2), except as provided in Table 325.6. Signs must meet the requirements in Table 325.6.

### Table 325.6: Office Business District Sign Requirements

<table>
<thead>
<tr>
<th>Sign type</th>
<th>Max. Area Sign Structure</th>
<th>Max. Graphic Area</th>
<th>Max. Height</th>
<th>Illumination</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent monument sign – adjacent ROW is less than 100 ft in width</td>
<td>72</td>
<td>36 sq. ft.</td>
<td>15 ft.</td>
<td>Internal or external</td>
<td>Limit of three items of information per copy and graphic area</td>
</tr>
</tbody>
</table>
Table 325.6: Office Business District Sign Requirements

<table>
<thead>
<tr>
<th>Sign type</th>
<th>Max. Area</th>
<th>Max. Graphic Area</th>
<th>Max. Height</th>
<th>Illumination</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent monument sign – adjacent ROW is 100 ft. or more in width</td>
<td>100</td>
<td>50 sq. ft.</td>
<td>15 ft.</td>
<td>Internal or external</td>
<td>Limit of three items of information per copy and graphic area External light fixtures and sources must be screened from view</td>
</tr>
<tr>
<td>Permanent wall sign</td>
<td>Op. 1</td>
<td>The greater of 50 sq. ft. or 25 % of length of building where sign is located</td>
<td>24 in. copy height 36 in. logo height</td>
<td>Internal only, if mounted above first floor; internal or external if mounted on first floor; no exposed light sources or fixtures on external lights</td>
<td>Individually mounted letters only Properties with more than one street frontage may have one sign per building facing each frontage</td>
</tr>
<tr>
<td></td>
<td>Op. 2</td>
<td>30 sq. ft. aggregate</td>
<td></td>
<td>Internal or external; no exposed light sources or fixtures on external lights</td>
<td>Must be mounted within first floor elevation If more than one primary entrance, one sign allowed per entrance, subject to aggregate square foot limitation</td>
</tr>
</tbody>
</table>

3. **Limited and General Business Sign Regulations.**
   Within the B-2 and B-3 business districts, the following signs are permitted:
   a) Permanent freestanding signs. Except as provided in Table 325.9, one freestanding sign is permitted per development. Signs must meet the requirements in Table 325.7 and Table 325.9.
### Table 325.7 Freestanding Sign Size Limitations

<table>
<thead>
<tr>
<th>Principal Structure (gross square feet)</th>
<th>pylon</th>
<th>monument</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Max. height</td>
<td>Max. sign size (sq. ft.)</td>
</tr>
<tr>
<td>greater than 400,000</td>
<td>30'</td>
<td>200</td>
</tr>
<tr>
<td>100,000 - 400,000</td>
<td>24'</td>
<td>100</td>
</tr>
<tr>
<td>20,000 - 100,000</td>
<td>18'</td>
<td>80</td>
</tr>
<tr>
<td>less than 20,000</td>
<td>15'</td>
<td>60</td>
</tr>
<tr>
<td>building with multiple screen theater</td>
<td>30'</td>
<td>200</td>
</tr>
</tbody>
</table>

b) Permanent wall signs.

1) Multi-tenant wall signs. One permanent wall sign is permitted per tenant space, and must be located no closer than two feet from any lease line. Signs must meet the requirements in Table 325.8 and Table 325.9.

2) Limited tenant wall signs. One permanent wall sign is permitted per exterior wall face on limited tenant buildings, subject to the limitations in Table 325.8 and Table 325.9.

### Table 325.8 Wall Sign Size Limitations

<table>
<thead>
<tr>
<th>Principal Structure Size (Gross Sq. Ft.)</th>
<th>Individual Wall Sign Calculation</th>
<th>Total Wall Signage for Property</th>
</tr>
</thead>
<tbody>
<tr>
<td>100,000 - 400,000 sq. ft.</td>
<td>200 sq. ft. or 10 percent of wall face, whichever is less</td>
<td>300 sq. ft.</td>
</tr>
<tr>
<td>20,000 - 100,000 sq. ft.</td>
<td>150 sq. ft. or 10 percent of wall face, whichever is less</td>
<td>240 sq. ft.</td>
</tr>
<tr>
<td>less than 20,000 sq. ft.</td>
<td>100 sq. ft. or 15 percent of wall face, whichever is less</td>
<td>150 sq. ft.</td>
</tr>
</tbody>
</table>

### Table 325.9 Limited and General Business District Sign Requirements

<table>
<thead>
<tr>
<th>Sign type</th>
<th>Max. Area Sign Structure</th>
<th>Max. Graphic Area</th>
<th>Max. Height</th>
<th>Illumination</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent freestanding sign</td>
<td>Hotel</td>
<td>60 sq. ft.</td>
<td>15 ft.</td>
<td>One monument sign per development,</td>
<td></td>
</tr>
<tr>
<td>Sign type</td>
<td>Max. Area Sign Structure</td>
<td>Max. Graphic Area</td>
<td>Max. Height</td>
<td>Illumination</td>
<td>Other</td>
</tr>
<tr>
<td>---------------------------</td>
<td>--------------------------</td>
<td>-------------------</td>
<td>-------------</td>
<td>--------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Property with Drive-Thru</td>
<td>50 sq. ft.</td>
<td>N/A</td>
<td>8 ft.</td>
<td>Internal</td>
<td>Allowed in addition to sign under “Other” below Single-faced only</td>
</tr>
<tr>
<td>Other</td>
<td>Monument area cannot exceed 1.5 times allowed copy and graphic area</td>
<td>See Table 325.7</td>
<td>See Table 325.7</td>
<td>Either; no exposed light sources or fixtures on external lights</td>
<td>Signs may be single or double faced One sign per development except: For multi-tenant building or limited tenant building with more than 100,000 gross sq. ft. and with 2 or more access points, one monument sign allowed at primary access and second monument allowed at second access; height and graphic limits for second monument are 50% of those in Table 325.7</td>
</tr>
<tr>
<td>Permanent wall sign</td>
<td>Hotel</td>
<td>36 in. per letter</td>
<td>Internal</td>
<td>Individually mounted letter-type sign only One sign per development, except 2nd sign on 2nd wall allowed if neither sign is directly oriented</td>
<td></td>
</tr>
</tbody>
</table>
### Table 325.9 Limited and General Business District Sign Requirements

<table>
<thead>
<tr>
<th>Sign type</th>
<th>Max. Area Sign Structure</th>
<th>Max. Graphic Area</th>
<th>Max. Height</th>
<th>Illumination</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multi-tenant</td>
<td>See Table 325.8</td>
<td>See Table 325.8</td>
<td>36 in.</td>
<td>Internal for individual letters</td>
<td>Individually mounted letters required unless all wall signs are incorporated into architecture of structure and of similar design. Must be installed within 26-in. high horizontal band of uniform background</td>
</tr>
<tr>
<td>Limited tenant</td>
<td>See Table 325.8</td>
<td>See Table 325.8</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

c) Permanent on-premises sign: In addition to, or as a modification of, of the signs allowed by paragraphs (a) and (b) above, one of the following options is allowed, provided, that any property with signage allowed under this paragraph (c) is not allowed to have temporary signage under subdivision 5(3) of this section 305.06.

1) Option 1:
   a. the principal freestanding sign shall be architecturally designed to accommodate a leasing message within the perimeter of the monument or pylon sign;
   b. the leasing message cannot exceed that of the identification monument or pylon message;
   c. leasing message is in addition to potential monument or pylon copy and graphic area; and the maximum size of the permanent freestanding sign permitted under paragraph (a) above may be increased as provided in Table 325.10.
### Table 325.10

<table>
<thead>
<tr>
<th>Principal Structure Gross Square Footage</th>
<th>Additional Square Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 20,000</td>
<td>15 square feet</td>
</tr>
<tr>
<td>20,000 - 100,000</td>
<td>20 square feet</td>
</tr>
<tr>
<td>greater than 100,000</td>
<td>25 square feet</td>
</tr>
</tbody>
</table>

2) Option 2: in addition to the permanent freestanding sign allowed under paragraph (a) above, one additional permanent freestanding sign is allowed, provided it complies with the following standards:
   a. setback 5 feet from all property lines;
   b. 8 foot maximum height and 6 foot maximum width; and
   c. maximum size of sign permitted is determined by the gross square footage of the principal structure as provided in Table 325.11:

### Table 325.11

<table>
<thead>
<tr>
<th>Principal Structure Gross Square Footage</th>
<th>Sign Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 20,000</td>
<td>12 square feet</td>
</tr>
<tr>
<td>20,000 - 100,000</td>
<td>16 square feet</td>
</tr>
<tr>
<td>greater than 100,000</td>
<td>18 square feet</td>
</tr>
</tbody>
</table>

3) Option 3: in addition to the permanent freestanding sign allowed under paragraph (a) above, a permanent wall mounted sign or banner is allowed, provided it complies with the following standards:
   a. buildings two stories or under:
      (1) one wall sign;
      (2) directly anchored to the building wall; and
      (3) maximum size of sign permitted is determined by the gross square footage of the principal structure as provided in Table 325.12:

### Table 325.12

<table>
<thead>
<tr>
<th>Principal Structure Gross Square Footage</th>
<th>Sign Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 20,000</td>
<td>12 square feet</td>
</tr>
</tbody>
</table>
b. buildings three stories or higher:
   (1) 30 square feet maximum area;
   (2) directly anchored to the building wall; and
   (3) displayed on the building's third story or any higher story.

(4) signs up to 32 square feet in size will be permitted without time limit
    instead of option 2 or 3 if the standards in either a. or b. are met:
    a. business or industrial development directly abuts a street with
       posted speed limit of 55 m.p.h. or greater; or
    b. the principal structure is greater than four stories.

4. Industrial Sign Regulations.
   Within the I-1 industrial district permanent signs which comply with the following
   standards are permitted:

a) Monument sign. One permanent monument sign is permitted per property. The
   property owner must elect from one of two options in Table 325.13, and the sign
   must meet the requirements for the selected option.

b) Permanent signage per tenant space. For multi-tenant buildings that do not have
   a monument sign under option 2 of Table 325.13, additional permanent signage
   is permitted as provided in this subdivision 4(b). The signs must meet the
   requirements of Table 325.13. The building owner or a representative must
   designate a sign design for the tenant spaces. The designation will be recorded
   by the city and kept on record for the property. Each sign on the property must
   conform to the designated sign option, and all signs must be uniform in material,
   color, style, illumination and placement. Changes to the sign designation may be
   made upon request, and approved administratively if all signs located on the site
   are brought into conformance with the requested sign plan modification. The
   planning commission must review sign plan changes if nonconforming signs are
   created.

   c) Permanent signage for single-tenant buildings: for single tenant buildings, one or
      more permanent wall signs are allowed per building, subject to the requirements
      in Table 325.13.

d) Permanent on-premises sign: In addition to, or as a modification of, of the signs
   allowed by paragraphs (a), (b) and (c) above, one of the sign options allowed in
   section 325.06(3)(c) is allowed in the industrial district, provided, that any
property with signage allowed under this paragraph (d) is not allowed to have temporary signage under subdivision 5(3) of this section 305.06.

<table>
<thead>
<tr>
<th>Sign type</th>
<th>Max. Area</th>
<th>Max. Graphic Area</th>
<th>Max. Height</th>
<th>Illumination</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent monument sign per property</td>
<td>Option 1</td>
<td>90 sq. ft.</td>
<td>60 sq. ft.</td>
<td>10 ft.</td>
<td>Option is not available in areas designated for mixed use on the comprehensive guide plan.</td>
</tr>
<tr>
<td></td>
<td>Option 2</td>
<td>120 sq. ft.</td>
<td>85 sq. ft.</td>
<td>10 ft.</td>
<td>Allowed for properties with multi-tenant buildings only. If this option is selected, permanent per- tenant-space signs are not allowed. Option is not available in areas designated for mixed use on the comprehensive guide plan.</td>
</tr>
<tr>
<td>Multi-tenant buildings: signs per tenant space:</td>
<td>Option A: monument or pylon</td>
<td>9 sq. ft.</td>
<td>6 ft.</td>
<td>One at each tenant’s primary building entrance Maximum width of 5 feet Single faced Positioned parallel to parking lot sidewalk or perpendicular to tenant walkway</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Option B: wall sign</td>
<td>12 ft.</td>
<td>4 ft.</td>
<td>One at each tenant’s primary building entrance Max. distance of 8 ft from ground to top edge of sign</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Option C: Individually mounted letters</td>
<td>18 in.</td>
<td></td>
<td>One at each tenant’s primary entrance No more than 2 ft from tenant’s exterior lease lines</td>
<td></td>
</tr>
</tbody>
</table>
Table 325.13 Industrial District Sign Requirements

<table>
<thead>
<tr>
<th>Sign type</th>
<th>Max. Area Sign Structure</th>
<th>Max. Graphic Area</th>
<th>Max. Height</th>
<th>Illumination</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-tenant buildings: Wall-mounted individual letters</td>
<td>5% of building face on which sign is located or 150 sq. ft., whichever is less</td>
<td></td>
<td></td>
<td></td>
<td>Must be installed within 18-in. high horizontal band of uniform background</td>
</tr>
</tbody>
</table>

Must be installed within 18-in. high horizontal band of uniform background

5. Business and Industrial Temporary Sign Regulations.

Within business and industrial districts, temporary on-premises commercial signs are permitted as follows:

a) Banners not to exceed 30 square feet according to the following:
   1) maximum 30 day display period to coincide with the grand opening of a business;
   2) a business may display a banner on two occasions per calendar year with a maximum 10 day display period for each occasion;

b) Search lights or inflatable advertising devices are permitted as follows: one for each development, a maximum of two occasions per calendar year with each occasion not to exceed three days; and

c) Stringers, and pennants are not permitted.

d) Temporary on-premises commercial signage is permitted on vacant properties where new construction activity is taking place, provided the signs comply with the requirements in Table 325.14.

Table 325.14 Temporary Signs During Construction

<table>
<thead>
<tr>
<th>Sign type</th>
<th>Pylon</th>
</tr>
</thead>
<tbody>
<tr>
<td>Numerical limit</td>
<td>One per development project number, according to the records of the community development department; One additional sign if the property is over 3 acres in size with frontage on 2</td>
</tr>
</tbody>
</table>
Table 325.14 Temporary Signs During Construction

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>or more designated collector or arterial streets</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Maximum sign area</strong></td>
<td>32 square feet</td>
</tr>
<tr>
<td><strong>Maximum height</strong></td>
<td>12 feet</td>
</tr>
<tr>
<td><strong>Maximum duration</strong></td>
<td>7 days after issuance of certificate of occupancy for building</td>
</tr>
</tbody>
</table>

Table 325.15 Temporary Signs on Properties for Lease or Sale

<table>
<thead>
<tr>
<th>Sign type</th>
<th>Freestanding or wall</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Numerical limit</strong></td>
<td>One per property</td>
</tr>
<tr>
<td></td>
<td>One additional sign if the property is over 3 acres in size with frontage on 2 or more designated collector or arterial streets</td>
</tr>
<tr>
<td><strong>Maximum sign area</strong></td>
<td>32 square feet</td>
</tr>
<tr>
<td><strong>Maximum height</strong></td>
<td>12 feet</td>
</tr>
<tr>
<td><strong>Maximum duration</strong></td>
<td></td>
</tr>
</tbody>
</table>

e) Temporary on-premises commercial signage is permitted on improved properties that are for lease or sale, provided the signs comply with the requirements in Table 325.15.

Table 325.15 Temporary Signs on Properties for Lease or Sale

<table>
<thead>
<tr>
<th>Sign type</th>
<th>Freestanding or wall</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Numerical limit</strong></td>
<td>One per property</td>
</tr>
<tr>
<td></td>
<td>One additional sign if the property is over 3 acres in size with frontage on 2 or more designated collector or arterial streets</td>
</tr>
<tr>
<td><strong>Maximum sign area</strong></td>
<td>32 square feet</td>
</tr>
<tr>
<td><strong>Maximum height</strong></td>
<td>12 feet</td>
</tr>
<tr>
<td><strong>Maximum duration</strong></td>
<td></td>
</tr>
</tbody>
</table>

6. **Planned Unit Development Districts**

Permanent and temporary signs in planned unit development districts are regulated according to the standards for the corresponding land use and zoning category as stated in this chapter 3. A sign plan with differing requirements may be approved by the city. Factors that will be used in determining if an individual P.U.D./P.I.D. sign plan will be considered include the following:

a) The development includes a high rise (greater than 3 story) structure;
b) the development includes multiple structures and/or substantial site area;
c) the development includes mixed uses;
d) a sign plan is uniquely adapted to address the visibility needs of a development while remaining consistent with the intent of this section to direct high quality signage; and
e) the sign plan includes permanent sign covenants which can be enforced by the city.
SECTION 325. SIGN REGULATIONS

SECTION 325.01 PURPOSE AND FINDINGS

1. Purpose. The sign ordinance is intended to establish a comprehensive and balanced system of sign control that accommodates the need for a well-maintained, safe, and attractive community, and the need for effective communications including business identification. It is the intent of this section, to promote the health, safety, general welfare, aesthetics, and image of the community by regulating signs that are intended to communicate to the public, and to use signs that meet the city's goals by authorizing:

   a) permanent signs that establish a high standard of aesthetics;
   
   b) signs that are compatible with their surroundings;
   
   c) signs that are designed, constructed, installed and maintained in a manner that does not adversely impact public safety or unduly distract motorists;
   
   d) signs that are large enough to convey the intended message and to help citizens find their way to intended destinations;
   
   e) signs that are proportioned to the scale of, and are architecturally compatible with, principal structures;
   
   f) permanent signs that give preference to the on-premise owner or occupant; and
   
   g) temporary commercial signs and advertising displays that provide an opportunity for grand openings and occasional sales events while restricting signs that create continuous visual clutter and hazards at public right-of-way intersections.

2. Findings. The city of Minnetonka finds it is necessary for the promotion and preservation of the public health, safety, welfare and aesthetics of the community that the construction, location, size and maintenance of signs be controlled. Further, the city finds:

   a) permanent and temporary signs have a direct impact on and relationship to the image of the community;
   
   b) the manner of installation, location and maintenance of signs affects the public health, safety, welfare and aesthetics of the community;
   
   c) an opportunity for viable identification of community businesses and institutions must be established;
d) the safety of motorists, cyclists, pedestrians and other users of public streets and property is affected by the number, size, location and appearance of signs that unduly divert the attention of drivers;

e) installation of signs suspended from, projecting over, or placed on the tops of buildings, walks or other structures may constitute a hazard during periods of high winds and an obstacle to effective fire-fighting and other emergency service;

f) uncontrolled and unlimited signs adversely impact the image and aesthetic attractiveness of the community and thereby undermine economic value and growth;

g) uncontrolled and unlimited signs, particularly temporary signs which are commonly located within or adjacent to public right-of-way or are located at driveway/street intersections, result in roadside clutter and obstruction of views of oncoming traffic. This creates a hazard to drivers and pedestrians and also adversely impacts a logical flow of information;

h) commercial signs are generally incompatible with residential uses and should be strictly limited in residential zoning districts; and

i) the right to express noncommercial opinions in any zoning district must be protected, subject to reasonable restrictions on size, height, location and number.

3. Severability. Every section, subdivision, clause or phrase of this section 325 is declared separable from every other section, subdivision, clause or phrase. If any such part is held to be invalid by competent authority, no other part shall be invalidated by such action or decision.

SECTION 325.02. DEFINITIONS.

1. “Blade sign” – see “projecting sign.”

2. “Commercial sign” - any sign that advertises or identifies a product, business, service, entertainment, or any other matter of a commercial nature, even though the matter may be related to a nonprofit organization.

3. “Conditionally permitted uses” – within residential districts, educational institutions and facilities, religious institutions and facilities, public buildings or facilities, public or private nursing homes, and commercial nurseries.

4. “Copy and graphic” - the wording and other display messages such as logos or symbols on a sign.

5. “Copy and graphic area” - the area in square feet of the smallest four-sided figure which encloses the copy and graphic of a sign.

6. “Dynamic display” - any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing
the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays.

7. **“Feather flag”** – a freestanding, temporary sign constructed of a vertical pole, tube or post supporting one edge of a sheet of cloth, vinyl or similar material.

8. **“Freestanding sign”** - a sign which is self-supporting and affixed to a frame structure not attached to a building.

9. **“Illumination, internal”** - a light source within the sign.

10. **“Illumination, external”** - a light source which is not internal to the sign.

11. **“Items of information”** - individual copy and graphic items situated in a manner which presents separate messages. An item of information can only be a name, an address, a logo, or geographic directions.

12. **“Limited tenant building”** - a commercial retail establishment or a group of commercial retail establishments with the designed occupancy of three or less tenants. It must have shared parking and a visual appearance of a contiguous structure, which may or may not be planned, constructed or managed as a total entity. This includes single tenant retail structures.

13. **“Merchandise box”** - a sign which is affixed on or located adjacent to a gas pump and used to advertise services and goods.

14. **“Monument sign”** - a sign not supported by exposed posts or poles which is architecturally designed and located directly at grade where the base width dimension is 50% or more of the greatest width of the sign.

15. **“Monument area”** - the area in square feet of an entire monument sign structure, including copy and graphic area.

16. **“Multi-tenant building”** - a building with a designed occupancy of four or more tenants with shared parking and visual appearance as a contiguous structure, which may or may not be planned, constructed or managed as a total entity.

17. **“Non-commercial sign”** - any sign that is not a commercial sign, including but not limited to signs that convey messages concerning political, religious, social, ideological, public service and informational topics.
18. “On-premise sign” - a sign relating in it subject matter to, or which directs attention to, a business, person, activity, commodity, service or entertainment located on the site where the sign is installed.

19. “Off-premise sign” - a sign relating in its subject matter to, or that directs attention to, a business, person, activity, commodity, service, entertainment or any other matter that is not available, or does not take place, on the same premises as the sign. A discontinued sign is an off-premise sign.


21. “Permanent sign” - any sign other than a temporary sign.

22. “Portable sign” - a sign with or without copy and graphic that is designed or intended to be moved or transported. Examples of portable signs are: A - or T - frame signs; sandwich signs; signs designed to be transported by trailer or on wheels; signs mounted on a vehicle for advertising purposes, when the vehicle is parked and visible from public right-of-way, except signs identifying a business when the vehicle is being used in the normal day-to-day operation of that business. A sign may be a portable sign even if it has wheels removed, was designed without wheels, or is attached temporarily or permanently to the ground, a structure, or other sign.

23. “Private road open to public travel" has the meaning given that term under the Manual of Uniform Traffic Control Devices.

24. “Projecting sign” – a sign which extends perpendicularly beyond a wall face more than 18-inches.

25. “Pylon sign” - a sign supported by a post or posts so that the sign and supports are finished to grade by encasing the posts in a material consistent with the sign and where the base width dimension is a minimum of 10% up to and including 50% of the greatest width of the sign.

26. “Sandwich sign” – a freestanding temporary sign, typically A-shaped, with two visible sides that is placed near the main entrance to a building.

27. “Sign” - any writing, pictorial presentation, number, illustration or decoration, flag, banner or other device that is used to announce, direct attention to, identify, advertise, or otherwise make anything known. The term “sign” shall not be deemed to include: the terms “building” or “landscaping”, or any architectural embellishment of a building not intended to communicate information; works of art that do not convey commercial messages and that are painted on a building wall; flags that do not convey commercial messages; or any sign structure or device that is not visible from an adjacent street, property line or building on adjacent property.

28. “Temporary sign” - a sign constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and that appears to be intended to be displayed for a limited period of time. This includes items such as banners, pennants, beacons, sandwich or curb signs, balloons or other air or gas filled figures.
“Wall sign” - a single faced sign attached to or erected against an exterior wall of a building with the face in a parallel plane to the plane of the building wall.

SECTION 325.03. CITATION; ADMINISTRATION AND ENFORCEMENT.

1. Citation. This section 325 may be cited as the Minnetonka Sign Ordinance.

2. Administration and enforcement. Administration and enforcement of this section 325 is governed by section 300.03.

SECTION 325.04. PERMITS, PROCEDURE AND VARIANCES.

1. Permit not required. The following signs do not require a permit but must meet the regulations in this section:
   a) Signs required or allowed by section 325.05, subd. 3.
   b) Temporary signs in residential districts as allowed by section 325.06, subd. 1(d)(1).

2. Permit required.
   a) No person may erect or install any of the following signs without first obtaining a permit from the community development director or designee:
   b) All permanent signs permitted in section 325.06 require a sign permit, unless specifically noted otherwise. The permit must be received prior to installation of the sign. The permit and inspection fee for all permanent signs is specified in city code section 710.
   c) All temporary signs permitted in section 325.06, require a temporary sign permit, unless specifically noted otherwise. The permit and inspection fee for permitted signs, banners, search lights, or inflatable advertising devices is specified in city code section 710.

3. Permit procedure.
   a) Application for a permit must be on a form provided by the city and must include the following information:
      1) name and address of the owner of the sign;
      2) street address or location of the property on which the sign is to be located, along with the name and address of the property owner;
      3) the type of sign as defined in this section;
      4) site plan showing the location of the proposed sign;
5) specifications and scale drawings showing the materials, design, dimensions, structural supports, method of attachment and electrical components of the sign;

6) plan showing the location and size of all existing signs located on the same premises upon city request;

7) sign permit fee as specified in city code section 710.

b) The community development director or designee must approve or deny a sign permit application within 15 business days after a complete application is submitted. A decision must be made in writing and must be mailed or electronically delivered to the applicant at the address or email address provided in the application. If a permit is denied, the reason must be stated in writing.

c) An applicant may appeal a denial by submitting a request in writing within 10 days after the decision was mailed or electronically delivered. The appeal must be scheduled for planning commission review as soon as practicable, but no later than 30 days after the appeal was submitted. The applicant may appeal a planning commission denial by submitting a request in writing within 10 days after the decision. The appeal must be scheduled for city council review as soon as practicable, but no later than 30 days after the appeal was submitted. All review of a sign permit application must be based solely on whether the application complies with city ordinances.

4. **Variances.** A variance from the regulations in this section requires a separate application, according to the procedures in section 300.07 of this code. The fee for application for variance from this section or approval of a sign plan for a development is specified in city code section 710.

5. **Permit expiration.** A sign permit becomes null and void if the sign is not installed within 180 days after issuance of the permit, and a new application must be submitted.

**SECTION 325.05 GENERAL REGULATIONS.**

1. **Scope.** The regulations in this section 325.05 apply to signs in all zoning districts.

2. **Prohibited Signs.** The following signs are prohibited in all districts.
   a) Signs not specifically authorized under this section 325.
   b) Portable signs, except for temporary traffic control devices in temporary traffic control zones as required by the Manual on Uniform Traffic Control Devices or portable signs specifically permitted in section 325.06.
   c) Feather flags and pennants;
   d) Signs designed to resemble official traffic control devices are prohibited in all districts, except signs that are used to control traffic on private property.
e) Abandoned signs;

f) Blank signs;

g) Merchandise boxes or signs not affixed to a principal structure excluding signs permitted in subdivision 8(d);

h) Permanent off-premises signs.

3. **Permitted signs.** The following signs are required or permitted in every zoning district:

a) An assigned street address marking its property with the street address numerals is required, so that emergency services providers can easily identify the address from the public street. The identification may be on the curb or on the principal building of the property. The size and location of the identifying numerals must be proportional to the size of the building and the distance from the street to the building. In cases where the building is not located within view of the public street, or where the building is located more than 150 feet from the public street, the identifier must be located on the mailbox or other suitable device that is visible from the street.

b) Traffic control devices on private or public property must be erected and maintained to comply with the Manual on Uniform Traffic Control Devices adopted in this state.

c) Permanent and temporary signs required by law or ordinance for regulatory/notification purposes.

d) Permanent freestanding signs on properties with more than 20 parking spaces, provided the signs comply with the requirements in Table 325.1:

<table>
<thead>
<tr>
<th>Table 325.1 Parking Lot Signs*</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum sign area</strong></td>
</tr>
<tr>
<td><strong>Maximum height</strong></td>
</tr>
<tr>
<td><strong>Location requirement</strong></td>
</tr>
<tr>
<td><strong>Numerical limit</strong></td>
</tr>
</tbody>
</table>

*Advertisement (Logos or business names) are not permitted. Sign permit not required.

e) Temporary off-premise commercial signs are permitted in all districts, provided the signs comply with the following:

1) must be at least 5 feet from the edge of a public street and must not obstruct driver visibility at intersections;

2) may not be on the right-of-way of county and state roads and municipal state-aid streets;
3) are limited to one per parcel of property as defined in subdivision 9 below for the same topic, location, event, or matter;

4) may only be displayed between 6:00 a.m. on a Thursday and 6:00 p.m. on the following Sunday; and

5) must be no larger than 3 square feet in area and no higher than 6 feet above the ground to which it is attached.

f) In all districts, any sign authorized in this chapter is allowed to contain noncommercial copy in lieu of any other copy. For new signs posted with a noncommercial message, the sign fee is waived until such time as the sign is converted to contain a commercial message.

4. Location requirements.

   a) Signs may not be located on property without the permission of the property owner. For signs located in public right-of-way as allowed under subdivision 3(e) of this section 325.05, the permission of the immediately adjacent property owner must be obtained.

   b) Unless specifically noted otherwise, all signs must maintain a 10-foot setback from all lot lines. The city may require a greater or lesser setback because of public safety reasons which may include the following conditions: vehicle sight distance, distance from intersection, designation of adjacent right-of-way.

   c) Signs may not be mounted on a roof surface and may not project above the roof line of a structure if either attached to the structure or cantilevered over the structure.

   d) Signs may not be attached to trees or utility poles.

   e) Signs may not be located within public right-of-way except for official traffic control devices and those allowed by section 3(e) of this section 325.05;

   f) Signs may not be attached to fences;

   g) Signs may not be located so as to obstruct the vision of pedestrians, cyclists, or motorists traveling on or entering public streets in a manner that presents a hazard to public safety;

   h) Signs may not be located so as to obstruct any window, door, fire escape, stairway or opening intended to provide light, air, ingress or egress for any structure;

5. Approved sign plans. The city may enforce, in the same manner as the requirements of this section, the terms of a sign plan or sign covenants which it has approved. Any violation of an approved sign plan or sign covenants is a misdemeanor.
6. **Changeable messages.** A message that is not permanently attached to the sign face but that is not a dynamic display may occupy no more than 50 percent of the actual copy and graphic area. The remainder of the sign must not have the capability to change messages even if not used.

7. **Font size.** Every line of copy and graphics in a sign must be at least four inches in height.

8. **Sign illumination.**

   a) All illuminated signs must meet the following standards:

   1) External illumination on signs must be directed so that the illumination does not interfere with safe traffic operations;

   2) Illuminated signs must not be directly oriented to any residential district;

   3) No sign may be brighter than is necessary for clear and adequate visibility.

   4) No sign may be of such intensity or brilliance as to impair the vision of a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle.

   5) No sign may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device or signal.

   b) The person owning or controlling the sign must adjust the sign to meet the brightness standards in accordance with the city's instructions. The adjustment must be made immediately upon notice of non-compliance from the city. The person owning or controlling the sign may appeal the city's determination through the following appeal procedure:

   1) After making the adjustment required by the city, the person owning or controlling the sign may appeal the city's determination by delivering a written appeal to the city clerk within 10 days after the city's non-compliance notice. The written appeal must include the name of a person unrelated to the person and business making the appeal, who will serve on the appeal panel.

   2) Within five business days after receiving the appeal, the city must name a person who is not an official or employee of the city to serve on the appeal panel. Within five business days after the city names its representative, the city's representative must contact the sign owner's representative, and the two of them must appoint a third member to the panel, who has no relationship to either party.
3) The appeal panel may develop its own rules of procedure, but it must hold a hearing within five business days after the third member is appointed. The city and the sign owner must be given the opportunity to present testimony, and the panel may hold the hearing, or a portion of it, at the sign location. The panel must issue its decision on what level of brightness is needed to meet the brightness standards within five business days after the hearing commences. The decision will be binding on both parties.

c) All signs installed after June 25, 2007 that will have illumination by a means other than natural light must be equipped with a mechanism that automatically adjusts the brightness in response to ambient conditions. These signs must also be equipped with a means to immediately turn off the display or lighting if it malfunctions, and the sign owner or operator must immediately turn off the sign or lighting when notified by the city that it is not complying with the standards in this section.

9. Outdoor advertising displays.

Outdoor advertising signs which exist as of March 13, 1991 are nonconforming signs. A permanent outdoor advertising sign is a principal use of property. No permitted or conditionally permitted use or any part of such use may be located on the same parcel of property as such a sign. The parcel on which such a sign is located may not be subdivided to segregate the sign from the remaining property. For the purposes of this paragraph, “parcel of property” means any property for which one property identification number has been issued by the county, or all contiguous property in common ownership as of October 15, 1997, whichever is greater.

10. Dynamic Displays.

a) Findings. Studies show that there is a correlation between dynamic displays on signs and the distraction of highway drivers. Distraction can lead to traffic accidents. Drivers can be distracted not only by a changing message, but also by knowing that the sign has a changing message. Drivers may watch a sign waiting for the next change to occur. Drivers are also distracted by messages that do not tell the full story in one look. People have a natural desire to see the end of the story and will continue to look at the sign in order to wait for the end. Additionally, drivers are more distracted by special effects used to change the message, such as fade-ins and fade-outs. Finally, drivers are generally more distracted by messages that are too small to be clearly seen or that contain more than a simple message. Time and temperature signs appear to be an exception to these concerns because the messages are short, easily absorbed, and become inaccurate without frequent changes.

Despite these public safety concerns, there is merit to allowing new technologies to easily update messages. Except as prohibited by state or federal law, sign owners should have the opportunity to use these technologies with certain restrictions. The restrictions are intended to minimize potential driver distraction.
and to minimize proliferation in residential districts where signs can adversely impact residential character.

Local spacing requirements could interfere with the equal opportunity to use such technologies and are not included. Without those requirements, however, there is the potential for numerous dynamic displays to exist along any roadway. If more than one dynamic display can be seen from a given location on a road, the minimum display time becomes critical. If the display time is too short, a driver could be subjected to a view that appears to have constant movement. This impact would obviously be compounded in a corridor with multiple signs. If dynamic displays become pervasive and there are no meaningful limitations on each sign’s ability to change frequently, drivers may be subjected to an unsafe degree of distraction and sensory overload. Therefore, a longer display time is appropriate.

A constant message is typically needed on a sign so that the public can use it to identify and find an intended destination. Changing messages detract from this way-finding purpose and could adversely affect driving conduct through last-second lane changes, stops, or turns, which could result in traffic accidents. Accordingly, dynamic displays generally should not be allowed to occupy the entire copy and graphic area of a sign.

In conclusion, the city finds that dynamic displays should be allowed on signs but with significant controls to minimize their proliferation and their potential threats to public safety.

b) Regulations. Dynamic displays on signs are allowed subject to the following conditions:

1) Dynamic displays are allowed only on monument and pylon signs for conditionally permitted uses in residential districts and for all uses in other districts. Dynamic displays may occupy no more than 50 percent of the actual copy and graphic area. The remainder of the sign must not have the capability to have dynamic displays even if not used. Only one, contiguous dynamic display area is allowed on a sign face;

2) A dynamic display may not change or move more often than once every 20 minutes, except one for which changes are necessary to correct hour-and-minute, date, or temperature information. Time, date, or temperature information is considered one dynamic display and may not be included as a component of any other dynamic display. A display of time, date, or temperature must remain for at least 20 minutes before changing to a different display, but the time, date, or temperature information itself may change no more often than once every three seconds;

3) The images and messages displayed must be static, and the transition from one static display to another must be instantaneous without any special effects;
4) The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign;

5) Every line of copy and graphics in a dynamic display must be at least seven inches in height on a road with a speed limit of 25 to 34 miles per hour, nine inches on a road with a speed limit of 35 to 44 miles per hour, 12 inches on a road with a speed limit of 45 to 54 miles per hour, and 15 inches on a road with a speed limit of 55 miles per hour or more. If there is insufficient room for copy and graphics of this size in the area allowed under clause 1 above, then no dynamic display is allowed;

6) Dynamic displays must be designed and equipped to freeze the device in one position if a malfunction occurs. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the city that it is not complying with the standards of this ordinance;

7) Dynamic displays must comply with the brightness standards contained in subdivision 15;

8) Dynamic displays existing on June 25, 2007 must comply with the operational standards listed above. An existing dynamic display that does not meet the structural requirements in clause 1 may continue as a non-conforming development subject to section 300.29. An existing dynamic display that cannot meet the minimum size requirement in clause 5 must use the largest size possible for one line of copy to fit in the available space.

c) Incentives. Outdoor advertising signs do not need to serve the same way-finding function as do on-premises signs. Further, outdoor advertising signs are no longer allowed in the city, and there is no potential that they will proliferate. Finally, outdoor advertising signs are in themselves distracting and their removal serves public safety. The city is extremely limited in its ability to cause the removal of those signs. This clause is intended to provide incentives for the voluntary and uncompensated removal of outdoor advertising signs in certain settings. This removal results in an overall advancement of one or more of the goals set forth in this section that should more than offset any additional burden caused by the incentives. These provisions are also based on the recognition that the incentives create an opportunity to consolidate outdoor advertising services that would otherwise remain distributed throughout the community.

1) A person may obtain a permit for an enhanced dynamic display on one face of an outdoor advertising sign if the following requirements are met:

   a. The applicant agrees in writing to permanently remove, within 15 days after issuance of the permit, at least two other faces of an outdoor advertising sign in the city that are owned or leased by the applicant, each of which must satisfy the criteria of parts (b) through (d) of this subsection. This removal must include the
complete removal of the structure and foundation supporting each sign face. The applicant must agree that the city may remove the sign if the applicant does not timely do so, and the application must be accompanied by a cash deposit or letter of credit acceptable to the city attorney sufficient to pay the city’s costs for that removal. The applicant must also agree that it is removing the sign voluntarily and that it has no right to compensation for the removed sign under any law.

b. The city has not previously issued an enhanced dynamic display permit based on the removal of the particular faces relied upon in this permit application.

c. Each removed sign has a copy and graphic area of at least 288 square feet and satisfies two or more of the following additional criteria:

1. The removed sign is located adjacent to a highway with more than two regular lanes and with a general speed limit of 45 miles per hour or greater, but that does not have restrictions on access equivalent to those of an interstate highway;

2. All or a substantial portion of the structure for the removed sign was constructed before 1975 and has not been substantially improved;

3. The removed sign is located in a noncommercial zoning district;

4. The removed sign is located in a special planning area designated in the 1999 comprehensive plan; or

5. The removed copy and graphic area is equal to or greater than the area of the copy and graphic area for which the enhanced dynamic display permit is sought.

d. If the removed sign face is one for which a state permit is required by state law, the applicant must surrendered its permit to the state upon removal of the sign. The sign that is the subject of the enhanced dynamic display permit cannot begin to operate until proof is provided to the city that the state permit has been surrendered.

e. The applicant must agree in writing that no dynamic displays will ever be used on one additional outdoor advertising sign that has a copy and graphic area of at least 288 square feet in size. This agreement will be binding on the applicant and all future owners of the sign. If the sign is subsequently removed or destroyed and not
replaced, the holder of the enhanced dynamic display permit is not required to substitute a different sign for the one that no longer exists.

2) If the applicant complies with the permit requirements noted above, the city will issue an enhanced dynamic display permit for the designated outdoor advertising sign. This permit will allow a dynamic display to occupy 100 percent of the potential copy and graphic area and to change no more frequently than once every eight seconds. The designated sign must meet all other requirements of this ordinance.

11. **Sign construction and maintenance.** All signs must conform to the following standards.

   a) Construction specifications. All permanent signs must be constructed in accordance with the following:

      1) the Minnesota state building code;

      2) all electric signs must be approved and labeled as conforming to the standards of the Underwriters' Laboratories, Inc., the United States bureau of standards or other similar institutions of recognized standing. All illuminating elements must be kept in satisfactory working condition or immediately repaired or replaced. Signs that are partly illuminated must meet all electrical requirements for the portion that is illuminated;

      3) all permanent freestanding signs must have self-supporting structures erected on and permanently attached to concrete foundations;

      4) for wall signs, the wall must be designed for and have sufficient strength to support the sign;

      5) signs may not be painted on the wall of a building; and

      6) Unless otherwise specified in this section, the maximum angle permitted between faces of a double face freestanding sign is 45 degrees.

   b) Sign maintenance and repair. All signs must be maintained in a safe, presentable and good structural condition at all times, including the replacement of defective parts, cleaning and other items required for maintenance of the sign. Vegetation around, in front of, behind, and underneath the base of ground signs for distance of 10 feet must be neatly trimmed and free of weeds. Rubbish or debris under or near the sign that would constitute a fire or health hazard must be removed.

12. **Removal of Abandoned Signs, Signs in Disrepair and Signs Located in Public Right-of-Way.**

   a) Abandoned signs and signs in disrepair. An abandoned sign or sign in disrepair is prohibited and shall be removed by the owner of the premises within 30 days
after notification. If compliance with the provisions of this section is not achieved within 30 days, the city may remove the sign as a public nuisance by following the procedure as specified in section 1120.045 of the municipal code of ordinances. If an abandoned sign remains in good condition and without holes or other evidence of disrepair or damage, the sign shall not be considered as abandoned for a period of one year.

b) Signs on public property or within public right-of-way: The city may at any time and without notice may impound signs that have been installed on public property or within public right-of-way or easement. The sign owner may retrieve the signs according to the following:

1) a fee must be paid to the city as established in city code section 710. For each subsequent impoundment in a calendar year, the specified fee shall be doubled;

2) the sign may be retrieved from a designated impound area during routine business hours and within 15 days from the date of impounding. After 15 days, the city will dispose of the sign; and

3) the city may not be held liable for any damage to impounded signs.

13. **Nonconforming Signs.** Any sign that complied with all applicable laws and ordinances at that time that it was erected but that has been or is made nonconforming due to a subsequently enacted amendment of this city code is governed by section 300.29.

**SECTION 325.06. DISTRICT REGULATIONS.**

1. **Residential Districts.** Within residential zoning districts, signs are permitted as provided in this subsection. Except as expressly permitted in this subsection, commercial signs are not allowed:

a) Permanent signs, must comply with Table 325.2. In addition, :

1) One wall sign is permitted per building.

2) One freestanding sign is permitted per development. Sign may be single or double-faced. The sign must be perpetually maintained by a homeowners association or responsible property owner.

3) Internal illumination is not allowed if a sign faces low-density residential properties. External illumination may not include exposed light sources.
<table>
<thead>
<tr>
<th>Property Type</th>
<th>Max. Area</th>
<th>Max. Copy and Graphic Area</th>
<th>Max. Height</th>
<th>Illumination Type*</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Permanent Wall Signs</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Any Residential use***</td>
<td>2 sq. ft.</td>
<td>2 sq. ft.</td>
<td>1 ft.</td>
<td>External only</td>
<td></td>
</tr>
<tr>
<td>Conditionally permitted principal use</td>
<td>50 sq. ft. or 10% of the wall in which the sign is located, whichever is less</td>
<td>50 sq. ft. or 10% of the wall in which the sign is located, whichever is less</td>
<td>2 ft.</td>
<td>Internal or External</td>
<td></td>
</tr>
<tr>
<td><strong>Permanent Freestanding Signs</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Low density Residential**</td>
<td>75 sq. ft. per entrance</td>
<td>30 sq. ft. per entrance</td>
<td>6 ft.</td>
<td>External</td>
<td>Must be located at primary entrance(s), two signs permitted per development</td>
</tr>
<tr>
<td>Medium/High density Residential</td>
<td>100 sq. ft. per entrance</td>
<td>36 sq. ft. per entrance</td>
<td>8 ft.</td>
<td>Internal or External</td>
<td>Must be located at primary entrance(s), two signs permitted per development</td>
</tr>
<tr>
<td>Conditionally Permitted Use, except for public buildings and parks</td>
<td>75 sq. ft.</td>
<td>30 sq. ft.</td>
<td>6 ft.</td>
<td>Internal or External</td>
<td></td>
</tr>
<tr>
<td>Public Building and Park</td>
<td>32 sq. ft.</td>
<td>32 sq. ft.</td>
<td>8 ft.</td>
<td>Internal or External</td>
<td>Hours of illumination: 6 am to 10 pm only</td>
</tr>
<tr>
<td>Athletic Field, with structured seating for 2000 or fewer people</td>
<td>410 sq. ft. per sign face</td>
<td>410 sq. ft. per sign face</td>
<td>35 ft.</td>
<td>Internal only</td>
<td></td>
</tr>
<tr>
<td>Athletic Field, with structured seating for more than 2000 people</td>
<td>500 sq. ft. per sign face 1000 sq. ft. aggregate</td>
<td>500 sq. ft. per sign face 1000 sq. ft. aggregate</td>
<td>35 ft.</td>
<td>Internal only</td>
<td></td>
</tr>
</tbody>
</table>

* Internal illumination is not allowed when a sign faces low-density residential properties. External illumination may not include exposed light sources.

** Allowed only for single-family developments of at least 6 lots and two-family development with at least 12 dwelling units.

*** Sign permit not required.

b) Temporary non-commercial signs, must comply with Table 325.3. Temporary signs may not be illuminated.
Table 325.3 Temporary Non-Commercial Signs in Residential Districts

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Sign type</th>
<th>Max. Number of Signs</th>
<th>Max Area</th>
<th>Max Height</th>
<th>Duration of Display</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any residential use**</td>
<td>Banner or freestanding</td>
<td>3</td>
<td>6 sq. ft. per sign</td>
<td>3</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>18 sq. ft. aggregate per property</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Signs must be located at least five feet from the edge of a public street, must not obstruct driver visibility at intersections and must be placed with the consent of the property owner.

** Sign permit not required.

c) Temporary commercial signs must comply with Table 325.4. Temporary signs may not be illuminated.

Table 325.4 Temporary Commercial Signs in Residential Districts

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Sign Type</th>
<th>Max. Number of Signs</th>
<th>Max. Area</th>
<th>Max. Height</th>
<th>Display Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Properties</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Low-Density**</td>
<td>Freestanding</td>
<td>1 per development</td>
<td>32 sq. ft.</td>
<td>8 ft.</td>
<td>Must be removed When building permits have been issued for 90% of lots</td>
</tr>
<tr>
<td>Medium/High Density**</td>
<td>Freestanding</td>
<td></td>
<td></td>
<td></td>
<td>Must be removed 18 months after a building permit has been issued</td>
</tr>
<tr>
<td>For Sale or Lease Properties</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Low/Medium Density**</td>
<td>Freestanding</td>
<td>1 per property</td>
<td>6 sq. ft.</td>
<td>6 ft.</td>
<td>Must be removed 7 days after a property is no longer for sale or lease</td>
</tr>
<tr>
<td>High Density**</td>
<td>Banner attached to wall</td>
<td>1 per property</td>
<td>32 sq. ft.</td>
<td>8 ft.</td>
<td>Must be removed 12 months after issuance of a certificate of occupancy for the last building</td>
</tr>
<tr>
<td>General Commercial Signage</td>
<td>Banner</td>
<td>1 per property</td>
<td>60 sq. ft.</td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

* Allowed for low-density developments with at least four lots under development.

** Sign permit not required.

2. **Office District Sign Regulations.** Within the B-1, office business district, signs are permitted according to the following standards:

a) Permanent Signs.
1) Permanent monument signs: One monument sign is permitted per development provided the sign complies with the requirements of Table 325.5. In addition,

   a. Signs may be single or double-faced
   b. Signs may be internally or externally illuminated, except internal illumination is not allowed if a sign faces low-density residential properties. External illumination may not include exposed light sources.

2) Permanent wall signs: One permanent wall sign is permitted per building, except that buildings with frontage on more than one public street are allowed one wall sign facing each frontage. Signs must comply with the requirements of Table 325.5. In addition:

   a. Signs must be comprised of individually dimensioned letters, unless all wall signs are incorporated into architecture of structure and of similar design.
   b. Signs may be internally illuminated or backlit, except illumination is not allowed if a sign faces low-density residential properties.

<table>
<thead>
<tr>
<th>Table 325.5 Permanent Signs in Office District</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sign type</strong></td>
</tr>
<tr>
<td>-------------------------------------</td>
</tr>
<tr>
<td>Permanent monument sign – adjacent ROW is less than 100 ft in width</td>
</tr>
<tr>
<td>Permanent monument sign – adjacent ROW is 100 ft. or more in width</td>
</tr>
<tr>
<td>Permanent wall sign</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

b) Temporary Signs. On-premise signs must comply with the requirements of Table 325.6. Signs may not be illuminated.
<table>
<thead>
<tr>
<th>Property Type</th>
<th>Sign Type</th>
<th>Max. Number of Signs</th>
<th>Max. Area</th>
<th>Max. Height</th>
<th>Display Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vacant Properties, During Construction*</td>
<td>Freestanding</td>
<td>1 if property is 3 acres or less, 2 signs if property is over 3 acres in size</td>
<td>32 sq. ft.</td>
<td>12 ft.</td>
<td>Must be removed 7 days after issuance of a certificate of occupancy</td>
</tr>
<tr>
<td>Improved Properties, For Sale or Lease*</td>
<td>Freestanding or Wall</td>
<td></td>
<td></td>
<td></td>
<td>Only while property is for sale or lease space is available</td>
</tr>
<tr>
<td>General Temporary Signs</td>
<td>Banners</td>
<td>1 sign per tenant</td>
<td>30 sq. ft.</td>
<td>N/A</td>
<td>Max. 30 day period to coincide with grand opening</td>
</tr>
<tr>
<td></td>
<td>Sandwich Signs**/<em><strong>/</strong></em></td>
<td>1 per tenant</td>
<td>12 sq. ft.</td>
<td>4</td>
<td>Allowed during business hours, but must be removed at closing</td>
</tr>
<tr>
<td></td>
<td>Search Light or Inflatable***</td>
<td>1 per development</td>
<td>N/A</td>
<td>NA</td>
<td>Max. 2 occasions per calendar year with each occasion not to exceed 3 days</td>
</tr>
<tr>
<td></td>
<td>Non-commercial banner or freestanding sign****</td>
<td>3 per property</td>
<td>6 sq. ft. per sign, 18 sq. ft. aggregate per property</td>
<td>3 ft.</td>
<td>N/A</td>
</tr>
</tbody>
</table>

* Sign permit not required.

**Sign must be located directly in front the tenant space the sign is associated with and must not reduce sidewalk area to less than 4 ft. in width.

*** Sign must be located on the ground.

**** Signs must be located at least five feet from the edge of a public street, must not obstruct driver visibility at intersections and must be placed with the consent of the property owner.

3. **Commercial Business and Industrial Sign Regulations.** Within the B-2, B-3 and I-1 districts, the following signs are permitted:

   a) Permanent signs.
1) Freestanding signs. Signs must comply with requirements of Table 325.7. In addition,
   a. One freestanding sign is allowed per development, except that a second sign is allowed for properties with drive-thru windows.
   b. Signs may be single or double-faced.
   c. Signs may be internally or externally illuminated, except internal illumination is not allowed if a sign faces low-density residential properties. External illumination may not include exposed light sources.

<table>
<thead>
<tr>
<th>Principal Structure (gross square feet)</th>
<th>Pylon Sign</th>
<th>Monument Sign</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Max. height</td>
<td>Max. sign size</td>
</tr>
<tr>
<td>greater than 400,000</td>
<td>30 ft.</td>
<td>200 sq. ft.</td>
</tr>
<tr>
<td>100,000 - 400,000*</td>
<td>24 ft.</td>
<td>100 sq. ft.</td>
</tr>
<tr>
<td>20,000 - 100,000</td>
<td>18 ft.</td>
<td>80 sq. ft.</td>
</tr>
<tr>
<td>less than 20,000</td>
<td>15 ft.</td>
<td>60 sq. ft.</td>
</tr>
<tr>
<td>building with multiple screen theater</td>
<td>30 ft.</td>
<td>200 sq. ft.</td>
</tr>
</tbody>
</table>

| Second Sign for properties with drive-thru | 8 ft. | 50 sq. ft. | 8 ft. | 50 sq. ft. | 50 sq. ft. |

*For multi-tenant building or limited tenant building with more than 100,000 gross sq. ft. and with 2 or more access points, one monument sign allowed at primary access and second monument allowed at second access; height and graphic limits for second monument are 50% of those in outlined in this table.

2) Permanent Wall Signs:
   a. Limited tenant wall signs. Signs must comply with the requirements in Table 325.8. In addition,
      1. One permanent wall sign is permitted per exterior wall face.
      2. Signs must be comprised of individually dimensioned letters, unless all wall signs are incorporated into the architecture of structure and of similar design.
3. Signs may be internally illuminated or backlit, except illumination is not allowed if a sign faces low-density residential properties.

Table 325.8 Wall Signs, Limited Tenant Building

<table>
<thead>
<tr>
<th>Principal Structure Size (Gross Sq. Ft.)</th>
<th>Individual Wall Sign Calculation</th>
<th>Total Wall Signage for Property</th>
</tr>
</thead>
<tbody>
<tr>
<td>100,000 - 400,000 sq. ft.</td>
<td>200 sq. ft. or 10 percent of wall face, whichever is less</td>
<td>300 sq. ft.</td>
</tr>
<tr>
<td>20,000 - 100,000 sq. ft.</td>
<td>150 sq. ft. or 10 percent of wall face, whichever is less</td>
<td>240 sq. ft.</td>
</tr>
<tr>
<td>less than 20,000 sq. ft.</td>
<td>100 sq. ft. or 15 percent of wall face, whichever is less</td>
<td>150 sq. ft.</td>
</tr>
</tbody>
</table>

b. Multi-tenant wall signs. Each tenant is permitted one wall sign per tenant exterior wall face, but no more than two total signs. For example, a tenant that occupies a corner or endcap space is allowed two wall signs, whereas a tenant that occupies an interior space is allowed one wall sign. Signage size is regulated under Table 325.9. In addition,

1. Signs may be located no closer than 2 feet from any lease line.
2. Signs may be internally illuminated or backlit, except internal illumination is not allowed when a sign faces low-density residential properties.

Table 325.9 Wall Signs, Multi-tenant buildings

<table>
<thead>
<tr>
<th></th>
<th>Max. Height</th>
<th>Max. Copy and Graphic Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Horizontal-mounted signs</td>
<td>36 inches for graphic</td>
<td>Defined by maximum allowed</td>
</tr>
<tr>
<td></td>
<td>26 inches for copy</td>
<td>height and lease lines*</td>
</tr>
<tr>
<td>Projecting sign</td>
<td>Must not project above the</td>
<td></td>
</tr>
<tr>
<td></td>
<td>roofline of building and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>provide for no less than 8</td>
<td></td>
</tr>
<tr>
<td></td>
<td>feet of clearance between the</td>
<td></td>
</tr>
<tr>
<td></td>
<td>lowest portion of the sign and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>the grade below.</td>
<td></td>
</tr>
</tbody>
</table>

* Signs may not project out from the face of the building by more than 48 inches.
b) Temporary Signs. On-premise signs must comply with Table 325.10. Signs may not be illuminated.

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Sign Type</th>
<th>Max. Number of Signs</th>
<th>Max. Area</th>
<th>Max. Height</th>
<th>Display Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vacant Properties, During Construction*</td>
<td>Freestanding</td>
<td>1 if property is 3 acres or less</td>
<td>32 sq. ft.</td>
<td>12 ft.</td>
<td>Must be removed 7 days after issuance of a certificate of occupancy</td>
</tr>
<tr>
<td>Improved Properties, For Sale or Lease*</td>
<td>Freestanding or Wall</td>
<td>2 signs if property is over 3 acres in size</td>
<td></td>
<td></td>
<td>Only while property is for sale or lease; space is available</td>
</tr>
<tr>
<td>General Temporary Signs</td>
<td>Banners</td>
<td>1 sign per tenant</td>
<td>30 sq. ft.</td>
<td>N/A</td>
<td>Max. 30 day period to coincide with grand opening</td>
</tr>
<tr>
<td></td>
<td>Sandwich Signs*/<strong>/</strong>*</td>
<td>1 per tenant</td>
<td>12 sq. ft.</td>
<td>4</td>
<td>Max. 2 occasions per calendar years with each occasion not to exceed 10 days</td>
</tr>
<tr>
<td></td>
<td>Search Light or Inflatable***</td>
<td>1 per development</td>
<td>N/A</td>
<td>NA</td>
<td>Allowed during business hours, but must be removed at closing</td>
</tr>
<tr>
<td></td>
<td>Non-commercial banner or freestanding sign*****</td>
<td>3 per property</td>
<td>6 sq. ft. per sign, 18 sq. ft. aggregate per property</td>
<td>3 ft.</td>
<td>N/A</td>
</tr>
</tbody>
</table>

* Sign permit not required.

**Sign must be located directly in front the tenant space the sign is associated with and must not reduce sidewalk area to less than 4 ft. in width.

*** Sign must be located on the ground.

**** Signs must be located at least five feet from the edge of a public street, must not obstruct driver visibility at intersections and must be placed with the consent of the property owner.
4. **Planned Unit Development Districts.** Permanent and temporary signs in planned unit development and planned I-394 districts are regulated according to the standards for the corresponding land use and zoning category as stated in this chapter 3. A sign plan with differing requirements may be approved by the city. Factors that will be used in determining if an individual P.U.D./P.I.D. sign plan will be considered include the following:

a) The development includes a high rise (greater than 3 story) structure;

b) the development includes multiple structures and/or substantial site area;

c) the development includes mixed uses;

d) a sign plan is uniquely adapted to address the visibility needs of a development while remaining consistent with the intent of this section to direct high quality signage; and

e) the sign plan includes permanent sign covenants which can be enforced by the city.
Flag Signs would no longer be permitted as temporary signage with the proposed ordinance

Picture taken in Wayzata, MN
Dynamic Sign Area would be increased from 30% to 50% of the copy and graphic area with the proposed sign ordinance.

Picture taken at Delton Ave./Old Excelsior Blvd. Intersection.
Blade signs would be permitted with the proposed ordinance. The subject Dunn Brothers sign was approved with a variance in 2015.

Picture taken at the Hwy 7/Williston Rd. Intersection.
Blade signs would be permitted with the proposed ordinance. The subject Caribou Coffee sign was approved with a variance in 2016.

Picture taken at Plymouth Rd/Cartway Ln. Intersection.
Office buildings would no longer be restricted to 24 inches in height or 30 square feet with the proposed sign ordinance. Office building sign heights would be determined by the number of stories of the building. The subject sign was approved with a sign plan in 2009.

Picture taken at the Wayzata Blvd./Hopkins Xrd. Intersection.
Sandwich board signs, located directly in front of a building, would be permitted with the proposed ordinance. These signs are currently prohibited in the City of Minnetonka.

Picture taken in Wayzata, MN off Lake St. E.
Sandwich board signs, located directly in front of a building, would be permitted with the proposed ordinance. These signs are currently prohibited in the City of Minnetonka.

Picture taken in Wayzata, MN off Lake St. E.
Multi-tenant building businesses that front multiple roadways would be permitted more than one sign with the proposed ordinance. The subject TCF signage was approved during the site plan review process in 2016.

Picture taken at the Plymouth Rd./Cartway Ln. Intersection.
Multi-tenant building businesses that front multiple roadways would be permitted more than one sign with the proposed ordinance. The subject signage was approved with a variance in 2012.

Picture taken at the Baker Rd./Culligan Way Intersection.
Multi-tenant building businesses that front multiple roadways would be permitted more than one sign with the proposed ordinance. The subject signage was approved with a variance in 2012.

Picture taken at the Baker Rd./Culligan Way Intersection.
MINNETONKA PLANNING COMMISSION  
Oct. 18, 2018

Charter:

**Brief Description**

Concept Plan for redevelopment of the property at 14410 Orchard Rd.

**Action Requested**

Provide comments and feedback. No formal action is required.

---

**Background**

The property at 14410 Orchard Rd is widely referred to as the Bensman Property. The southern portion of the roughly 6.2-acre site is generally “open,” while the northerly portion is wooded and contains a visually steep slope. (Staff has not conducted a detailed steep slope analysis.) The site is zoned R-1, low-density residential, and designated low-density development in the 2030 Comprehensive Guide Plan.

**Concept Plan**

Charles Cudd Co. has submitted a concept plan for the property that contemplates removal of the existing single-family home and accessory building and construction 19 villa-style homes. A formal proposal based on the concept plan would likely require the following city actions: (1) rezoning; and (2) preliminary and final plats.

**Review Process**

Staff has outlined the following review process for the proposal. At this time, a formal application has not been submitted.

- **Neighborhood Meeting.** Charles Cudd Co. hosted a neighborhood meeting on Oct. 11. The meeting was attended by roughly 75 area property owners. Attendees generally expressed concerns related to: (1) the number of lots/homes; and (2) impact on existing neighborhood character. A more detailed list of comments is attached.

- **Planning Commission Concept Plan Review.** The planning commission Concept Plan Review is intended as a follow-up to the neighborhood meetings. The objective of this meeting is to identify major issues and challenges in order to inform the subsequent review and discussion. The meeting will include a presentation by the developer of conceptual sketches and ideas, but not detailed engineering or architectural drawings. No staff recommendations are provided, the public is invited to offer comments, and planning commissioners are afforded the opportunity to ask questions and provide feedback without any formal motions or votes.

- **City Council Concept Plan Review.** The city council Concept Plan Review is intended as a follow-up to the planning commission meeting and would follow the same format as the planning commission Concept Plan Review. No staff recommendations are provided, the public is invited to offer comments, and council members are afforded the opportunity to ask questions and provide feedback without any formal motions or votes.
Key Issues

Staff requests commission and council comment/feedback on the following key issues and any other issues the commission and council deem appropriate. The comments/feedback provided are intended to assist Charles Cudd Co. should the company chose to put together a formal application package. However, the commission and council decisions on any formal redevelopment application are not suggested or restricted by concept plan review comments/feedbacks.

- **Number of Lots**: The concept plans suggest creation of 19 single-family lots. With preservation of the northerly sloped area, the conceptual density would be three units per acre. Comments related to the number of lots is requested.

- **Housing Type**: The concept plan suggest construction of a villa-style, association-maintained neighborhood. Comments related to the general neighborhood concept is requested.

Staff Recommendation

Staff recommends the planning commission provide comment and feedback on the identified key issues and any others the planning commission deems appropriate.

Originator: Susan Thomas, AICP, Assistant City Planner
Through: Loren Gordon, AICP, City Planner
ADDITIONAL INFORMATION

Next Steps

- **Formal Application.** If the developer chooses to file a formal application, notification of the application would be mailed to area property owners. Property owners are encouraged to view plans and provide feedback via the city's website. Through recent website updates: (1) staff can provide residents with ongoing project updates, (2) residents can “follow” projects they are particularly interested in by signing up for automatic notification of project updates; (3) residents may provide project feedback on project; and (4) and staff can review resident comments.

- **Council Introduction.** The proposal would be introduced at a city council meeting. At that time, the council would be provided another opportunity to review the issues identified during the initial Concept Plan Review meeting, and to provide direction about any refinements or additional issues they wish to be researched, and for which staff recommendations should be prepared.

- **Planning Commission Review.** The planning commission would hold an official public hearing for the development review and would subsequently recommend action to the city council.

- **City Council Action.** Based on input from the planning commission, professional staff and general public, the city council would take final action.

City Roles and Responsibilities

- **City Council.** As the ultimate decision maker, the city council must be in a position to equitably and consistently weigh all input from their staff, the general public, planning commissioners, applicants and other advisors. Accordingly, council members traditionally keep an open mind until all the facts are received. The council ensures that residents have an opportunity to effectively participate in the process.

- **Planning Commission.** The planning commission hosts the primary forum for public input and provides clear and definitive recommendations to the city council. To serve in that role, the commission identifies and attempts to resolve development issues and concerns prior to the council’s consideration by carefully balancing the interests of applicants, neighbors, and the general public.

- **City Staff.** City staff is neither an advocate for the public nor the applicant. Rather, staff provides professional advice and recommendations to all interested parties, including the city council, planning commission, applicant and residents. Staff advocates for its professional position, not a project. Staff recommendations consider neighborhood concerns, but necessarily reflect professional standards, legal requirements and broader community interests.
Minnetonka Planning Commission Meeting
Oct. 18, 2018

Agenda Item 9

Other Business
Location Map

Project: Highcroft Meadows
Address: 14410 Orchard Rd
Highcroft Meadows
An Architecturally Designed Empty-Nester Villa Home Neighborhood
by Charles Cudd Co.

Charles Cudd Co. has built a long-standing reputation for high-quality development projects featuring custom architecturally designed homes. The Bensman family has owned the 6.2 acre property for 50+ years. As you may assume, they’ve been approached by a wide variety of builders/developers. We are proud to say they’ve selected our company to develop their homestead.

Over the past weeks, we and the family’s consultant have met with city staff and appreciate their input on the concept plan before you. “Highcroft Meadows” is proposed as a 19-lot detached association maintained villa-style homes neighborhood.

The Site Plan: The Bensman family has used the property as a hobby farm homestead. As such, the majority of the site is open fields with a wooded portion at the north end. In keeping with the hobby horse theme, we propose to install a white rail equestrian type fence at the neighborhood entrance of Highcroft Meadows.

By way of the villa-style lots, we are able to preserve the natural character of the northern 1/3rd of the site (approx. 2 acres). This preserved area accounts for the majority of the property’s trees/natural topography and provides a buffer to the higher-use property to the north.

Villa Home Land Use: The property is guided for residential low-density housing. The site is surrounded by a mix of land uses including R-2, R-1, and city/institutional zoning (Williston Fitness Center). With this in mind, the 19-lot Villa-home site plan fits the city’s comprehensive plan guidance of low density and provides for an appropriate transition between the various abutting uses. No comprehensive plan amendment would be required.

Demographics shift over the decades and we understand the City of Minnetonka has a desire to maintain “life-cycle” housing. Having substantially developed in the 1950s-1990s, the vast majority of Minnetonka’s housing stock is traditional single-family homes on larger lots. These homes range in size & price to fit a broad spectrum of residents.

This said, as lives shift to the empty-nester phase of life, many residents prefer to “age in place”. Specifically, they a desire to maintain an active life-style within the community they reside. These residents are looking for high-feature detached homes, yet want to eliminate the on-going duties of exterior up keep (mowing, weeding, shoveling, exterior repairs, etc.). Our proposed Villa homes provide the benefits of detached home living combined with the carefree maintenance advantage which allows them more leisure and travel opportunities. This Villa product is substantially under represented in the existing housing stock.
The Architecturally-Designed Villa Homes: Our Villa homes are designed to attract the “empty nester” buyer which is typically in the 50 plus age group. The Villa homes will all be designed with the idea of main-level living by keeping the master bedroom and primary living spaces on the main floor. We intend to offer 7 of the 19 lots with a slab on grade foundation which features no steps from the garage and front entry into the home. As an alternative, a buyer may elect a full basement.

From a street-scape perspective, our custom-designed Villa homes provide an attractive balance between visual form/mass and livable function. By way of common architecture and maintenance, we create a unique, but cohesive feel to the neighborhood.

There will also be an option, if the buyers choose, to finish an upstairs bedroom/rec room area that would be built into the roof lines as a 1 ½ story which would keep the lower profile of a ranch look throughout the neighborhood (please see examples attached). Likewise, this lower roofline minimizes impact to the surrounding community (vs. high-peak 2-story homes). This bonus “attic” space is an important flexible design feature whether for hobby/rec. use or visiting friends and family.

All of the homes in Highcroft Meadows will be association maintained which would allow buyers to eliminate the need for storing equipment to do yard work, snow removal, and other exterior maintenance commonly needed for traditional single family home living. From a life-style perspective, the HOA maintained exteriors allow residents to “lock & leave” – a genuine benefit to active empty nesters looking to enjoy life.

Our Villa home buyers are looking for more than square footage. They’re looking for a lifestyle which we support by offering high-feature, detailed designs not offered by production-based homes. If you have interest in a more hands-on feel of our proposed villa homes, we have models located throughout the Twin Cities and would be happy to arrange a tour anytime that is convenient.

Thank you for your review. We’re excited about the project and look forward to working with our engineers and city staff to bring before you a plat in the coming months.

Rick Denman, Principle
Fine Architectural Homes

We design and build fine homes for discerning people. They seek a home of artful composition, yet warm and comfortable to really live in. We work closely with them from start to finish to achieve a truly outstanding result.

For decades, the principals of Charles Cudd Co LLC have been responsible for the creation of some of the Twin Cities’ most distinctive and sought after homes.

Our work is our passion and the vast number of enthusiastic client testimonials, show it. Every one of us is deeply committed to the highest standards of principled architecture, craftsmanship and customer service. We want to exceed our customers’ expectations and achieve an outstanding result that we can be proud of. Charles Cudd Co. LLC sets the standard of excellence.
## Property Details

**PID:** 1611722440042
- **Owner:** Allen S Bensman et al
- **Taxpayer:** ALAN S BENSMAN
- **Address:** 14410 Orchard Rd, Minnetonka, MN 55345

**Parcel Area:** 6.2 acres (250,947 sq ft)

**Taxes:**
- **Tax Parcel:** 117 17 117 0
- **Tax Year:** 2018
- **Tax Year:** 2019

**Additional Information:**
- **Unplatted 16 117 22**
- **Block:**

---

### Tax Data

- **Market Value:** $552,600 (2017, Payable 2018)
- **Total Tax:** $7,619.90 (2018)
- **Property Type:** Residential
- **Homestead:** Homestead
- **Year Built:** 1949

**Tax Data (Assessed 2018, Payable 2019):**
- **Market Value:** $560,100
CURRENT ZONING:  R1-SINGLE FAMILY
PROPOSED ZONING:  PUD (R2 BASE STANDARDS)
CURRENT LAND USE GUIDING:  LOW DENSITY RESIDENTIAL
LAND USE DENSITY RANGE:  2.4 UNITS/AC
TOTAL SITE ACREAGE:  6.69 ACRES
PROPOSED NUMBER OF LOTS:  19
PROPOSED DENSITY:  2.84 UNITS/ACRE

SETBACK INFORMATION IS AS FOLLOWS:
FRONT YARD = 25 FT.
REAR = 25' FT.
SIDE (GARAGE) = 5 FT.
SIDE (HOUSE) = 10 FT.
THE ALDERWOOD III MODEL

SQUARE FOOTAGE:

MAIN LEVEL
-1893 SQUARE FEET (EXCLUDES SUNROOM)
-2085 SQUARE FEET (INCLUDING SUNROOM)

UPPER LEVEL
-1079 SQUARE FEET

TOTAL FOOTAGE
-3164 SQUARE FEET

CHARLES CUDD CO.
LIFESTYLE HOMES
THE VILLAS AT BASS CREEK
10345 56TH AVE N, PLYMOUTH, MN
ARCHITECTURALLY DESIGNED DETACHED VILLAS
MAIN LEVEL LIVING
ASSOCIATION MAINTAINED
$695,800
OTHERS FROM $600’S
SHADYWOOD VILLAS
SHADYWOOD CIRCLE, ORONO, MN
ARCHITECTURALLY DESIGNED DETACHED VILLAS
MAIN LEVEL LIVING
ASSOCIATION MAINTAINED ($175 MONTHLY)
STARTING FROM $800’S
VILLAS AT MEDINA COUNTRY CLUB
4172 FAIRWAY DRIVE, MEDINA, MN
ARCHITECTURALLY DESIGNED DETACHED VILLAS
MAIN LEVEL LIVING - ASSOCIATION MAINTAINED
MODEL AS BUILT $925,800  -  OTHERS FROM $800’S
WATERFORD LANDING
ON SCHUTZ LAKE IN VICTORIA, MN

ARCHITECTURALLY DESIGNED DETACHED VILLAS
MAIN LEVEL LIVING
ASSOCIATION MAINTAINED ($195 MONTHLY)
COMMUNITY PONTOON & PRIVATE BEACH
MODEL AT $968,000 OTHERS FROM THE $800’S
DATE: October 11, 2018

SUBJECT: Highcroft Meadows Neighborhood Meeting Notes

Concerns Raised

- Number of proposed lots/density seems too high.
- Only one ingress/egress proposed, funneling all traffic onto Orchard Rd.
- Setbacks from Orchard Rd are too small
- Lack of buffering between existing homes and proposed homes
- Potential negative impact on existing neighborhood character.
- Potential impact on property taxes.
- Lack of affordable housing
- Existing drainage issue on west side of property.
- Negative impact of street lighting.
- Issues with existing utilities.

Questions Raised

- Amount of cut and fill on site? Answer: The cut and fill would likely be balanced on site.
- Square footage? Answer: 1700-2200 sq.ft main.
- Buildout time? Answer: 2 months site prep, 3 year total.
- Would an environmental study be required: Staff Answer: an EAW would not be triggered by a proposal of this size.
- Could number of homes be reduced by 25%? Answer: No. The project would not be viable.
- Association fee? Answer: $140-170, covering exterior maintenance, snow removal, lawn care, and trash.
- Where are examples of similar homes? Answer: Bass Creek Villas in Plymouth.

Comments/Ideas

- 1 ½ story homes – rather than 2 story homes – is a positive.
- Preservation of trees on northern area is a positive.
- A community space – trail, park, etc. – in the northerly treed area would be appreciated.