Planning Commission Agenda

June 27, 2019 – 6:30 p.m.

City Council Chambers – Minnetonka Community Center

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Minutes: June 13, 2019
5. Report from Staff
6. Report from Planning Commission Members
7. Public Hearings: Consent Agenda
   A. Resolution approving a side yard setback variance to replace the flat roof of an existing garage with a pitched roof at 14523 Orchard Road
      Recommendation: Adopt the resolution approving the proposal (5 votes)
      - Final approval, subject to appeal
      - Project Planner: Susan Thomas
   B. Resolution approving a variance for a front porch addition at 5000 Acorn Ridge Road.
      Recommendation: Adopt the resolution approving the proposal (5 votes)
      - Final approval, subject to appeal
      - Project Planner: Drew Ingvalson
   C. Resolution approving an expansion permit for a new garage at 5625 Eden Prairie Road.
      Recommendation: Adopt the resolution approving the proposal (4 votes)
      - Final approval, subject to appeal
      - Project Planner: Ashley Cauley
D. Resolution approving a conditional use permit for an accessory apartment at 3518 Hopkins Crossroad.

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

- Recommendation to City Council (July 8, 2019)
- Project Planner: Susan Thomas

8. Public Hearings: Non-Consent Agenda Items

A. Resolution denying a variance for a front porch addition at 18724 South Lane.

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

- Final action, subject to appeal
- Project Planner: Drew Ingvalson

B. Items concerning Chase Bank at 4795 Co Rd 101.

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

- Recommendation to City Council (July 8, 2019)
- Project Planner: Ashley Cauley

C. Items concerning Chipotle at 10995 Red Circle Drive.

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

- Recommendation to City Council (July 8, 2019)
- Project Planner: Ashley Cauley

D. Ordinance amending various sections of city code related to pollinators

Recommendation: Recommend the city council adopt the ordinance (4 votes)

- Forward to the City Council (July 8, 2019)
- Project Planner: Susan Thomas

9. Adjournment
Notices

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

2. There are currently no applications or items scheduled for the July 11, 2019 planning commission meeting.

<table>
<thead>
<tr>
<th>Project Description</th>
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<tr>
<td>Project Address</td>
<td>15301 Court Rd</td>
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<tr>
<td>Assigned Staff</td>
<td>Ashley Cauley</td>
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<td>Ward Councilmember</td>
<td>Mike Happe, Ward 3</td>
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<tr>
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<tr>
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<td>Susan Thomas</td>
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<td>Mike Happe, Ward 3</td>
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<tr>
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Minnetonka Planning Commission Meeting
June 27, 2019

Agenda Item 4
Previous Meeting Minutes
1. **Call to Order**

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

2. **Roll Call**

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

Staff members present: City Planner Loren Gordon, Planner Drew Ingvalson, and Natural Resources Manager Leslie Yetka.

3. **Approval of Agenda**

*Powers moved, second by Sewall, to approve the agenda as submitted with additional comments provided in a change memo dated June 13, 2019.*

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

4. **Approval of Minutes: May 16, 2019**

*Luke moved, second by Powers, to approve the May 16, 2019 meeting minutes as submitted.*

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

5. **Report from Staff**

Gordon briefed the commission on land use applications considered by the city council at its meeting of May 20, 2019 and June 3, 2019:

- Adopted a resolution approving an accessory apartment on Acorn Ridge.
- Introduced an ordinance regarding pollinators.
- Adopted a resolution approving a two-lot plat on Park Valley Road.
- Reviewed a concept plan for Shady Oak Crossings.
- Referred an application from Walser Nissan back to the planning commission.
- Adopted a resolution approving a master development plan amendment for Solbekken Villas.
The next planning commission meetings are scheduled for June 27, 2019, July 11, 2019 and July 18, 2019.

The annual boards and commissions training and dinner will be held at city hall starting at 5:30 p.m. with dinner at 6:30 p.m. on July 15, 2019.

6. Report from Planning Commission Members

Chair Kirk attended the ribbon-cutting ceremony to open pickle ball courts. It was very nice.

7. Public Hearings: Consent Agenda

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

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

A. Resolution approving an expansion permit for a detached garage at 13436 Orchard Road.

Adopt the resolution approving a side yard setback expansion permit to construct a detached garage addition at 13436 Orchard Road.

B. Resolution approving a variance and expansion permit for an existing house and greenhouse addition at 4811 Highland Road.

Adopt the resolution approving a property line setback variance for a greenhouse and acknowledging a property line setback variance for the existing house and deck at 4811 Highland Road.

C. Resolution approving an amendment to the existing sign plan at 12700 Whitewater Drive.

Adopt the resolution amending the Minnetonka Corporate Center sign plan as it pertains to the building at 12700 Whitewater Drive.

Sewall, Knight, Luke, Powers, and Kirk voted yes. Hanson and Henry were absent. Motion carried and the items on the consent agenda were approved as submitted.

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

8. Public Hearings

A. Resolution approving preliminary and final plats of Rutzick Ridge, a two-lot subdivision at 3564 Shady Oak Road.
Chair Kirk introduced the proposal and called for the staff report.

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

Ryan Rutzick, 3564 Shady Oak Road, applicant, stated that he was available for questions.

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

Sewall felt that the proposal is reasonable. He liked that the property owner would continue to live on the property.

Powers liked that there would not be a lot of tree removal.

Powers moved, second by Sewall, to recommend that the city council adopt the resolution approving the preliminary and final plats of Rutzick Ridge, a two-lot subdivision at 3564 Shady Oak Road.

Sewall, Knight, Luke, Powers, and Kirk voted yes. Hanson and Henry were absent. Motion carried.

B. Items concerning Walser Nissan at 15906 Wayzata Blvd.

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

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

In response to Luke’s request, Ingvalson pointed out trees that would be removed.

Powers asked what part of the berm would be removed. Ingvalson identified the area.

Knight asked if the back lot would be a vehicle storage area or if customers would be coming and going. Ingvalson explained that it would be used more as a vehicle storage area.

Powers asked if there would be an increase in noise. Ingvalson expected the noise level to remain the same as it is now. The noise ordinance would apply.

Jack Grotkin, representing Walser Automotive, applicant, stated that:

- He has assisted Walser Automotive with building dealerships for 20 years.
The proposal would save the berm. The elevation of the building would be lowered three feet which would eliminate the retaining wall on the north side of the property.

The neighbors requested an eight-foot fence. The applicant would like to fill in the area with plants, trees, and shrubbery.

He would continue to work with neighbors and welcome input from neighbors and city staff.

The back lot would be used primarily for storage of vehicles. The retail side of the business would continue to occur in front of the building.

Knight asked if the vehicles in the back lot would be backed into stalls. Mr. Grotkin answered affirmatively. Knight noted that would decrease the occurrence of headlights facing toward adjacent properties.

Sewall asked if the dealerships hours would change. Mr. Grotkin stated that the site would remain open Monday through Thursday until 8 p.m.; Friday and Saturday until 6 p.m.; and closed on Sundays.

In response to Chair Kirk’s question, Chad Ayers, civil engineer for the project, stated that one tree would be impacted. The critical root zones of the rest of the trees would not be impacted. A small retaining wall would be created in an effort to save a significant tree just to the south. The grading is necessary to clean up the storm water pond and create slopes to meet the requirements of the city and watershed district.

The public hearing was opened.

Bradley Schaeppi, 315 Townes Lane, stated that:

- The proposal has improved. He was optimistic.
- He appreciated commissioners asking detailed questions.
- He met with the applicant.
- He wants the berm and trees to stay the same as today.
- More headlights would be seen in the winter.
- He would like a condition to address what would happen if a tree on the berm would die.

Jeff Koblick, 351 Townes Road, stated that:

- The berm was created to screen retail activity at the mid elevation.
- The original grading plan had the elevation meeting the berm height at 12-feet tall. The elevation would now be 10-feet tall.
- Retail activity would be seen 8 months a year.
- He would like a condition requiring an eight-foot tall fence to block retail activity.

Gervaise Peterson, 212 Townes Lane, stated that:
• She would like the lights to point down instead of out.

Tim Engel, 350 Townes Road, stated that:

• The vehicle headlights would travel over the berm toward the houses.
• The amount of traffic is the concern.
• The berm is pretty transparent six months of the year.
• He thought an eight-foot fence would be a more cost-effective alternative than raising the berm and replacing the trees.
• He wanted to preserve the privacy.
• The difference in the change in the elevation should be matched with a fence.

No additional testimony was submitted and the hearing was closed.

Ingvalson reviewed the elevations, berm height, and buffer requirements.

Mr. Grotkin pointed out the service entrance, exit locations and traffic pattern.

In response to Knight’s question, Mr. Grotkin explained how an automobile transport truck would stay on the north side of the building. That would be true with tow trucks and delivery trucks. Trucks would enter on the east side and exit on the west side.

Sewall asked if a lighting plan would be reviewed. Ingvalson answered affirmatively. A condition of approval would require a plan that would prohibit light to spill onto another property.

Powers asked what would happen if trees that were expected to live would die in the future. Gordon explained that the landscaping plan would be enforced.

Chair Kirk did not want to treat Walser Nissan unfairly compared to the other automobile dealerships. It would be reasonable to suggest requiring additional plantings in the recommendation to city council. It appears that the berm on the east side is more robust and may do a better job of screening the traffic occurring around the building. He suggested adding evergreens to fill in the top of the berm. He would not want to see a fence constructed on a berm. Adding trees would do a better job of screening the neighbors.

Sewall agreed. He liked adding more plantings rather than a fence. He requested staff make that a condition of approval.

Chair Kirk noted that the applicant is trying to move the dealership back from the road to be aligned with surrounding dealerships.
Powers applauded the applicant for listening to commissioners and neighbors. It sounded like the city helped alleviate problems neighbors had with the Mitsubishi dealership. He likes the changes to the proposal. He did not care if the buffer would be a fence or plantings.

Ingvalson pointed out the plantings that would be added on the landscape plan.

Powers expected the applicant to work with the neighbors.

Chair Kirk noted that what he was describing for screening is already covered by a condition of approval.

Luke thought the proposed landscape plan would provide more long-term, permanent, better-looking screening than a fence.

Chair Kirk appreciated the neighbors providing comments and the effort provided by both sides. The applicant has compromised quite a bit and reduced the amount of parking.

Sewall stated that he agrees with staff’s recommendation in regard to signs. Four signs would be appropriate in this case, but they should be restricted to the size requirement.

Chair Kirk agreed with staff’s recommendation regarding the parking ratio.

**Powers moved, second by Knight, to recommend that the city council adopt the ordinance approving a master development plan and final site and building plans with a parking setback variance and a resolution approving a conditional use permit with a building-to-parking variance and sign plan.**

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

9. Other Business

A. Concept plan for The Mariner at 10400, 10500, and 10550 Bren Road East.

Staff recommends that commissioners provide comments and feedback on the identified key issues and additional issues commissioners deem appropriate. The discussion is intended to assist with future direction that may lead to the preparation of more detailed development plans.

Becky Landon, president of Newport Midwest, applicant, stated that:

- She provided the background on the project.
- The proposed site-plan change would preserve the funding for the affordable component.
• There would be 55 affordable units. Affordable housing income guidelines equal up to 50 percent of area-median income.
• There would be four supportive units designated for veterans experiencing homelessness.
• There would be one, two, and three-bedroom apartments.
• She provided a presentation.
• The buildings would be separately financed, but look and operate as one complex. The buildings would be constructed at the same time.
• The financing for the affordable-housing building is at risk if the project does not move forward and start construction this fall. The affordable building was awarded nine percent affordable-income-housing-tax credits in 2018. According to federal regulations, the building must obtain a certificate of occupancy by the end of 2020 or the tax credits would be lost. There is no wiggle room.

Pete Keely, architect for the proposal, stated that:

• The applicant has received more information from SWLRT.
• The best location for the affordable building would be along the SWLRT line. It would provide additional flexibility.
• The number of parking stalls would be increased to 1.5 stalls per unit.
• The sidewalk on the south end would no longer need a tunnel.
• The common spaces and amenities would be the same as the other building.
• There would be a better and safer play area in the northwest corner.
• There would be a two-story space inside the building connecting to the play area.
• The site would have access to SWLRT.
• The building would be fairly dense.
• The watershed district changed some requirements. An underground storage tank is being considered on this portion of the site which has good soils for infiltration.
• He provided renderings of the proposal.
• The exteriors would still be brick and metal.

Ms. Landon stated that:

• The watershed district is fine with the proposed site change.
• She requested that planning commissioners, councilmembers, and staff work with the applicant to modify the typical process so that construction of the affordable building would be able to begin this fall to protect the tax-credit award.
• The applicant is prepared to submit updated land use submittals shortly after the June 24th city council meeting.
• The applicant requests formal approvals of action requests in August. The applicant will be as collaborative as possible to meet that time schedule as well.
• The TIF agreement modifications would also need to be done in a timely manner. She will request that an EDAC meeting be held in August.
• The internal placement of amenity spaces have changed, but the number of units and unit mix are still the same.
• She requested concurrent review of the land use and building permit applications. This is not starting over. A lot of progress has been made.
• She was happy to answer questions and receive feedback.

Chair Kirk noted that there was no one in the audience.

Sewall confirmed with Ms. Landon that construction of the affordable building would move forward regardless if financing would be secured for the market-rate building. Ms. Landon stated that the effort to secure financing for the market-rate building would continue in the meantime.

Chair Kirk appreciated the project including the affordable housing units and supportive units for veterans. The density and proximity to SWLRT seem appropriate standing on its own.

In response to Chair Kirk’s question, Ms. Landon explained that the property would be subdivided because each building has to have its own legal parcel for financing. Chair Kirk would like the buildings to visually appear closer together. Affordable housing is needed in Minnetonka.

Ms. Landon stated that the buildings would have the same exteriors, look like one complex and operate as one complex. Chair Kirk suggested having the property line in the parking lot. Ms. Landon said that could be considered. She did not know if that would work from a building permit perspective.

Powers liked the idea that the applicant is willing to propose a project that would include 50 percent affordable units.

Sewall suggested that the sidewalks and landscaping be done deliberately to make the buildings feel like one apartment complex. He thought the building looked smaller. He asked for the number of units. Ms. Landon said that the number of units would be impacted by the financial structure and combination of the type of studio, one-bedroom, and two-bedroom units.

Mr. Keely explained that the previous proposal had two levels of underground parking. The opportunity is still there. The current building does have a smaller footprint than the previous proposal. The mix of units is still yet to be determined.

Sewall has no problem with the land use. It makes sense.
Luke asked what would be done with the lot after the affordable building would be constructed to make people want to live there. Ms. Landon answered that the existing building and parking lot could be demolished and replaced with green space.

Knight asked when she predicts the market-rate building would begin construction. Ms. Landon expected in the next 18 months. One positive is that now it has been confirmed that the SWLRT is going to proceed with construction. There are proposed developments for the Opus area that are very encouraging. There are potential investors who have been waiting to see how the RiZe will do. As the RiZe keeps moving forward, that will show that the area is able to support market-rate units.

Powers fully supports the proposal.

Knight asked if an area for teenagers would be available in the area, such as a basketball court or area to play catch. Gordon stated that Opus has a trail system. The closest park is Lone Lake Park.

Sewall suggested including bike storage and maintenance areas. Ms. Landon stated that there would be a bike storage facility and fix-it station available for anyone to use.

Gordon stated that the city council will review the item June 24, 2019.

10. **Adjournment**

   *Powers moved, second by Luke, to adjourn the meeting at 9:05 p.m. Motion carried unanimously.*

   By: ____________________________

   Lois T. Mason
   Planning Secretary
Minnetonka Planning Commission Meeting
June 27, 2019

Agenda Item 7

Public Hearing: Consent Agenda
Brief Description
Side yard setback variance to replace the flat roof of an existing garage with a pitched roof at 14523 Orchard Road

Recommendation
Adopt the resolution approving the variance

Background
The home at 14523 Orchard Road was constructed in 1954, prior to adoption of the city’s first zoning ordinance. In 1969, the then property owners requested a side yard setback variance to add an attached garage to the home. The approved variance allowed construction of a flat-roofed garage eight feet from the east property line.

Proposal
The current property owner, Greg Raetz, is proposing: (1) an addition to the north side of the garage and home; and (2) to change the roof structure of the entire garage – existing and new space – to a more standard, pitched roof. The proposed additions would meet all minimum setbacks. However, the small portion of the existing garage for which a variance was previously granted would not. By city code, a variance approval is valid only for the project for which it was granted. In other words, the 1969 variance does not “cover” the current proposal. As such, a new variance is necessary.

Staff Analysis
Staff finds that the applicant’s request meets the variance standard, as outlined in city code:

- **Reasonableness**
  The proposed change in roof structure is reasonable. Just 22 square feet or three percent of the footprint of the entire garage space would not meet the required side yard setback.
• **Unique Circumstance:**

  The location of the existing garage is unique in that, aside from very basic maintenance, it is unlikely any change could be made to the garage without a variance.

• **Neighborhood Character:**

  The remodeled garage would not encroach further into the required setback than the existing garage. Rather, the requested variance would simply allow a pitched-roof garage in the area previously occupied by a flat-roof garage. The request would not negatively impact neighborhood character.

**Staff Recommendation**

Adopt the resolution approving a side yard setbacks variance to replace the flat roof of an existing garage with a pitched roof at 14523 Orchard Road

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

### Surrounding Land Uses

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<td>Northerly</td>
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<td>Easterly</td>
<td>single-family homes</td>
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<tr>
<td>Southerly</td>
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### Planning

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

### Current Construction

A foundation permit was recently approved for the garage addition, as this area does not require variance. In fact, were the roof structure change not proposed the planning commission would be hearing the applicant request; it could be administratively approved.

### Expansion Permits and Variances

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

Legally, the existing garage is not considered non-conforming because a variance was previously granted for its location. As such, the expansion permit process cannot be used for the applicant’s proposal. Rather, a variance is necessary.

### 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)

### 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.
The proposal would meet this policy. As proposed, the home would have an FAR of 0.07; the largest FAR in the area is 0.26.

**Neighborhood Comments**

The city sent notices to 25 area property owners and received two written comments to date. (Attached.)

**Pyramid of Discretion**

![Pyramid Diagram](image)

**Motion options**

The planning commission has the following motion options:

1. Concur with staff’s recommendation. In this case, a motion should be made adopting the resolution approving the variance.

2. Disagree with staff’s recommendation. In this case, a motion should be denying the request. The motion should include findings for denial.

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

**Voting Requirement**

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

**Appeals**

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

**Deadline for Decision**

Sept. 16, 2019
Location Map

Project: Raetz Residence
Address: 14523 Orchard Rd
Expansion Permit Documentation/Description

Gregory Raetz
14523 Orchard Road
Minnetonka, MN 55345

Legal Description

Lot 3, Block 1, Orchardwood. See attached survey.

Survey

Attached.

Tree Plan

No high priority or significant trees will be removed as part of the project.

Grading and Drainage Plan

No alteration to existing drainage will take place. The only alteration to the garage footprint will be to extend the garage to the north (forward) by 8 feet. Existing land use in this area is paved driveway.

Written Statement

The expansion permit is being requested to allow the replacement of the existing flat roof on the garage with a pitched roof that conforms with the style of the house. The southeast corner of the garage is within 8.2 feet of the side property boundary. The northeast corner of the garage is greater than 10 feet from the side property boundary (see attached survey). Therefore, an expansion permit is required.

The existing flat roof is in need of repair/replacement and has resulted in some drainage and rot issues (southwest corner) as a result of substandard design. A construction permit is being submitted to add a porch roof and to re-side the home. The overall goal of the project is to provide a craftsman style facelift to the home. As part of this project a new pitched roof for the garage has been proposed to provide consistency and correct maintenance issues. A pitched roof is desirable for aesthetics, water drainage, snow load and maintenance.

The proposed expansion is a reasonable use of the property and will result in better aesthetics and improve the appearance of the home. The circumstances of the proposed expansion are unique to the property and flat garage roof that was originally constructed for the assumed convenience and cost savings as opposed to designing a pitched roof and matching it to the existing house. It would be less expensive to repair the existing flat roof; however, this is would
be a short-term fix that would not fully resolve long-term concerns such as drainage and potential rot issues. The proposed expansion will not adversely affect the character of the neighborhood, but instead will enhance the character by upgrading the curb appeal of the home and maintaining the home.

Additionally, it is proposed that as part of the roof replacement the electrical service will be upgraded to a traditional mast service to increase the elevation of the service and bring it up to current code. The current electrical service on the corner of the garage is low to the ground (less than 8 feet) and poses a safety risk. The picture below shows the current electrical service under the eve of the flat roof.

![Current Electrical Service](image)

**Building Floor Plan**

Attached.
Building Rendering

Existing Structure

- House was constructed in 1954.
- Garage with flat roof was added at later date.

Proposed Renovation

- Extend garage by 8 feet (forward).
- Replace garage floor.
- Replace flat roof with pitched roof that matches same pitch as house using engineered trusses.
- Add front porch roof with matching pitch.
- Roofing will be architectural grade asphalt shingles.
- Re-side entire house with LP or Hardie Board siding.
Orchard Rd

Building Permit Survey

Prepared for:
Greg Raetz

Site Address:
14513 Orchard Rd
Minnetonka, MN 55345

Legend:
• Found Iron Monument

Boundary Description (supplied by client):
Lot 3, Block 1, ORCHARDWOOD, according to
the recorded plat thereof, Hennepin County,
Minnesota.
Subject to any and all easements of record.

SCHOBORG
LAND SERVICES
INC.

763-972-3221
8997 Co. Rd. 13 SE
Minnetonka, MN 55343

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

Paul B. Schoborg

Job Number: 8700
Book/Page: LL
Survey Date: 6/28/18
Drawing Name: raetz.dwg
Drawn by: DMS
Date: July 11/2018
Registration No. 14700
REQUIRES EXPANSION PERMIT

Site Address:
14533 Orchard Rd
Minnetonka, MN 55345

Boundary Description (supplied by client):
Lot 3, Block 1, ORCHARDWOOD, according to the recorded plat thereof, Hennepin County, Minnesota. Subject to any and all easements of record.

SCHOBORG
LAND SERVICES
INC.
763-972-3221
8997 Co. Rd. 13 SE
Delano, MN 55328
www.Schoborg.land.com

Job Number: 8700
Book/Page: LL
Survey Date: 6/28/18
Drawing Name: raetz.dwg
Drawn by: DMS
Registration No. 14700

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

Paul B. Schoborg

Date: July 11, 2018

Bearings based on assumed datum.
Proposed Expansion – Garage Roof Replacement

Gregory Raetz
14523 Orchard Road
Minnetonka, MN 55345

I have reviewed the expansion plans regarding the replacement of the existing flat garage roof with a pitched roof at 14523 Orchard Road and approve of the proposed changes.

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trish Gardiner</td>
<td>14409 Orchard Rd</td>
</tr>
<tr>
<td>Ravindra &amp; Padma Chintapalli</td>
<td>3711 Westmark Dr</td>
</tr>
<tr>
<td>Dennis Scherber</td>
<td>14605 Orchard Rd</td>
</tr>
<tr>
<td>David Stenshoel</td>
<td>14465 Orchard Rd</td>
</tr>
</tbody>
</table>
We live at 14609 Orchard Road. We share a portion of the Raetz's western property line. And, we wish to express our support for the Raetz's proposed project and encourage the City to grant their request for an expansion permit. The Raetzs have worked diligently to improve their property and are exactly the type of neighbor all residents of Minnetonka would hope to have. Please encourage their endeavors by granting them a permit.

Sincerely,

Don and Judy Ramsey
Planning Commission Resolution No. 2019-
Resolution approving a side yard setbacks variance to replace the flat roof of an existing garage with a pitched roof at 14523 Orchard Road

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 14523 Orchard Road. It is legally described as:
Lot 3, Block 1, ORCHARDWOOD, Hennepin County, Minnesota.

1.02 The home on the subject property was constructed in 1954. In 1969, the then property owners requested a side yard setback variance to add an attached garage to the home. The approved variance allowed construction of a flat-roofed garage eight feet from the east property.

1.03 The current property owner, Gregory Raetz, is proposing to change the roof structure to a more standard, pitched roof. The small portion of the existing garage for which a variance was previously granted would not meet the minimum 10 foot setback.

1.04 By City Code §300.07 Subd.6, a variance approval is valid only for the project for which it was granted. As such, a “new” variance is necessary

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

Section 2. Standards.

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

Section 3. Findings.
3.01 The following requested variance meets the standard outlined in City Code §300.07 Subd. 1(a):

1. PURPOSE AND INTENT OF THE ZONING ORDINANCE: The intent of minimum side yard setback requirement is to provide adequate separation between structures. The requested variance would meet this intent as:
   
a) Just 22 square feet or three percent of the garage would not meet the required side yard setback.

b) The remodeled garage would be located over 30 feet from the closest neighboring home.

   c) The remodeled garage would not encroach further into the required setback – or closer to the neighboring home – than the existing garage. Rather, the requested variance would simply allow a pitched-roof garage in the area previously occupied by a flat-roof garage.

2. CONSISTENT WITH COMPREHENSIVE PLAN: One of the guiding principles in the comprehensive plan provides for maintaining, preserving, and enhancing existing single-family neighborhoods. The requested variance would not negatively impact the residential character of the neighborhood and would provide investment in the property to enhance its use.

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

   1) REASONABLENESS. The proposed change in roof structure is reasonable. Just 22 square feet, or three percent, of the footprint of the entire garage space would not meet the required site yard setback.

   2) UNIQUE CIRCUMSTANCE: The location of the existing garage is unique in that, aside from very basic maintenance, it is unlikely any change could be made to the garage without a variance. This circumstance is not common to all similarly zoned properties.

   3) NEIGHBORHOOD CHARACTER: The remodeled garage would not encroach further into the required setback than the existing garage. Rather, the requested variance would simply allow a pitched-roof garage in the area previously occupied by a flat-roof. The request would not negatively impact neighborhood character.
Planning Commission Resolution No. 2019-

Section 4. Planning Commission Action.

4.01 The planning commission approves variances outlined in section 3 of this resolution, based on the findings outlined in the same section. 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 June 28, 2018
   - Building elevations and floor plans, dated Jan. 28, 2018

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

3. This variance will end on Dec. 31, 2020, unless the city has issued a building permit for the project covered by this variance or has approved a time extension.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on June 27, 2019.

Brian Kirk, Chairperson

Attest:

Fiona Golden, Deputy City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Planning Commission of the City of Minnetonka, Minnesota, at a duly authorized meeting held on June 27, 2019.

Fiona Golden, Deputy City Clerk
MINNETONKA PLANNING COMMISSION  
June 27, 2019

**Brief Description**  
Front yard setback variance for a screened porch at 5000 Acorn Ridge Road.

**Recommendation**  
Adopt the resolution approving the request

---

**Proposal**

The applicant, John Snyder, is proposing to add a 4.7-foot by 24-foot (or 113 square foot) screened porch onto the single-family home at 5000 Acorn Ridge Road.

**Proposal requirements:**

**Variance:** The subject property has two non-conforming front yard setbacks. The proposal would increase the non-conformity for the eastern front yard setback.

<table>
<thead>
<tr>
<th></th>
<th>Existing</th>
<th>Proposed</th>
<th>Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard Setback (South)</td>
<td>31.6 ft.</td>
<td>29.9 ft.</td>
<td>35 ft.</td>
</tr>
</tbody>
</table>

*requires variance

**Existing Property**

- **Lot Size:** 19,170 square feet
- **Use:** Residential Single-Family Home
- **Subdivision:** The subject property was created by a 1971 subdivision.
- **Buildings (previously approved addition shown in blue):**
  - Home: 3,848 total square feet
  - Shed: 171 square feet.
• Frontage: The subject lot is a corner lot with frontage onto Acorn Ridge Road (East) and South Lane (North).

• Access: Acorn Ridge Road, with future access off South Ln.

• Right-of-Way Easements: The subject lot has two road easements in addition to the original right-of-way (shown in yellow).
  o The northern road easement is 20 feet wide.
  o The eastern road easement is 5 feet wide.

Staff Analysis

Staff finds the front yard setback variance is reasonable as:

1. The proposal would add a porch to the front side of the existing home, a common addition to single-family homes. In addition, the proposed screened porch would be buffered by existing vegetation located near the east property line.

2. While the subject screened porch requires a variance, the proposed additions would visually appear to have an appropriate setback from Acorn Ridge Road (44 feet). The subject home has two non-conforming front yard setbacks due to the road easements on the property. (The easements are in addition to typical road right-of-way.) However, the proposed screened porch would only encroach 0.1-foot into the required setback if the additional road easement was not in place.

3. If approved, the addition would not alter the essential character of the neighborhood. There are 15 homes within 400 feet of the subject property that are positioned 44 feet or closer to the curb of the road (the proposed distance).

Staff Recommendation

Adopt the resolution approving a front yard setback variance for a screened porch addition at 5000 Acorn Ridge Road.

Originator: Drew Ingvalson, Planner
Through: Loren Gordon, AICP, City Planner
Meeting of June 24, 2019  
Subject: Snyder VAR, 5000 Acorn Ridge Road

Supporting Information

<table>
<thead>
<tr>
<th>Project No.</th>
<th>19007.19b</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property</td>
<td>5000 Acorn Ridge Road</td>
</tr>
<tr>
<td>Applicant</td>
<td>John Snyder, property owner</td>
</tr>
<tr>
<td>Surrounding Land Uses</td>
<td>Properties to the north, southeast, and west are single family residential homes zoned R-1.</td>
</tr>
</tbody>
</table>
| Planning    | Guide Plan designation: Low density residential  
Zoning: R-1 |
| History     | In spring 2019, the applicant applied for a conditional use permit and setback variances to add a garage, porch (north side of home) and entryway for an accessory apartment. The applicant did not show the proposed screened porch in the survey submitted for this request. As such, staff did not include the proposed screened porch in the request, which was approved by the city council on May 20, 2019. |
| Structure Setbacks From Roads | Fifteen of the 34 homes within 400 feet of the subject property are located 44 feet or closer to the curb of an adjacent road (the proposed distance from Acorn Ridge Road). |
| Right-of-Way Easements | The subject site has exceptionally wide right-of-way easements in comparison to other homes within the area. In addition to the original rights-of-way planned for the area, there is also a 5-foot road easement to the east of the subject property (adjacent to Acorn Ridge Road).  
Staff assumes that this road easement was put in place at the time of the subject property’s subdivision, in 1971. However, additional research at Hennepin County would be needed to verify this assumption and to understand better how the city obtained the easements. |
| Variance Standard | The proposal would meet all of the variance standards as outlined in City Code §300.07:  
1. It is in harmony with the general purposes and intent of the ordinance;  
   Finding: The proposal is in harmony with the general purposes and intent of the zoning ordinance. The intent of the front yard setback requirement is to provide for consistent building lines within a neighborhood and to provide for adequate separation between homes and roadways. The proposed home would encroach approximately 1.7 feet closer to the curb of the adjacent road. |
to the property line than the existing structure. However, the structure would have a front yard setback similar to other homes within the area. As such, if approved, the structure’s front building line would be consistent with other homes within the area.

2. It is consistent with the comprehensive plan; and

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

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

a) Reasonableness. The applicant proposes to use a property in a reasonable manner not permitted by the ordinance;

**Finding:** The front yard setback variance request is reasonable, as the screened porch would be located approximately 44 feet from Acorn Ridge Road, a common structure to curb distance for single-family homes in the neighborhood.

b) Unique Circumstance. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

**Finding:** The property is subject to a 5-foot road easement in addition to the original right-of-way east of the property. The additional road easement, plus the 35-foot setback requirement essentially creates a 40-foot front yard setback from a neighborhood street. The combination of these circumstances creates a practical difficulty.

c) Character of Locality. The variance if granted, would not alter the essential character of the locality.

**Finding:** If approved, the proposed screened porch addition would not alter the essential character of the neighborhood. There are 15 homes within 400 feet of the subject property that are located 44 feet or closer to the curb of the road (the proposed distance).
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 0.14. The proposed attached garage and entryway addition would increase the property's FAR to 0.15. This is still below the largest FAR within 400 feet, which is 0.21.

Pyramid of Discretion

Motion Options  
The planning commission has three options:

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

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

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

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

Appeals  
Any person aggrieved by the planning commission’s decision about the requested expansion permit may appeal such decision to the city council. A written appeal must be submitted to the planning staff within ten days of the date of the decision.
<table>
<thead>
<tr>
<th>Neighborhood Comments</th>
<th>The city sent notices to 43 area property owners and received no comments.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deadline for Decision</td>
<td>September 19, 2019</td>
</tr>
</tbody>
</table>
Location Map

Project: Snyder Residence
Address: 5000 Acorn Ridge Rd

CITY OF MINNETONKA
LEGAL DESCRIPTION:
The North 142 feet of Lot 4, Auditor's Subdivision No. 334, Hennepin County, Minnesota.

SCOPE OF WORK & LIMITATIONS:
1. Showing the length and direction of boundary lines of the legal description listed above. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
2. Showing the location of observed existing improvements we deem necessary for the survey.
3. Setting survey markers or verifying existing survey markers to establish the corners of the property.
4. Existing building dimensions and setbacks measured to outside of siding or stucco.
5. While we show a proposed location for this home or addition, we are not as familiar with your proposed plans as you, your architect, or the builder are. Review our proposed location of the improvements to verify that they match your plans before construction begins. Also, we are not as familiar with local codes and minimum requirements as the local building and zoning officials in this community are. Be sure to show this survey to said officials, or any other officials that may have jurisdiction over the proposed improvements and obtain their approvals before beginning construction or planning improvements to the property.
6. This survey has been completed without the benefit of a current title commitment. There may be existing easements or other encumbrances that would be revealed by a current title commitment. Therefore, this survey does not purport to show any easements or encumbrances other than the ones shown hereon.

STANDARD SYMBOLS & CONVENTIONS:
- "●" Denotes iron survey marker, found, unless otherwise noted.
Proposed Screen Porch

EXTERIOR MATERIALS:
- ASPHALT SHINGLES
- COMPOSITE FASCIA & TRIM TO MATCH EXISTING
- VENTED COMPOSITE SOFFIT
- COMPOSITE WINDOW & DOOR TRIM TO MATCH EXISTING
- LOUVERED VINYL SHUTTERS TO MATCH EXISTING
- LAP SIDING TO MATCH EXISTING
- (OPTION) THIN STONE VENEER PER ELEVATION
- REUSE DECK POSTS, RAILS, BALUSTERS, STAIRS, & DECKING

EAST ELEVATION

WEST ELEVATION

NORTH ELEVATION

SOUTH ELEVATION
ACORN RIDGE REMODEL
PLANNING SUBMITTAL 2019
04 18
5000 ACORN RIDGE ROAD MINNETONKA, MN

Proposed Screen Porch

PROPOSED LOWER LEVEL FLOOR PLAN
EXISTING UPPER LEVEL DEMO PLAN
REMOVE STAIR, WALLS, & DOORS AS SHOWN

REMOVE PORTION OF DECK AS NEEDED FOR EXCAVATION - SAVE MATERIALS TO REUSE

REMOVE PORTION OF SLAB AS NEEDED FOR NEW PLUMBING

PROTECT EXIST. ITEMS WALLS & SPECIAL WALLS AGAINST DAMAGE DURING CONSTRUCTION

EXIST. ELEC. PANEL TOP REMAIN

EXIST. EXIST. BASEBOARD HEATERS THROUGHOUT

EXISTING LOWER LEVEL DEMO PLAN

EXISTING GARAGE

REFERENCE FLOOR PLANS & SPECS. FOR NEW OPENING LOCATIONS & SIZES

REFERENCE FLOOR PLANS & SPECS. FOR NEW OPENING LOCATIONS & SIZES

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REFERENCE FLOOR PLANS & SPECS. FOR NEW OPENING LOCATIONS & SIZES
Planning Commission Resolution No. 2019-
Resolution approving a front yard setback variance for a screened porch
at 5000 Acorn Ridge Road

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

Section 1. Background.

1.01 The property owner, John Snyder, is requesting a front yard setback variance to add a 4.7-foot by 24-foot, or 113 square foot, screened porch onto the east side of the existing home.

<table>
<thead>
<tr>
<th></th>
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<th>Proposed</th>
<th>Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard Setback</td>
<td>31.6 ft.</td>
<td>29.9 ft.</td>
<td>35 ft.</td>
</tr>
</tbody>
</table>

*requires variance

1.02 The property is located at 5000 Acorn Ridge Road. It is legally described as:

The North 142 feet of Lot 4, Auditor’s Subdivision No. 334, Hennepin County, Minnesota.

1.03 On May 20, 2019, the city council approved a conditional use permit and setback variances to add a garage, porch (north side of home) and entryway for an accessory apartment. This approval did not include the subject screened porch.

1.04 On June 24, 2019, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

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.

3.03 The proposal would meet all of the variance standards as outlined in City Code §300.07:

1. Intent of the Ordinance. The proposal is in harmony with the general purposes and intent of the zoning ordinance. The intent of the front yard setback requirement is to provide for consistent building lines within a neighborhood and to provide for adequate separation between homes and roadways. The proposed porch would encroach approximately 1.7 feet closer to the property line than the existing structure. However, the porch would have a front yard setback similar to other homes within the area. As such, if approved, the structure’s front building line would be consistent with other homes within the area.

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

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

   a) Reasonableness. The front yard setback variance request is reasonable as the screened porch would be located approximately 44 feet from Acorn Ridge Road, a common structure to curb distance for single-family homes in the neighborhood. In addition, the proposed structure would be buffered from public view by existing vegetation.

   b) Unique Circumstance. The property is subject to a 5-foot road easement in addition to the original right-of-way east of the property. The additional road easement, plus the 35-foot setback requirement creates a 40-foot front yard setback from a neighborhood street. The combination of these circumstances creates a practical difficulty.
c) Character of Locality. If approved, the proposed screened porch addition would not alter the essential character of the neighborhood. There are 15 homes within 400 feet of the subject property that are located 44 feet or closer to the curb of the road (the proposed distance).

Section 4. Planning Commission Action.

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

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:
   - Plans and elevations, date-stamped April 12, 2019.

2. Prior to issuance of a building permit:
   a) A copy of this resolution must be recorded with Hennepin County.
   b) The applicant must obtain a building permit for the proposed addition.
   c) The applicant must install a temporary rock driveway, erosion control, tree and wetland protection fencing, and any other measure as identified as the SWPPP for staff inspection. These items must be maintained throughout the course of construction.
   d) The property must be current on all utility bills.

4. This variance will end on Dec. 31, 2020, unless the city has issued a building permit for the project covered by this variance or has approved a time extension.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on June 27, 2019.

_________________________________________
Brian Kirk, Chairperson
Resolution No. 2019- 

Attest:

__________________________________________
Fiona Golden, Deputy City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Planning Commission of the City of Minnetonka, Minnesota, at a duly authorized meeting held on June 27, 2019.

__________________________________________
Fiona Golden, Deputy City Clerk
Brief Description

Resolution approving an expansion permit to allow a detached garage within the bluff impact zone at 5625 Eden Prairie Road

Recommendation

Adopt the resolution approving the request

Background

The property at 5625 Eden Prairie Road is an unplatted, lot-behind-lot, on the west side of Glen Lake. The property is roughly three acres in size, but is largely encumbered by wetland and Glen Lake.

The property is currently improved with a single-family residential home and two, detached garages. According to city records, the existing home was constructed in 1911. City aerials indicate that the smaller single car garage was constructed prior to 1956.

Due to the amount of tree cover in the area, it is difficult to determine the construction date of the two-car garage from aerial photography. The garage is clearly shown in 1984, but it's unclear how much earlier it was constructed.

The highest part of the property is located behind the garages, along the south property line. The property slopes downward in all directions from this point. The topography on the east side of the property is steep enough to qualify as a “bluff” by city code definition. The land within 20-feet of the top of bluff is considered the “bluff impact zone.” The existing home and both of the garages are currently located in – or partially in – the 20-foot bluff impact zone.

Proposal

PTF Enterprises, on behalf of the property owners, is proposing to remove both of the existing garages on the property in order to construct a new detached, three-car, garage on the property.
The new garage would be 816 square feet in area and would be partially located within the bluff impact zone.

The garage would have a height of 11.5-feet as measured from the mid-point of the roof to grade.

**Staff Analysis**

Staff finds that the applicant’s proposal is reasonable, as:

- The proposed garage would replace garages that are currently in disrepair and would be a visual improvement to the property.

- As non-conforming structures, the existing garages could be reconstructed with just a building permit. However, the proposed garage would result in a reduction of the amount of structure located within the bluff impact zone.

- Given the location of the existing home, utilities and associated easements, it is unlikely that a garage could be constructed on the property without encroaching into – or being located entirely within – the bluff impact zone.

- By planning commission policy, a two-car garage on a residential property is reasonable. The planning commission may consider larger garages if it is consistent with the neighborhood characteristics. The property is currently improved two garages that equate to the size of a three-car garage.

**Staff Recommendation**

Adopt the attached resolution approving an expansion permit to allow the construction of a detached, three-car, garage within the bluff impact zone at 5625 Eden Prairie Road.

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

Surrounding Properties to the north, south, and west are single family residential properties zoned R-1. Glen Lake is to the east.

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

Expansion permit vs Variance
An expansion permit is required for the expansion of a non-conforming structures. By definition, a non-conforming structure is one that is not in full compliance with the regulations of the ordinance and either: (1) was legally established before the effective date of the ordinance provision with which it does not comply; or (2) became non-conforming because of other government action.

Current ordinance does not allow construction within the bluff impact zone. However, all of the structures on the property were constructed prior to the adoption of the bluff standards, which were included in the 2008 shoreland ordinance amendments. As such, an expansion permit is required.

Expansion Permit
By city code (City Code §300.29), an expansion permit for a nonconforming use may be granted, but is not mandate, when an applicant meets the burden of proving that:

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

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

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

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 43 area property owners and received no comments.

**Pyramid of Discretion**

This proposal.

**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 and Appeals**
The planning commission action on the applicant’s request is final subject to appeal. Approval requires the affirmative vote of four commissioners. 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 Decision**
Sept. 18, 2019
Location Map

Project: Urban & Telleen Residence
Address: 5625 Eden Prairie Rd
LEGAL DESCRIPTION:

All that part of the Northwest 1/4 of Section 34, Township 117, North, Range 22 West of the 5th Principal Meridian described as follows:

Commencing at a point in the South line of Glen Lake Park, which point is 42 feet East from the intersection of the South line of said Glen Lake Park and the West line of the said Northeast 1/4 of Section 34; thence South 9 degrees 10 minutes East a distance of 83.69 feet to the point of beginning of the tract to be described; thence running North 83 degrees 10 minutes East a distance of 77.32 feet and distant 40.06 feet to an iron marker; thence South 82 degrees 52 minutes East a distance of 200.25 feet to an iron marker, which marker is 126.5 feet South of the South line of said Glen Lake Park; thence running in a straight line East parallel with and distant 126.5 feet South from the South line of said Glen Lake Park and in the East line of the Southwest 1/4 of the Northeast 1/4 of the Northwest 1/4 of said Section 34; thence running South along the said East line of the Southwest 1/4 of the Northwest 1/4 a distance of 94.5 feet; thence running West parallel with and distant 221 feet South from the South line of the said Glen Lake Park to an iron marker which iron marker is distant 62 feet East from the West line of said Northwest 1/4 of said Section 34 and 222 feet from the South line of the said Glen Lake Park; thence running North 8 degrees 10 minutes West a distance of 136.25 feet to the point of beginning. ALSO, Commencing 112 feet South from South line of Glen Lake Park and 52.14 feet East from the West line of the Northwest 1/4, Section 34, Township 117, Range 22; thence West 52.14 feet; thence South 109 feet; thence East 62 feet; thence Northerly to beginning with easement for roadway over that part of the Northwest 1/4 of Section 34, Township 117, Range 22; described as follows: Beginning at the intersection of the South line of Glen Lake Park and the West line of the Northwest 1/4 of said Section 34; thence East along the South line of said Glen Lake Park a distance of 57.06 feet; thence South 5 degrees 10 minutes East a distance of 83.89 feet; thence South 5 degrees 10 minutes West a distance of 50.24 feet; thence North 5 degrees 10 minutes East a distance of 52.14 feet; thence North 5 degrees 10 minutes West a distance of 77.32 feet; thence West a distance of 42.72 feet to the West line of the Northwest 1/4 of said Section 34; thence North 8 feet to the point of beginning and over that part of the Northwest 1/4 of Section 34, Township 117, Range 22 described as a line of land 8 feet wide lying Southerly of and adjoining the South line of Glen Lake Park and extending from the East line of County Road No. 4 to the East line of the Northeast 1/4 of said Section 35. According to the United States Government Survey thereof and revised in Hennepin County, Minnesota.

SCOPE OF WORK & LIMITATIONS:

1. Showing the lengths and direction of boundary lines of the legal description found above. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.

2. Showing the location of observed existing improvements we deem necessary for the survey.

3. Setting survey markers or verifying existing survey markers to establish the corners of the property.

4. Showing elevations on the site at selected locations to give some indication of the topography of the site. We have also provided a benchmark for your use in determining elevations for construction on this site. The elevations shown relate only to the benchmark provided on this survey. Use that benchmark and check at least one other feature shown on the survey when determining other elevations for use on this site or before beginning construction.

5. This survey has been completed without the benefit of a current title commitment. There may be existing easements or other encumbrances that would be revealed by a current title commitment. Therefore, this survey does not purport to show any easements or encumbrances other than the ones shown herein.

6. Note that all building dimensions and building tie dimensions to the property lines, are taken from the siding and or stucco of the building.

7. Showing elevations on the site at selected locations to give some indication of the topography of the site. We have shown the top of the bluff using the City of Minnetonka’s Top of Bluff Line definition. This information is derived from a slope analysis program that we are using. Please have this information verified by the City of Minnetonka to be sure we are showing this correctly. Do this before using this survey to design or make decisions about this property.

8. STANDARD SYMBOLS & CONVENTIONS:

\[ \text{Denotes iron survey marker, set, unless otherwise noted.}\]
5625 Eden Prairie Rd.
Minnetonka, MN

- Property Corners
- Mark Util. Easement
- Easement edge
- Prop. Line at Sm. Garage

- Water
- Sewer
- Gas
- Electric and Telephone
- Bluff Impact

Proposed 3-car garage
Planning Commission Resolution No. 2019-

Resolution approving an expansion permit to construction of a detached, three-car, garage within the bluff impact zone at 5625 Eden Prairie Road

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

Section 1. Background.

1.01 PTF Enterprises, on behalf of the property owners, is proposing to remove the two existing garages in order to construct a new detached, three-car, garage on the property.

1.02 The property is located at 5625 Eden Prairie Road. The property is legally described in Exhibit A.

1.03 By City Code Sec. 300.02, the bluff impact zone is defined as the land within a bluff and land within 20 feet from the top of a bluff.

1.04 The existing one-car garage is located entirely within the bluff. The existing two-car garage is partially located within the bluff impact zone.

1.05 The garages were constructed prior to the adoption of the bluff standards, which were included in the 2008 shoreland ordinance amendments. As such, the garages are considered non-conforming.

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

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

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

Section 2. Standards.

2.01 City Code §300.29 Subd.7(c) states that an expansion permit may be granted, but is not mandated, when an applicant meets the burden of proving that:
1. The proposed expansion is a reasonable use of the property, considering such things as: functional and aesthetic justifications for the expansion; adequacy of off-site parking for the expansion; absence of adverse off-site impacts from such things as traffic, noise, dust, odors, and parking; and improvement to the appearance and stability of the property and neighborhood.

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

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

Section 3. Findings.

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

1. Reasonableness and Neighborhood Character: The proposed detached garage is reasonable and would not negatively impact the character of the surrounding neighborhood. The proposed three-car garage would:
   a) Replace garages that are in disrepair that could be replaced with just a building permit. This would result in a visual improvement to the property;
   b) Remove the amount of structure within the bluff impact zone.
   c) Be of a size equal to the aggregate area of the two existing garages.

2. Unique Circumstance: Given the location of the existing home, utilities and associated easements, it is unlikely that a garage could be constructed on the property without encroaching into the bluff impact zone. This coupled with the existing garages within the bluff impact zone present a circumstance not common to other similarly zoned properties.

Section 4. Planning Commission Action.

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

1. Subject to staff approval, the property must be developed in substantial conformance with the following plans, except as modified by conditions below.
2. Prior to issuance of a building permit:
   a) This resolution must be recorded with Hennepin County.
   b) Submit a revised survey that illustrates the location of all easements and the proposed garage. This survey must also indicate that the proposed garage, or associated foundation, will be located within the drainage and utility easement.
   c) Submit an escrow equal to the amount to remove the garages if the proposed garage will be constructed in advance of the removal of the existing garages.
   d) Install a temporary erosion control and tree protection fencing for staff inspection. These items must be maintained throughout the course of construction

3. This expansion permit approval will end on December 31, 2020, unless the city has issued a building permit for the project covered by this expansion permit approval or approved a time extension.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on June 27, 2019.

Brian Kirk, Chairperson

Attest:

Fiona Golden, Deputy City Clerk

Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Planning Commission of the City of Minnetonka, Minnesota, at a duly authorized meeting held on June 27, 2019.

________________________________________
Fiona Golden, Deputy City Clerk
Exhibit A

All that part of the Northwest 1/4 of Section 34, Township 117, North, Range 22 West of the 5th Principal Meridian described as follows:

Commencing at a point in the South line of Glen Lake, Park, which point is 42 feet East from the intersection of the South line of said Glen Lake Park and the West line of the said Northwest 1/4 of Section 34; thence South 5 degrees 10 minutes East a distance of 85.65 feet to the point of beginning of the tract to be described thence running North 83 degrees 18 minutes East a distance of 50 feet to an iron marker; thence running South 68 degrees 28 minutes East a distance of 40.06 feet to an iron marker; thence South 82 degrees 52 minutes East a distance of 260.25 feet to an iron marker, which marker is 126.5 feet South of the South line of said Glen Lake Park; thence running in a straight line East parallel with and distant 126.5 feet South from the South line of said Glen Lake Park to the East line of the Southwest 1/4 of the Northwest 1/4 of said Section 34 thence running South along the said East line of the Southwest 1/4 of the Northeast 1/4 a distance of 94.5 feet, thence running West parallel with a distant 221 feet South from the South line of the said Glen Lake Part to an iron marker which iron marker is distant 62 feet East from the West line of said Northwest 1/4 of said Section 34 and 221 feet from the South line of the said Glen Lake Park; thence running North 5 degrees 10 minutes West a distance of 136.25 feet to the point of beginning. ALSO, Commencing 112 feet South from South line of Glen Lake Park and 52.14 feet East from the West line of the Northwest 1/4, Section 34, Township 117, Range 22; thence West 52.14 feet; thence South 109 feet; thence East 62 feet; thence Northerly to beginning together with easement for driveway over that part of the Northwest 1/4 of Section 34, Township 117, Range 22 described as follows: Beginning at the intersection of the South line of Glen Lake Park and the West line of the Northwest 1/4 of said Section 34; thence East along the South line of said Glen Lake Park a distance of 57.06 feet; thence South 5 degrees 10 minutes East a distance of 83.89 feet; thence South 83 degrees 18 minutes West a distance of 15.005 feet; thence North 5 degrees 10 minutes West a distance of 77.32 feet; thence West a distance of 42.72 feet to the West line of the Northwest 1/4 of said Section 34; thence North 8 feet to the point of beginning and over that part of the Northeast 1/4 of Section 33 Township 117, Range 22 described as follows; a strip of land 8 feet wide lying Southerly of and adjoining the Southerly line of Glen Lake Park and extending from the East line of County Road No. 4 to the East line of the Northeast
MINNETONKA PLANNING COMMISSION
June 27, 2019

**Brief Description**
Conditional use permit for an accessory apartment at 3518 Hopkins Crossroad

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

**Background**
The subject property is located in the northwest corner of the Hopkins Crossroad/Farm Lane intersection. It is improved with a roughly 2,715 sq.ft. home constructed in 1960.

The current property owner, Hollie Schroeder, purchased the home in 2018. Ms. Schroeder indicates that at the time of purchase the basement of the home contained an accessory apartment. The apartment includes bedroom, bathroom, kitchen, and living spaces. City staff can find no record of any permits being issued to create this separate dwelling area. The city assessor last evaluated the home in 2003 and no apartment was noted at that time. Staff speculates that the apartment was, therefore created, sometime in the last 15 years.

**Proposal**
To ensure compliance with zoning regulations, the property owner is requesting the city approve a conditional use permit for the existing apartment.

**Staff Analysis**
Staff finds that the accessory apartment is reasonable.

1) The apartment meets the intent of the accessory apartment ordinance. It would afford efficient utilization of an existing home, while maintaining the character of existing single-family neighborhood.

2) The apartment is located in the basement of an existing home. Given this, the apartment would not alter the single-family character of the area or substantially impact the surrounding neighborhood.

3) The proposed apartment would meet all conditional use permit standards. These standards are outlined in the “Supporting Information” section of this report.

**Staff Recommendation**
Recommend that the city council adopt the resolution approving a conditional use permit for an accessory apartment at 3518 Hopkins Crossroad.

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

**Surrounding Land Uses**
All properties surrounding the subject lot are zoned and guided low density residential.

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

**Accessory Apartments**
By City Code §300.10 Subd.4(d), accessory apartments are conditionally-permitted uses in single-family residential zoning districts.

**CUP Standards**
The proposed accessory apartment would meet the general conditional use permit standards as outlined in City Code 300.16 Subd.2.

1. The use is consistent with the intent of this ordinance;
2. The use is consistent with the goals, policies and objectives of the comprehensive plan;
3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and
4. The use does not have an undue adverse impact on the public health, safety or welfare.

The proposal apartment would also meet the specific conditional use permit standards as outlined in City Code 300.16 Subd.3.

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

   **Finding** The accessory unit is the only apartment on the property.

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

   **Finding:** As a condition of approval, the property owner must live in one of the dwelling units.

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

   **Finding:** The existing garage and driveway provide adequate off-street parking for both housing units.
4. May be created by the conversion of living space within the house but not by conversion of garage space unless space is available for a two car garage on the lot without the need for a variance;

**Finding:** The apartment does not impact garage space.

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

**Finding:** Based on the submitted plans, the accessory apartment is roughly 950 square feet in area; this would be 35 percent of the gross living area of the home.

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

**Finding:** The apartment is located in the basement of the existing home. It does not alter the single-family character of the home or substantially impact the surrounding neighborhood.

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

**Finding:** The accessory apartment has already been created and city staff can find no record of any permits for this separate dwelling area. This requirement would be difficult to enforce. While staff would highly recommend the property owner have the home inspected for compliance with code, the city does not have a rental inspection requirement.

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

**Finding:** The apartment is located in the basement of the existing home. It does not alter the single-family character of the area or substantially impact the surrounding neighborhood.

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

**Finding:** The accessory apartment would comply with all other ordinance standards.
The city sent notices to 31 area property owners and has received no comments to date.

Pyramid of Discretion

This proposal

Motion Options

The planning commission has three options:

1. Concur with staff’s recommendation. In this case a motion should be made recommending the city council approve the CUP.

2. Disagree with staff’s recommendation. In this case a motion should be made recommending denial of 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 be made include a statement as to why the request is being tabled with direction to staff, the applicant or both.

Voting

The planning commission will make a recommendation to the city council, which has final authority on the applicant’s request. Approval of the requested CUP requires the affirmative vote of a simple majority of councilmembers.

Deadline for Decision

September 16, 2019
Location Map

Project: Schroeder Residence
Address: 3518 Hopkins Xrd
To whom this may concern:

I purchased this property in March of 2018, with a full mother in law suite finished in the basement. Its 950 square feet of private space, with a separate entrance and off street parking. For purposes of taxes and compliance with the city, I would like to apply to have my property recognized as a duplex, so that I can rent out the basement. I have attached a hand drawing and measurements. It has one bedroom, den, living room, kitchen, bathroom and shared laundry. Please let me know what you need from me to get this request finalized.

Thanks for your consideration,
Hollie Schroeder
3518 Pictures

May 2019
Main floor Living Space
Basement Rental Unit

- Living Room with Private Entrance
- Bathroom & Shower
- Master
- Kitchen
- Den
Shared Space
Basement / Rental

Bedroom (18.5 x 13)

Den (12 x 13)

Living Room (16.3 x 13)

Stairs

Storage (shared) (7.5 x 8.5)

Furnace

Kitchen (12 x 14)

Laundry (shared) (9 x 12)

Closet

Bathroom (5 x 5)

Journey (5 x 5)

Separate Entrance

Personal

172 square
25 utilities
80 stairs

Drawn by Applicant

May 20 2019
Main Floor - Garage + Breezeway
SEPARATE ENTRANCE FOR BASEMENT
Resolution 2019-
Resolution approving a condition use permit for an accessory apartment
at 3518 Hopkins Crossroad

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 3518 Hopkins Crossroad. It is legally described as:

TRACT A, REGISTERED LAND SURVEY NO. 0343, Hennepin County, Minnesota

Also

The East 252 feet of Outlot 4, ROBINWOOD 3rd ADDITION, Hennepin County, Minnesota

1.02 The home on the property was constructed in 1960.

1.03 The current property owner, Hollie Schroeder, purchased the home in 2018. Ms. Schroeder indicates that at the time of purchase the basement of the home contained an accessory apartment. The apartment includes bedroom, bathroom, kitchen, and living spaces. City staff can find no record of any permits being issued to create this separate dwelling area.

1.04 To ensure compliance with zoning regulations, the property owner is requesting the city approve a conditional use permit for the existing apartment.

1.05 On June 27, 2019, the planning commission held a hearing on the application. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. Conditional Use Permit Standards.

2.01 City Code §300.16, Subd.2, lists the following general standards that must be met for granting of a conditional use permit:

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

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

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

2.02 City Code §300.16, Subd.3(d) lists the following specific standards that must be met for granting of a conditional use permit for an accessory apartment:

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

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

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

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

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

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

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

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

9. All other provisions of this ordinance relating to single family dwelling units to be met, unless specifically amended by this subdivision.
Section 3.  Findings.

3.01 The proposed apartment would meet the general conditional use permit standards as outlined in City Code §300.16 Subd.2.

3.02 The proposed apartment would meet the general conditional use permit standards as outlined in City Code §300.16 Subd.3(d).

1. The accessory unit is the only apartment on the property.
2. As a condition of this resolution, the property owner must live in one of the dwelling units.
3. The existing garage and driveway provide adequate off-street parking for both housing units.
4. The apartment does not impact garage space.
5. Based on the submitted plans, the accessory apartment is roughly 950 square feet in area; this would be 35 percent of the gross living area of the home.
6. The apartment is located in the basement of the existing home. It does not alter the single-family character of the area or substantially impact the surrounding neighborhood.
7. The accessory apartment has already been created and city staff can find no record of any permits being issued for this separate dwelling area. This requirement would be difficult to enforce. While the city would highly recommend the property owner have home inspected for compliance with code, the city does not have a rental inspection requirement.
8. The accessory apartment would comply with all other ordinance standards.

Section 4.  City Council Action.

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

1. The structure must be owner-occupied. The property owner must reside in either living unit on a continuous basis except for temporary absences throughout the period during which the permit is valid.
2. All other provisions of the ordinance relating to single family dwelling units must be met, unless specifically amended by this resolution.
3. The city council may reasonably add or revise conditions to address any future unforeseen problems.
4. Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 8, 2019.

Brad Wiersum, Mayor

ATTEST:

Becky Koosman, City Clerk

ACTION ON THIS RESOLUTION:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on July 8, 2019.

Becky Koosman, City Clerk
Minnetonka Planning Commission Meeting
June 27, 2019

Agenda Item 8

Public Hearing: Non-Consent Agenda
MINNETONKA PLANNING COMMISSION  
June 27, 2019

**Brief Description**  
A front yard setback variance to construct an enclosed porch at 18724 South Lane

**Recommendation**  
Adopt the resolution denying the variance request

**Proposal**  
The applicant, Aliaksandr Smolau, is proposing to build an enclosed porch addition (8-foot by 10-foot) at 18724 South Ln. The proposed porch addition would extend eight feet out from the existing home, creating a 28.5-foot front yard setback. This proposal requires:

- **Variance:** The principal addition would encroach into the required front yard setback.

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Existing</th>
<th>Applicant’s Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard Setback</td>
<td>35 ft.</td>
<td>36.7 ft.</td>
<td>28.7 ft.*</td>
</tr>
</tbody>
</table>

* requires variance

**Existing Property**

- Lot Size: 20,007 square feet
- Use: Residential Single-Family Home
- Subdivision: Unplatted
- Buildings
  - Home:
    - Originally constructed in 1918, remodeled in 1965
    - 1,280 total square feet
  - Detached Garage: 364 square feet.
  - Shed: 113 square feet
- Frontage/Access: South Lane

**Staff Analysis**  
The city may approve a variance from city code requirements, only if an applicant meets all of the variance standards outlined in city code. Staff finds that the applicant’s proposal does not meet all of the required variance standards:
1. INTENT OF THE ORDINANCE. The proposal is consistent 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. Fourteen of the 36 homes within 400 feet of the subject property do not meet the front yard setback requirement. In addition, eight of the 20 homes on the same street as the subject property do not meet the required front yard setback requirements.

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

3. PRACTICAL DIFFICULTY: The subject request does not meet all three standards to qualify for a practical difficulty. While the request is reasonable and would be consistent with the neighborhood character, the plight of property owner is not caused by a circumstance unique to the property.

   - REASONABLENESS: The request to add an 80 square foot enclosed porch is reasonable. While there are not many enclosed porches on South Lane, some homes within the city have similar additions.

   - CIRCUMSTANCE UNIQUE TO THE PROPERTY: There is not a circumstance unique to the property that causes the variance. The subject home meets the minimum front yard setback requirement and has a considerable amount of buildable area available for home additions. City code would permit the property owner to construct an unenclosed porch that extends 6.5 feet from the home; enclosing the structure would be prohibited. As such, the need for the variance is caused by specific design proposed by the property owner.

   - NEIGHBORHOOD CHARACTER: The surrounding neighborhood is largely characterized by homes that encroach into the front yard setback, including the home immediately to the west of the subject property. If approved, the proposed addition would not alter the essential character of the subject neighborhood.
Staff Recommendation

Adopt the resolution denying a variance request to construct an enclosed porch onto the single-family home at 18724 South Ln.

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

<table>
<thead>
<tr>
<th><strong>Project No.</strong></th>
<th>19012.19a</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Property</strong></td>
<td>18724 South Lane</td>
</tr>
<tr>
<td><strong>Applicant</strong></td>
<td>Aliaksandr Smolau</td>
</tr>
<tr>
<td><strong>Surrounding Land Uses</strong></td>
<td>All of the properties to the north, south, east, and west are zoned R-1, single family residential. The properties to the west, south, and east are improved with single family homes and guided for low density residential. The property to the north is Reich Park and is guided for parks.</td>
</tr>
</tbody>
</table>
| **Planning**    | Guide Plan designation: Low Density Residential  
Zoning: R-1 Single Family Residential |
| **Non-conforming Properties** | There are several properties within the surrounding neighborhood that do not conform to the required front yard setback. Specifically, 14 out of 36 total homes, within 400 feet of the subject property, have non-conforming front yard setbacks. Based on aerial photography, the non-conforming setbacks of these homes appear to range from 25 feet to 34 feet from the front property line. The majority of these homes are non-conforming because they were built just prior to the adoption of the first city ordinance. |
| **McMansion Policy** | The McMansion Policy is a tool the city can utilize to ensure new homes or additions requiring variances are consistent with the character of the existing homes within the neighborhood. By policy, the floor area ratio (FAR) of the subject property cannot be greater than the largest FAR of properties within 1,000 feet on the same street, and a distance of 400 feet from the subject property.  
As proposed, the property would comply with the McMansion Policy. Currently, the property’s FAR is 0.07. The proposed porch would increase the property’s FAR to 0.08. This is still significantly below the largest FAR within 400 feet, which is 0.25. |
| **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) |
The city sent notices to 38 area property owners and received no comments.

The planning commission has three options:

1. Concur with the staff recommendation. 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 for 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.

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

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.

August 26, 2019
Location Map

Project: Smolau Residence
Address: 18724 South Ln
Certificate of Survey

Prepared for:
Alex Smolau

Legend
- Found Iron Monument
- Set Iron Monument (LS 14700)

Site Address:
18724 South Lane
Minnetonka, MN 55345

Boundary Description (Doc. No. T4947270)
The South 230 feet as measured along the West line of the West 100 feet of the Southwest Quarter of the Southeast Quarter of the Northwest Quarter in Section 30, Township 117, Range 22, Hennepin County, Minnesota.

Subject to any and all easements of record.

Bearings based on assumed datum.
Proposed.
**PRACTICAL DIFFICULTIES WORKSHEET**

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.

---

<table>
<thead>
<tr>
<th>PRACTICAL DIFFICULTIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Describe why the proposed use is reasonable</td>
</tr>
<tr>
<td>I'm trying to add some functional detail to the house. Right now if I open my front door in winter it will drain all warm air from the house. Trying separate open living room and kitchen area from the entry I also gain some closet space by the entry.</td>
</tr>
</tbody>
</table>

| Describe: |
| - circumstances unique to the property; |
| - why the need for variance was not caused by the property owner; and |
| - and why the need is not solely based on economic considerations. |
| My house was built in 1918 and it is not energy efficient and functional. Most houses in my area was built before you have your setback rules, so my addition will be at same front view line (I provide my neighbor house site view) |

| Describe why the variance would not alter the essential character of the neighborhood |
| Most houses in my area was built before your city have their setback rules, so my addition will be at same front view line (I provide my neighbor house site view) |
Planning Commission Resolution No. 2019-

Resolution denying a variance for construction of an enclosed porch at 18724 South Lane

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 18724 South Lane. It is legally described as:

   The South 230 feet as measured along the West line of the West 100 feet of the Southwest Quarter of the Southeast Quarter of the Northwest Quarter in Section 30, Township 117, Range 22, Hennepin County, Minnesota

1.02 The home has a non-conforming side yard setback (west property line) of 9.6 feet, but meets all other setback requirements.

1.03 The applicant, Aliaksandr Smolau, has submitted a proposal to construct an enclosed porch within the required front yard setback. As proposed, the porch would extend 8 feet from the home, creating a 28.5-foot setback.

1.04 On June 27, 2019, 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.

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Existing</th>
<th>Applicant’s Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard Setback</td>
<td>35 ft.</td>
<td>36.7 ft.</td>
<td>28.5 ft.*</td>
</tr>
</tbody>
</table>

* requires variance

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 all of the variance standards as outlined in City Code §300.07 Subd. 1.

1. INTENT OF THE ORDINANCE: The proposal is consistent 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. Fourteen of the 36 homes within 400 feet of the subject property do not meet the front yard setback requirement. In addition, eight of the 20 homes on the same street as the subject property do not meet the required front yard setback requirements.

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

3. PRACTICAL DIFFICULTY: The request does not meet all three standards to qualify for a practical difficulty. While the request is reasonable and would be consistent with the neighborhood character, the plight of property owner is not caused by a circumstance unique to the property.

   a) REASONABLENESS: The request to add an 80 square foot enclosed porch is reasonable. While there are not many enclosed porches on South Lane, some homes within the city have similar additions.

   • CIRCUMSTANCE UNIQUE TO THE PROPERTY: There is not a circumstance unique to the property that causes the variance. The subject home meets the minimum front yard setback requirement and has a considerable amount of buildable area available for home additions. City code would permit the property owner to construct an unenclosed porch that extends 6.5 feet from the subject home; enclosing the structure would be prohibited. As such, the need for the variance...
is caused by specific design proposed by the property owner.

b) NEIGHBORHOOD CHARACTER: The surrounding neighborhood is largely characterized by homes that encroach into the front yard setback, including the home immediately to the west of the subject property. If approved, the proposed addition would not alter the essential character of the subject neighborhood.

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 June 27, 2019.

________________________________________
Brian Kirk, Chairperson

Attest:

________________________________________
Fiona Golden, Deputy City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Planning Commission of the City of Minnetonka, Minnesota, at a duly authorized meeting held on June 27, 2019.

________________________________________
Fiona Golden, Deputy City Clerk
Brief Description

Items concerning Chase Bank at 4795 County Road 101:

1) Final site and building plans, with a parking variance; and a
2) Conditional use permit.

Recommendation

Recommend the city council adopt the resolutions approving the request

Jeffrey Agnes, AIA, on behalf of the property owner, is proposing to construct a bank with a drive-up window in the existing parking lot of the Westwind Plaza at 4795 County Road 101.

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, Westwind Plaza, is roughly 10 acres in size. The property is improved with three, one-story, buildings that make up the Westwind Plaza shopping center. Surface parking surrounds the buildings on all sides. Access to the site is via a shared access to the south with Shoppes 101/Cub Foods and a right-in/right-out access to the north.

- **Proposal.** As proposed, a one-story, 3,560 square foot building would be constructed in the southwest corner of the site. The new building would include a drive-thru on the north side of the building and 47 parking stalls on the remaining sides. The façade of the building would include predominately include brick, stone, and glass. The building would have a minimal amount of EFIS on the parapets and around the windows.
Four trees and roughly one acre of the site’s existing parking lot would be removed in order to accommodate the proposal. The trees proposed to be removed are located within existing parking lot islands are not large enough to be regulated by the city’s tree protection ordinance. As such, no mitigation is required or proposed.

The proposal would reduce the amount of impervious surface onsite. However, by formalizing unstripped parking east (in the rear) of the Westwind Plaza building, the proposal would actually increase the amount of available parking onsite from 411 stalls to 419 stalls. By code, the site would require 477 stalls.

**Staff Analysis**

In evaluating the proposed bank building, staff notes:

- The proposed bank would be consistent with the land uses of Westwind Plaza and the surrounding retail areas.
- The proposed bank would meet all minimum setback requirements and site and building plan requirements.
- The proposed parking variance is reasonable, as the proposed bank would generally be located in an area of the parking lot currently occupied by snow storage during the winter and temporary sales from mid-April through the end of October.
- The proposal would reduce the amount of impervious surface, while increasing the amount of available parking, onsite.

**Staff Recommendation**

Recommend the city council adopt the following times related to Chase Bank at 4795 Co Rd 101:

1) Resolution approving site and building plans, with a parking variance; and

2) Resolution approving a conditional use permit for a drive-up window.

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

Surrounding North and East: Purgatory Creek and associated wetland.

Land Uses South and West: retail shopping areas, zoned B-2 and PUD.

Planning

Guide Plan designation: Commercial

Zoning: B-2

Temporary sales

Beginning in 2004, the city council approved a series of conditional use permits to allow for temporary sales of pumpkins, vegetables and plants at the site. In 2006, the city council approved a conditional use permit for Untiedt’s Garden Market to allow vegetable sales from June 23rd to Aug. 13th and then pumpkin sales from Sept. 23rd to Oct. 31st. The applicant requested an amendment to the conditional use permit in 2007 to allow a continuous market from April 15th to Oc. 31st.

In Jun. 2018, the city council approved an interim use permit for TNT Fireworks to allow the sales of fireworks between the dates of June 20th and July 5th each year. The permit is valid from 2018 to 2023.

Since the amount of parking is already less than what is required by code, the applicant has indicated that the temporary uses will no longer operate onsite.

Misc. Standards

The proposed development is subject to the following setbacks:

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Existing</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Building setbacks</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North</td>
<td>35 ft</td>
<td>n/a</td>
<td>485 ft*</td>
</tr>
<tr>
<td>South</td>
<td>35 ft</td>
<td>n/a</td>
<td>105 ft</td>
</tr>
<tr>
<td>East</td>
<td>35 ft</td>
<td>n/a</td>
<td>520 ft*</td>
</tr>
<tr>
<td>West</td>
<td>50 ft</td>
<td>n/a</td>
<td>100 ft</td>
</tr>
<tr>
<td><strong>Parking lot setbacks</strong></td>
<td></td>
<td></td>
<td>No change</td>
</tr>
<tr>
<td>North</td>
<td>20 ft</td>
<td>71 ft</td>
<td></td>
</tr>
<tr>
<td>South</td>
<td>10 ft</td>
<td>34 ft</td>
<td></td>
</tr>
<tr>
<td>East</td>
<td>20 ft</td>
<td>63 ft</td>
<td></td>
</tr>
<tr>
<td>West</td>
<td>20 ft</td>
<td>23 ft</td>
<td></td>
</tr>
<tr>
<td><strong>FAR</strong></td>
<td>Max. 80%</td>
<td>20%</td>
<td>21%</td>
</tr>
<tr>
<td><strong>Impervious surface</strong></td>
<td>Max 85%</td>
<td>74%</td>
<td>72%</td>
</tr>
<tr>
<td><strong>Parking</strong></td>
<td>477 stalls</td>
<td>411 stalls</td>
<td>419 stalls</td>
</tr>
</tbody>
</table>

* rounded to the nearest 5 ft

SBP Standards

This proposal would comply with all site and building standards as outlined in City Code 300.27 Subd. 5:
<table>
<thead>
<tr>
<th>Standards</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consistency with the elements and objectives of the city’s development guides, including the comprehensive guide plan and water resources management plans;</td>
<td>The proposal has been reviewed by the city’s planning, building, engineering, natural resources, fire, and public works staff. Staff finds it to be generally consistent with the city’s development guides.</td>
</tr>
<tr>
<td>Consistency with this ordinance;</td>
<td>But for the parking variance, the proposal would be consistent with the ordinance. The proposal would meet the variance standard.</td>
</tr>
<tr>
<td>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;</td>
<td>The subject property is a developed site. As such, the proposal would not impact natural topography or native-vegetation.</td>
</tr>
<tr>
<td>Creation of harmonious relationship of buildings and open spaces with natural site features and with existing and future buildings and having a visual relationship to the development;</td>
<td>The proposal would result in an intuitive and attractive development redevelopment of an existing commercial site.</td>
</tr>
<tr>
<td>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 provisions of a desirable environment for occupants, visitors and the general community;</td>
<td>The proposal would result in an intuitive redevelopment of an existing commercial site.</td>
</tr>
<tr>
<td></td>
<td>b) The amount of location of open space and landscaping;</td>
</tr>
</tbody>
</table>
c) Materials, textures, colors and details of construction as an expression of the design concept and the compatibility of the same with 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.

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

As new construction, the proposed building would meet minimum energy standards.

Protection of adjacent and neighboring properties through reasonable provision for surface water drainage, sound and light 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.

The proposal would not negatively impact neighboring land uses which is an existing retail area.

CUP Standards

<table>
<thead>
<tr>
<th>The proposal would meet the general conditional use permit standards as outlined in City Code §300.21 Subd. 2:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard</td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>The use is consistent with the intent of this ordinance;</td>
<td>Drive-up windows are allowed as a conditionally-permitted use within the B-2 zoning district.</td>
</tr>
<tr>
<td>The use is consistent with the goals, policies, and objectives of the comprehensive plan;</td>
<td>The 2030 comprehensive guide plan called for future redevelopment of the Highway 7 and Co Rd 101 community village center. This proposal allows for permanent investment into an existing property within that village center.</td>
</tr>
<tr>
<td>The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and</td>
<td>The proposed drive-up window would not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements.</td>
</tr>
<tr>
<td>The use does not have an undue adverse impact on the public health, safety, or welfare.</td>
<td>The proposed use would not have an undue adverse impact on the public health, safety or welfare.</td>
</tr>
</tbody>
</table>

**The proposal would meet the general conditional use permit standards, for uses having a drive-up window, as outlined in City Code §300.21 Subd. 4(d)**

| Drive-up windows and stacking areas shall not be located adjacent to any residential parcel; | The drive-up window and stacking area would not be located adjacent to a residential parcel. Rather, they would be located within an existing parking lot of a shopping center. |
| Stacking areas shall provide for a minimum of six cars per aisle; and | The plans indicate available stacking for six cars. |
| Public address system shall not be audible from any residential parcel. | While there are no adjacent residential parcels, this has |
Variance Standard

By City Code §300.07, Subd. 1, a variance may be granted from the requirements of this ordinance including those placed on nonconformities. A variance is only permitted when it is in harmony with the general purposes and intent of this ordinance and when the variance is consistent with the comprehensive plan. A variance may be granted when the applicant establishes that there are practical difficulties in complying with this ordinance. Practical difficulties means that the property owner proposes to use the property in a reasonable manner not permitted by this 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. Economic considerations alone do not constitute practical difficulties.

The proposal requires a variance to the amount of required parking. The applicant’s proposal meets the variance standard:

<table>
<thead>
<tr>
<th>Standard</th>
<th>Finding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comprehensive plan:</td>
<td>One of the recognized policies of the comprehensive plan is to “support existing commercial areas and encourage new development techniques that contribute to the vitality and diversity of an area”. The requested variance would allow for permanent improvement into an existing retail area.</td>
</tr>
<tr>
<td>Intent of the ordinance:</td>
<td>The intent of the ordinance as it relates to parking is to ensure adequate parking onsite for the shopping center. The proposed bank building would be located in an area that is occupied by snow storage in the winter and temporary sales uses for a majority of the remainder of the year. The proposal would not meet the city code requirements for parking onsite. However, the proposal would result in an overall increase in the amount of parking onsite.</td>
</tr>
</tbody>
</table>
Meeting of June 27, 2019  
Subject: Chase Bank, 4795 County Road 101

| Reasonableness and character of the locality: | The proposed bank would be located within an existing parking lot with sufficient parking. While the proposal would not meet the minimum parking requirement required by code, the proposal would actually increase the amount of available parking onsite. |
| Unique circumstance: | The proposed building would be located within an area of the parking lot that has been occupied by temporary sales and snow storage. As such, the parking in the area of the proposal has not been available for many years. |

**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.

**Pyramid of Discretion**

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

**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 approve the proposal.

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

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

Neighborhood Comments
The city sent notices to 43 area property owners and received no comments.

Deadline for Decision
August 26, 2019
April 26, 2019

City of Minnetonka
Planning Division
Attn: Susan Thomas
14600 Minnetonka Blvd.
Minnetonka MN 55345
(952) 939-8292
sthomas@eminnetonka.com

WRITTEN STATEMENT - CUP

Chase Bank Outlot Building
Westwind Plaza
4703-4795 County Road 101
Minnetonka, MN 55345

Brixmor (BRE Retail Residual Owner 6 LLC), the mall owner, is requesting a Conditional Use Permit (CUP) to allow a drive-thru for a proposed new Chase Bank outlot building at Westwind Plaza, an existing neighborhood retail center in Minnetonka.

We believe that all requirements for B-2 Limited Business District are met for this development but for the drive-thru use, which, per city code Section 300.18.4.d), requires a CUP for “uses having a drive-up window”.

The proposed development meets the CUP specific standards in B-2, Limited Business District for uses having a drive-up window, Section 300.21.4.d),

1) the proposed stacking area is not located adjacent to a residential parcel;
2) provides for a minimum of six (6) cars per aisle; and
3) the public address system is not audible from any residential parcel.

Aarchitects LLC,

Jeffrey P. Agnes  AIA (Applicant)
JPA/jpa

Cc: Marc Newman – Brixmor
April 26, 2019

City of Minnetonka
Planning Division
Attn: Susan Thomas
14600 Minnetonka Blvd.
Minnetonka MN 55345
(952) 939-8292
sthomas@eminnetonka.com

WRITTEN STATEMENT – Site and Building Plan Review
Chase Bank Outlot Building
Westwind Plaza
4703-4795 County Road 101
Minnetonka, MN 55345

Brixmor (BRE Retail Residual Owner 6 LLC), the mall owner, is requesting a Site and Building Plan Review for a proposed new Chase Bank outlot building with a drive-thru at Westwind Plaza, an existing neighborhood retail center in Minnetonka.

We believe that all requirements for B-2 Limited Business District are met for this development but for the drive-thru use, for which we are also applying for a Conditional Use Permit.

The parking demand for a bank with a drive-thru is minimal and we expect that the current layout is more than adequate to handle the demand, however, we are asking to include 83 proof-of-parking stalls (already paved but not currently striped) on the north and east sides of the lot in order to meet an overall minimum 4.5 stalls per 1,000 sf overall parking stall total (Proposed: 91,607 sf with 419 stalls = 4.6 stalls per 1,000 sf).

Aarchitects LLC,

Jeffrey P. Agnes  AIA (Applicant)
JPA/jpa

Cc:  Marc Newman – Brixmor
Sunde
03-12-2019
Watershed District Submittal

03-27-2019
Revisions per Watershed District comment

05-07-2019
Sewer, Water, Sidewalk, Curb, and Spots

EX-1
I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.
GENERAL GRADING AND PLANTING NOTES

1. BY SUBMITTING A PROPOSAL FOR THE LANDSCAPE PLANTING EROE OF WORK, THE CONTRACTOR AGREES THAT
   THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR REMOVING ALL EXISTING VEGETATION (EXCEPT WHERE NOTED) TO
   THE ENSUED.

   1. IN THE CONTEXT OF THESE PLANS, NOTES, AND SPECIFICATIONS, "FINISH GRADE" REFERS TO THE FINAL ELEVATION
   OF THE AREA AFTER ALL MULCHING HAS BEEN COMPLETED.

2. ALL PLANT LOCATIONS AND LAYOUTS, ACTUAL LOCATIONS SHALL BE VERIFIED WITH THE LANDSCAPE
   PROJECTS, AND AREAS OF POTENTIAL PONDING SHALL BE REGRADED TO BLEND IN WITH THE
   LANDSCAPING SURFACES, AFTER INSTALLING SOIL AMENDMENTS, IS 1" BELOW THE FINISH SURFACE OF THE WALKS. TAPER
   THE SOIL SURFACE TO MEET FINISH GRADE, AS SPECIFIED ON THE GRADING PLANS, AT APPROXIMATELY 18"
   AWAY FROM THE WALKS.

3. THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR DETERMINING PLANT QUANTITIES; PLANT QUANTITIES
   REQUIREMENTS OF THE PERMITTING AUTHORITY ARE MET (I.E., MINIMUM PLANT QUANTITIES, PLANTING METHODS,
   TREE PROTECTION METHODS, ETC.).

4. SHOULD ANY CONFLICTS AND/OR DISCREPANCIES ARISE BETWEEN THE GRADING PLANS, GEOTECHNICAL
   REPORT, THESE NOTES AND PLANS, AND ACTUAL CONDITIONS, THE CONTRACTOR SHALL IMMEDIATELY BRING
   THESE TO THE ATTENTION OF THE LANDSCAPE ARCHITECT.

5. THE CONTRACTOR SHALL SUBMIT SAMPLES OF ALL MULCHES TO LANDSCAPE ARCHITECT AND
   OWNER/OWNER'S REPRESENTATIVE TO INSPECT, AND APPROVE OR REJECT, ALL PLANTS DELIVERED TO THE
   JOBSITE. REFER TO SPECIFICATIONS FOR ADDITIONAL REQUIREMENTS FOR SUBMITTALS.

6. SEE SPECIFICATIONS AND DETAILS FOR FURTHER REQUIREMENTS.

LANDSCAPE CALCULATIONS

<table>
<thead>
<tr>
<th>TOTAL PARKING SPACES</th>
<th>47 SPACES</th>
</tr>
</thead>
<tbody>
<tr>
<td>TURF AND SHRUBS (TYP.)</td>
<td></td>
</tr>
</tbody>
</table>
| TREE PLANTING
| 18 "尺度 = 20'"

PLANTING LEGEND

<table>
<thead>
<tr>
<th>BOTANIC NAME</th>
<th>SYMBOL</th>
<th>COMMON NAME</th>
<th>MIN. SIZE</th>
<th>SPACING</th>
<th>QUANTITY</th>
<th>REMARKS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poa pratensis</td>
<td>#1 cont.</td>
<td>Cat's Tail Grass</td>
<td>1.5&quot; cal., 8'-10' high</td>
<td>3' o.c.</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>Viburnum dentatum</td>
<td>#5 cont.</td>
<td>Arrowwood</td>
<td>1.5&quot; cal., 8'-10' high</td>
<td>3' o.c.</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>Junci cineraria</td>
<td>#1 cont.</td>
<td>Spiked Rush</td>
<td>1.5&quot; cal., 8'-10' high</td>
<td>3' o.c.</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>Climbing Tiger Lily</td>
<td>#1 cont.</td>
<td>Climbing Tiger Lily</td>
<td>1.5&quot; cal., 8'-10' high</td>
<td>3' o.c.</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>Russian Sage</td>
<td>#1 cont.</td>
<td>Russian Sage</td>
<td>1.5&quot; cal., 8'-10' high</td>
<td>3' o.c.</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>Daylily</td>
<td>#1 cont.</td>
<td>Daylily</td>
<td>1.5&quot; cal., 8'-10' high</td>
<td>3' o.c.</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>Diabolo Ninebark</td>
<td>#1 cont.</td>
<td>Diabolo Ninebark</td>
<td>1.5&quot; cal., 8'-10' high</td>
<td>3' o.c.</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>Blue Chip Juniper</td>
<td>#5 cont.</td>
<td>Blue Chip Juniper</td>
<td>1.5&quot; cal., 8'-10' high</td>
<td>3' o.c.</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>Spilled Wine Weigela</td>
<td>#5 cont.</td>
<td>Spilled Wine Weigela</td>
<td>1.5&quot; cal., 8'-10' high</td>
<td>3' o.c.</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>Autumn Gold Ginkgo</td>
<td>#1 cont.</td>
<td>Autumn Gold Ginkgo</td>
<td>1.5&quot; cal., 8'-10' high</td>
<td>3' o.c.</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>Per plan</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Resolution No. 2019-
Resolution approving final site and building plans, with a parking variance, for Chase Bank at 4795 Co Rd 101

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

Section 1. Background.

1.01 Jeffrey Agnes, AIA, on behalf of A Architects, has requested final site and building plan approval for Chase Bank at 4795 Co Rd 101 (Project 88030.19a)

1.02 The property is located 4795 Co Rd 101. It is legally described as follows:

Lot 1, Block 2, WILLOW WOOD, including adjacent Merchant Ave vacated also South 385 feet of the West 447 feet of the South half of the Northwest Quarter of the Northwest Quarter of Section 29, Township 117, Range 22, except road.

Property is located in Hennepin County, Minnesota.

1.03 On June 27, 2019, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the planning commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended the city council approve the final site and building plans, with variance.

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.

2.02 By City Code §300.07 Subd. 1, a variance may be granted from the requirements of the zoning ordinance when: (1) the variance is in harmony with the general purposes and intent of this ordinance; (2) when the variance is consistent with the comprehensive plan; and (3) when the applicant establishes that there are practical difficulties in complying with the ordinance. 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 4. 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 the city’s planning, building, engineering, natural resources, fire, and public works staff. Staff finds it to be generally consistent with the city’s development guides.

2. But for the parking variance, the proposal would be consistent with the ordinance. The proposal would meet the variance standard.

3. The subject property is a developed site. As such, the proposal would not impact natural topography or native-vegetation.

4. The proposal would result in an intuitive and attractive development redevelopment of an existing commercial site.

5. The proposal would result in an intuitive redevelopment of an existing commercial site.

6. As new construction, the proposed building would meet minimum energy standards.

7. The proposal would not negatively impact neighboring land uses, which is an existing retail area.

3.02 The proposal would meet the variance standard outlined in City Code §300.07 Subd. 1(a):

1. PURPOSE AND INTENT OF THE ZONING ORDINANCE: One of the recognized policies of the comprehensive plan is to “support existing commercial areas and encourage new development techniques that contribute to the vitality and diversity of an area”. The requested variance would allow for permanent improvement into an existing retail area.

2. CONSISTENT WITH THE COMPREHENSIVE PLAN: The intent of the ordinance as it relates to parking is to ensure adequate parking onsite for the shopping center. The proposed bank building would be located in an area is occupied by snow storage in the winter and temporary sales uses for a majority of the remainder of the year. The proposed would not meet the city code requirements for parking onsite. However, by formalizing currently unstripped parking east of the building, the proposal would result in an increased amount of parking.

3. PRACTICAL DIFFICULTIES:

a) REASONABLE and CHARACTER OF THE LOCALITY: The proposed bank would be located within an existing parking lot with sufficient parking. While the proposal would not meet the minimum
parking requirement required by code, the proposal would actually increase the amount of available parking onsite.

b) UNIQUE CIRCUMSTANCE: The proposed building would be located within an area of the parking lot that has previously occupied by temporary sales or snow storage. As such, the parking has not been accessible for many years.

Section 5. City Council Action.

5.01 The above-described final site and building plans, with variance, is hereby approved, subject to the following conditions. Approval is based on the findings outlined in section 4 of this resolution and 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:
   - Elevations (option 2), dated Feb. 19, 2019

2. Prior to issuance of a permit:
   a) Submit the following items associated with site work:
      1) Final site, grading, drainage, utility, and a stormwater pollution prevention plan (SWPPP) for staff review and approval. In addition the:
         a. Final landscaping plan must:
            1. Meet minimum landscaping requirements as outlined in city ordinance. However, at the sole discretion of natural resources staff, mitigation may be adjusted based on site conditions.
            2. Include information relating to species, sizes, quantities, location and landscaping values.
         b. Final site plan must include a sidewalk connection to the existing sidewalk on the west side of the property.
         c. Final stormwater management plan is required.
This plan must demonstrate conformance with the following criteria:

- **Rate:** limit peak runoff flow rates to that of existing conditions from the 2-, 10- and 100-year events at all points where stormwater leaves the site.

- **Volume:** provide for onsite retention of 1-inch of runoff from the entire site’s impervious surface.

- **Quality:** provide for runoff to be treated to at least 60-percent total phosphorus annual removal efficiency and 90-percent total suspended solid annual removal efficiency.

d. Final utility plan must confirm the alignment of the storm sewer within the site to CSAH 101. The proposed manhole location may need to be adjusted to avoid storm sewer crossing.

2) The following legal agreements for review and approval by the city attorney:

1. A stormwater maintenance agreement in the city approve format for review and approval of city staff.

2. A private hydrant agreement for new and existing hydrants.

3) A utility exhibit. This plan must clearly show property lines, buildings, sewer, water and stormwater facilities. This exhibit must clearly identify which lines are private and which are public.

4) Truck turning exhibit. This exhibit must use the template for the city’s largest fire truck and illustrate that the fire truck can maneuver through the site.

5) Evidence that the underground system will be able to support 83,000 pounds and 10,800 per square foot outrigger load.

6) A permit from the MDH for the proposed watermain or documentation that a permit is not required.

7) A construction management plan. The plan must be in a
city-approved format and must outlined minimum site management practices and penalties for non-compliance.

8) 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: (1) as-built drawings have been submitted; (2) a letter certifying that the underground facility has been completed according to the plans approved by the city has been submitted; (3) vegetated ground cover has been established; and (4) required landscaping or vegetation has survived one full growing season.

9) A cash escrow in the amount of $1000. 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.
- City staff may waive this escrow amount upon review of the final plans.

b) This resolution must be recorded at Hennepin County.

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.

d) 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.

3. Prior to submission of a building permit, hold a pre-permit submittal meeting with appropriate city staff.
4. Prior to the issuance of a building permit, submit the following items for staff review and approval:

a) A construction management plan. This plan must be in a city-approved format and outline minimum site management practices and penalties for non-compliance. If the builder is the same entity doing grading work on the site, the construction management plan submitted at the time of grading permit may fulfill this requirement.

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

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

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

If the builder is the same entity doing grading work on the site, the cash escrow submitted at the time of grading permit may fulfill this requirement.

5. The underground facilities must be inspected by a qualified third party during installation to ensure that the pressure requirements are adequately met.

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

7. Construction must begin by Dec. 31, 2020 unless the planning commission grants a time extension.

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 8, 2019.

Brad Wiersum, Mayor
Becky Koosman, City Clerk

**Action on this resolution:**

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on July 8, 2019.

Becky Koosman, City Clerk
Resolution No. 2019-

Resolution approving a conditional use permit for a drive-up window for Chase Bank at 4795 Co Rd 101

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

Section 1. Background.

1.01 Jeffrey Agnes, AIA, on behalf of A Architects has requested a conditional use permit for a drive-up window associated with Chase Bank at Westwind Plaza.

1.02 The property is located at 4795 Co Rd 101. It is legally described as:

Lot 1, Block 2, WILLOW WOOD, including adjacent Merchant Ave vacated also South 385 feet of the West 447 feet of the South half of the Northwest Quarter of the Northwest Quarter of Section 29, Township 117, Range 22, except road.

Property is located in Hennepin County, Minnesota.

1.03 On June 27, 2019, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. Standards.

2.01 City Code §300.21 Subd. 2 outlines the general standards that must be met for granting a conditional use permit. These standards are incorporated into this resolution by reference.

2.02 City Code §300.21 Subd.4(d) outlines the following specific conditional use permit standards for uses with drive-up windows. The use:

1. drive-up windows and stacking areas shall not be located adjacent to any residential parcel;

2. stacking areas shall provide for a minimum of six cars per aisle; and

3. public address system shall not be audible from any residential parcel.
Section 3. Findings.

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

3.02 The proposal meet all but one of the specific conditional use permit standards outlined in City Code 300.16 Subd.3(a).

1. The drive-up window and stacking areas would not be adjacent to any residential parcel. Rather, they would be located within an existing parking lot for a shopping center.

2. A minimum of six cars per stacking aisle would be provided as proposed.

3. As a condition of this resolution, any public address system associated with the drive-up window cannot be audible from any residential parcel.

Section 4. City Council Action.

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

1. This resolution must be recorded with Hennepin County.

2. Any public address system associated with the drive-up window must not be audible from any residential parcel.

3. The site must be developed and maintained in substantial compliance with plans and conditions as outlined in Resolution No. 2019-xx.

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 8, 2019.

_______________________________________
Brad Wiersum, Mayor

Attest:

_________________________________
Becky Koosman, City Clerk

Action on this resolution:

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on July 8, 2019.

__________________________
Becky Koosman, City Clerk
MINNETONKA PLANNING COMMISSION  
June 27, 2019

**Brief Description**  
Items concerning Chipotle at 10995 Red Circle Drive:

1) Amendment to an existing master development plan;
2) Site and building plan, with a parking variance; and
3) Conditional use permit for a restaurant with outdoor seating

**Recommendation**  
Recommend the city council approve the request

**Background**

On March 31, 1997, the city approved several items to allow the construction of three restaurants – Boston Market, Caribou Coffee and Einstein Bagels - on the properties at 10995 and 10999 Red Circle Drive. The following is intended to summarize those approvals:

- **Master development plan**: The master development plan indicated 7,140 square feet of restaurant space, 119 parking stalls, and a 400 square foot outdoor seating area for Einstein Bagels on the south side of the building.

- **Final site and building plans**: The plans indicated that the approved building would have a “lively appearance” with curved walls and varied rooflines. The façade materials and material colors were to be generally consistent with the Holiday Inn building to the east. The building was designed to not have a “rear” façade, as the building has a high level of visibility on all four sides.

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**Figure 1: Master development plan**

**Figure 2: West Elevation**
• **Conditional use permits for restaurants and an outdoor seating area:** Fast food restaurants and outdoor seating areas were approved as conditionally permitted uses.

• **Lot division:** The lot division subdivided the 1.6-acre property into two lots to allow for Boston Market to be located on its own property. The lot division was created such that each lot would have the appropriate amount of parking onsite (55 spaces for Boston Market and 64 spaces for Caribou/Einstein), but a shared parking agreement was included as a condition of approval.

• **Sign plan:** As approved, no sign could exceed 36 square feet and the letter height not exceed 26-inches. No sign for “Boston Market” was to be allowed on the east side of the building.

The southern portion of the building – Caribou and Einstein Bagels – was constructed in 1997. Both restaurants continued to operate in the building until recently when Caribou relocated and MyBurger moved into the space. While a building permit was issued for Boston Market in 1997, the restaurant was never constructed and the prepared restaurant “pad” has remained vacant.

**Proposal Summary**

Wilkus Architects is proposing to construct a Chipotle, with a drive-up window, in the space previously approved for Boston Market. 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.

• **Proposed site design.** The site has been generally prepared for the construction of a restaurant in this location for over 20 years. However, there are a few site changes now proposed to accommodate the new restaurant. The parking lot would be reconfigured slightly to accommodate the relocated trash enclosure, drive-up window access/stacking, and an outdoor seating area. The parking lot aisle on the east side of the building would be reduced from two-way to one-way to allow for the drive-up window and associated stacking.
A stormwater basin located on the hotel property (10985 Red Circle Drive) collects and treats stormwater for both the restaurant and hotel properties. Staff is working with the applicant to determine if the basin was sized appropriately to accommodate the new restaurant. If not, the applicant will work with staff to meet current stormwater requirements. Staff has identified opportunities on the subject property to meet these standards.

- **Proposed building.** The restaurant would be 2,440 square feet in size. The building façade would incorporate EIFS, metal and brick. The façade would complement colors and materials used throughout the existing restaurants. The interior would consist of an eating, ordering and kitchen areas.

**Primary Questions and Analysis**

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

- **Is the minor amendment to the existing master development plan appropriate?**
  
  Yes. The approved master development indicated a 3,290 square foot, fast food restaurant on the property. The proposed Chipotle restaurant would have a smaller footprint (2,440 square feet). A minor amendment is required to reflect the smaller restaurant footprint, a drive-up window, outdoor patio and the reduction in available parking. Staff finds the amendment request reasonable, as it would meet the intent of the original master development plan.

- **Are the proposed site and building plans reasonable?**
  
  Yes. While the building design appears “more modern” than the originally proposed Boston Market, the building design is attractive and complements the existing restaurants. In addition, the site plan generally aligns with the site plan originally approved in 1997.

- **Is the conditional use permit for the restaurant, with a drive-up window, and outdoor seating area appropriate?**
  
  Yes. The proposal would meet all of the conditional use permit standards for both the restaurant use and the outdoor seating area. The standards and staff’s findings out outlined in the “Supporting Information” section of this report.

- **Can the anticipated parking demands be accommodated?**
  
  Yes. City code parking requirements are based on the square footage of a building and the uses occupying that building. Since the proposed restaurant would “share” access...
and parking with the two existing restaurants, staff calculated parking for the entire site. By city code, 126 stalls would be required and 88 would be available.

Understanding that the parking demands of restaurant can vary depending on the specific type of a restaurant and its amenities, staff consulted data collected by the Institute of Transportation Engineers (ITE). This data suggests that the available parking onsite would be able to reasonably accommodate all three restaurants.

This table is intended to summarize parking calculations:

<table>
<thead>
<tr>
<th>City Code</th>
<th>ITE standard</th>
<th>Restaurant size</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Rate per square foot</td>
<td>Required</td>
</tr>
<tr>
<td>Chipotle</td>
<td>1/50</td>
<td>49 stalls</td>
</tr>
<tr>
<td>MyBurger</td>
<td></td>
<td>30 stalls</td>
</tr>
<tr>
<td>Einstein Bagels</td>
<td></td>
<td>47 stalls</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>126 stalls</td>
</tr>
<tr>
<td><strong>Proposed available onsite</strong></td>
<td></td>
<td>88 stalls</td>
</tr>
</tbody>
</table>

In addition, the restaurants would experience different peak parking demands due to their restaurant type and hours of operation:

<table>
<thead>
<tr>
<th>Restaurant</th>
<th>Projected peak parking demand *</th>
<th>Hours of operation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chipotle</td>
<td>Noon – 1 p.m.</td>
<td>10:30 a.m. – 10 p.m. **</td>
</tr>
<tr>
<td>MyBurger</td>
<td></td>
<td>11 a.m. – 10 p.m.</td>
</tr>
<tr>
<td>Einstein Bagels</td>
<td>morning/varies</td>
<td>6 a.m. – 2 p.m.</td>
</tr>
</tbody>
</table>

** based on the hours of operation of existing Chipotle restaurants in surrounding communities

* as projected by ITE

Staff finds the variance to reduce the amount of parking stall from 126 to 88 stalls, as:

- Based on ITE standards, the amount of available parking would accommodate the proposed restaurant as well as the existing restaurants.
- The restaurants would have complimentary peak parking demand times.
- The site shares access with the hotel to the east which has a peak parking demand that occurs during the evening and overnight hours.

**Staff Recommendation**

Recommend the city council adopt the following for Chipotle at 10995 Red Circle Drive:

1) Resolution approving an amendment to the master development plan and final site and building plans with a parking variance; and

2) Resolution approving a conditional use permit for a restaurant, with a drive-up window and an outdoor seating area.
Meeting of June 27, 2019
Subject: Chipotle, 10995 Red Circle Drive

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

Property
10995 Red Circle Drive

Applicant
Dusty Austin, on behalf of Wilkus Architects.

Surrounding Land Uses
Northerly: restaurants and retail, zoned PUD
Easterly: Hotel, zoned PUD
Southerly: Eden Prairie
Westerly: Outlot, zoned PUD

Planning
Guide Plan designation: Mixed Use Development
Zoning: PUD, Planned Unit Development

Conditional use Permit standards
The proposal would comply with the general conditional use permit standards outlined in City Code §300.21, Subd. 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;
d) the use is consistent with the city's water resources management plan;
e) the use is in compliance with the performance standards specified in section 300.28 of this ordinance; and
f) the use does not have an undue adverse impact on the public health, safety or welfare.

The proposal would comply with the specific standards outlined in City Code §300.21, Subd. 4(f) for fast food restaurants with or without drive-up facilities, except those located in community or regional shopping centers:

1) shall be located only on sites having direct access to minor arterial streets or service roads;

Finding: The property has frontage onto Shady Oak Road, which is classified as a minor arterial road. The site does have access via Red Circle Drive which would be a service road.
2) public address systems shall not be audible from any residential parcel;

Finding: Chipotle would not have an exterior public address system, as all orders would be made by phone or online. Additionally, the nearest residential property is 600 feet away and is separated by topography, vegetation and Shady Oak Road. Nonetheless this has been included as a condition of approval.

3) stacking for a minimum of six cars per aisle shall be provided within applicable parking lot setbacks;

Finding: The plans illustrates stacking for six vehicles with space to add additional stacking on the east side of the building.

4) shall not be permitted when traffic studies indicate significant impacts on the levels of service as defined by the institute of traffic engineers of adjacent streets and intersections; and

Finding: The city has long anticipated restaurant development of the site, actually approving such development over 20 years ago. The restaurant is not anticipated to negatively impact the level of service of the existing roadways.

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

Finding: The building would be located 255 feet from the nearest property guided in the comprehensive guide plan for residential use. This residential property, however, is an outlot with a significant amount of vegetation and topography. The nearest developed residential property would be more than 600 feet away from the building.

The outdoor seating area would comply with the standards outlined in City Code §300..21, Subd. 4(p):

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

Finding: The outdoor seating area would be fenced with an opening to the sidewalk. The proposal would not include a liquor license.
2) shall not be permitted within 200 feet of any residential parcel and shall be separated from residential parcels by the principal structure or other method of screening acceptable to the city;

**Finding:** The outdoor seating area would be roughly 225 feet from the nearest residential property. This property is an outlot and is not developed but would serve as screening for the developed residential property which is more than 600 feet away from the patio.

3) shall be located and designed so as not to interfere with pedestrian and vehicular circulation;

**Finding:** The outdoor seat area would not interfere with pedestrian and vehicular circulation.

4) shall not be located to obstruct parking spaces. Parking spaces may be removed for the use only if parking requirements specified in section 300.28 are met;

**Finding:** The outdoor seating area would be created by the conversion of one parking space. The proposal does include a variance to reduce the parking standards and staff is supportive of that request.

5) shall be located adjacent to an entrance to the principal use;

**Finding:** The outdoor patio is located between two entrances, but generally outside of the main entrance, on the west side of the building.

6) shall be equipped with refuse containers and periodically patrolled for litter pick-up;

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

7) shall not have speakers or audio equipment which is audible from adjacent parcels; and

**Finding:** The nearest developed residential parcel is roughly 600 feet away and further buffered by existing vegetation.

8) shall be located in compliance with building setback requirements.

**Finding:** As a PUD, the setbacks are governed by the master development plan. The applicant has requested an amendment to the existing master development plan to allow for the outdoor seating area.
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 the city’s planning, building, engineering, natural resources, fire and public works staff. Staff finds the proposal to be consistent with the city’s development guides.

2. Consistency with this ordinance;

   **Finding:** But for the parking variance, the site and building plans are consistent with minimum ordinance standards.

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

   **Finding:** The proposed restaurant would be located on a site previously prepared for the development of a restaurant. As such, minimal site work is required to accommodate the proposal.

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 incorporate colors and materials from the building to the south.

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 proposal would result in a redevelopment of a property that was approved to have a restaurant for over 20 years. Materials and colors would be appropriate and would include orderly routes for vehicular and pedestrian circulation.

5. 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:** As a new construction, the proposed building would meet minimum energy standards.

6. 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 negatively impact neighboring land uses. Rather, it is anticipated that the restaurant development would result in a physical and visual improvement of the center.

**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.

**Pyramid of Discretion**

This proposal:
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 resolutions approving the proposal.

2. Disagree with staff’s recommendation. In this case, a motion should be made recommending the council denying the requests. 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.

The city sent notices to 21 area property owners and received no comments.

Sept 16, 2019
Location Map

Project: Chipotle
Address: 10995 Red Cir Dr
Master Development Plan Letter

DATE: April 23, 2019

TO: Ashley Cauley
City of Minnetonka
Community Development Department
14600 Minnetonka Blvd.
Minnetonka, MN 55345
(952) 939-8298

PROJECT: Chipotle – “Shady Oak”

VIA: E-mail

FROM: Dusty Austin
Wilkus Architects, P.A.
15 Ninth Avenue North
Hopkins, MN 55343
(952) 843-5045

RE: WRITTEN STATEMENT

This letter is being written in regards to an existing vacant lot in the city, and its future as a Chipotle Mexican Grill, to include a “Chipotlane” and outdoor seating. This expansion lot has been vacant since the original building – Shady Oak Convenience Center - was constructed in 1997. Our goal will be to add a restaurant option to an area that is projected to grow by leaps and bounds in the coming years. Chipotle Mexican Grill will be a great addition to the existing options on the property/adjacent property and in the surrounding area which houses a mix of retail, restaurants, schools, churches and office buildings. The current property and parking lot neighbors a Holiday Inn Express Hotel and their private parking lot, and is located at the northeast corner of 62 and Shady Oak Road.

We are submitting this letter for approval on modifications to the existing Master Development Plan for the following:

Parking: The parking count will be reduced from parking calculation requirements. Parking counts are above and beyond what is required now since the lot is currently sitting vacant and undeveloped, however site restraints do not allow for a very large building if parking is not able to be reduced.

In regards to Architecture - The design shown is our elevations is consistent with neighboring buildings and reflects the Chipotle Mexican Grill trade dress.

Consistency with Approved Master Development Plan: The last proposed use for the vacant lot was a restaurant which we are staying in line with.
DATE: May 14, 2019

TO: Ashley Cauley
City of Minnetonka
Community Development Department
14600 Minnetonka Blvd.
Minnetonka, MN 55345
(952) 939-8298

PROJECT: Chipotle – “Shady Oak” Parking Variance and CUP

VIA: E-mail and Hard Copy

FROM: Dusty Austin
Wilkus Architects, P.A.
15 Ninth Avenue North
Hopkins, MN 55343
(952) 843-5045

On behalf of DJD Partners VII, LLC, Wilkus Architects is submitting this package for a parking Variance and Conditional Use Permit consideration for a vacant lot at the following address:

10995-10999 Red Circle Drive
PID 3611722330021

Should you require any additional information please do not hesitate to contact me directly.

Thank you in advance for your time and consideration on this matter.

Dusty Austin

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Cc: File
DJD Partners, VII, LLC
Chipotle Mexican Grill
DATE: May 15, 2019

TO: Ashley Cauley  
City of Minnetonka  
Community Development Department  
14600 Minnetonka Blvd.  
Minnetonka, MN 55345  
(952) 939-8298

PROJECT: Chipotle – “Shady Oak”

VIA: E-mail and Hard Copy

FROM: Dusty Austin  
Wilkus Architects, P.A.  
15 Ninth Avenue North  
Hopkins, MN 55343  
(952) 843-5045

RE: WRITTEN STATEMENT

This letter is being written in regards to an existing vacant lot in the city of Hopkins, and its future as a Chipotle Mexican Grill with a “Chipotlane” and outdoor seating. The expansion lot has been vacant since the original building – Shady Oak Convenience Center - was constructed in 1997. Our goal will be to add a restaurant option to an area that is projected to grow by leaps and bounds in the coming years. Chipotle Mexican Grill will be a gratifying addition to the existing options on this property and in the surrounding area - which houses a mix of retail, restaurants, schools, churches and office buildings. The current property and parking lot neighbors a Holiday Inn Express Hotel and their parking lot, and is located at the northeast corner of 62 and Shady Oak Road.

We are submitting this letter for approval on a conditional use permit to reduce the required parking counts, operate a Chipotlane and include outdoor seating. We are proposing 87 parking stalls for the existing restaurant spaces to serve the existing Einstein Bagels, burger joint and our proposed Chipotle Mexican Grill. Given that the area is designed for not only patrons driving to the area, but also in close proximity to existing as well as future housing projects, hotels, other retail and the upcoming expansion of public transit, options such as chipotle will only increase in need.

The area is currently zoned PUD and “The purpose of the planned unit development (PUD) zoning district is to provide a district that grants flexibility from certain subdivision and zoning regulations in order to realize public benefits that may not otherwise be achieved through non-PUD development.”

While reading through meeting minutes from prior Planning and Zoning meetings, the following statements were discovered of our neighbors. “The Opus business park was originally designed as a large mixed use development providing the opportunity for people to live, work and play.” as well as “There is more demand for retail or restaurant space”. Providing additional restaurant options will be of great benefit to the area and keep in line with the vision and arrangement of the PUD.
From the March 21 meeting minutes “Continue to support growth in the area, support retail and business growth” - this cannot happen in some areas, without providing conditional use permits, because of existing site restraints. The two existing restaurant facilities provide adequate parking for the site, however, this creates a hardship for any business attempting to build on the vacant lot as the future building (as the property owner shows in all their exhibits as well), would only allow for an approximate 720 +/- square foot building. The neighboring buildings on the property are another restaurant (11am – 10pm) and a coffee shop which has limited hours (6am – 2am). These limited hours decrease the need for parking after that time and increase availability for lunch and dinner hours for Chipotle and the neighboring burger joint.

In keeping with reducing parking needs and congestion, Chipotle Mexican Grill has come out with the “Chipotlane” which was designed to accommodate pick up orders that are called ahead, online and mobile pre-orders and create a quick and easy way to pick up your food. Chipotlane is not a typical drive thru or used for conventional drive thru purposes, no ordering, thus eliminating stacking and provides a seemingly efficient way to grab and go your order with no disruption to the parking lot. It also allows patrons to quickly pick up their order without having to park, cross parking lot traffic, hold up the line having to pay or come into the restaurant.

In regards to the Chipotle outdoor seating, we currently are allowing for a 450 square foot designated area to accommodate up to twenty patio seats which appears to be in line with neighboring businesses around the area.

Chipotle would meet the conditional use permit standards as outlined in city code 4(f)(1 - 4) and 4(p)(1 - 8). Chipotle would be allowed to be a Fast food restaurant with a drive-up facilities in this PUD per City Code 4(f)(1 - 4) and Chipotle is allowed to have an outdoor eating area per City Code 4(p)(1 - 8).

City Ordinance 4(f)(1 - 4)

f) Fast food restaurants with or without drive-up facilities, except those located in community or regional shopping centers:
1) shall be located only on sites having direct access to minor arterial streets or service roads;
2) public address systems shall not be audible from any residential parcel;
3) stacking for a minimum of six cars per aisle shall be provided within applicable parking lot setbacks;
4) shall not be permitted when traffic studies indicate significant impacts on the levels of service as defined by the institute of traffic engineers of adjacent streets and intersections; and
5) building shall be set back at least 100 feet and screened from any adjacent property designated in the comprehensive plan for residential use.

City Ordinance 4(p)(1 - 8)
p) Accessory sidewalk cafes and outdoor eating areas:
1) shall be located in a controlled or cordoned area with at least one opening to an acceptable pedestrian walk. When a liquor license is involved, an enclosure is required and the enclosure shall not be interrupted; access shall be only through the principal building;
2) shall not be permitted within 200 feet of any residential parcel and shall be separated from residential parcels by the principal structure or other method of screening acceptable to the city;
3) shall be located and designed so as not to interfere with pedestrian and vehicular circulation;
4) shall not be located to obstruct parking spaces. Parking spaces may be removed for the use only if parking requirements specified in section 300.28 are met;
5) shall be located adjacent to an entrance to the principal use;
6) shall be equipped with refuse containers and periodically patrolled for litter pick-up;
7) shall not have speakers or audio equipment which is audible from adjacent parcels; and
8) shall be located in compliance with building setback requirements.
DATE: May 15, 2019

TO: Ashley Cauley
City of Minnetonka
Community Development Department
14600 Minnetonka Blvd.
Minnetonka, MN 55345
(952) 939-8298

PROJECT: Chipotle – “Shady Oak”

VIA: E-mail

FROM: Dusty Austin
Wilkus Architects, P.A.
15 Ninth Avenue North
Hopkins, MN 55343
(952) 843-5045

RE: WRITTEN STATEMENT

This letter is being written in regards to an existing vacant lot in the city, and its future as a Chipotle Mexican Grill with a “Chipotlane” and outdoor seating. The expansion lot has been vacant since the original building – Shady Oak Convenience Center - was constructed in 1997. Our goal will be to build a ground up restaurant and bring a new option to an area that is projected to grow by leaps and bounds in the coming years. Chipotle Mexican Grill will be a great addition to the existing options on site and in the surrounding area which houses a mix of retail, restaurants, schools, churches and office buildings. The current property and parking lot neighbors a Holiday Inn Express Hotel and their parking lot, and is located at the northeast corner of 62 and Shady Oak Road.

We are submitting this letter for approval on a variance to reduce the required parking counts which are currently at 105 in total including 5 handicap parking spaces, to 87 parking spaces 5 handicap parking spaces in order to construct a properly flowing Chipotlane pick up. The site does not provide ideal expansion for a new tenant as the parking would certainly need to be decreased in some capacity to allow even the smallest of buildings.

Per Section 300.28, Subd. 12 of the city code, fast food restaurants require one space per 60 square feet of gross floor area (no liquor service). The ratio changes to 1 to 50 if liquor is served. Chipotle would not be serving liquor at this location so the gross floor area of 2,440 square feet would require Chipotle to have 40.6 parking spaces. MyBurger gross floor area of 1,650 square feet would require them to have 27.5 parking spaces. Einstein Bagels gross floor area of 2,500 square feet would require them to have 41.6 parking spaces. The total amount of parking spaces that is required by code for this area would be 109 parking spaces. MyBurger currently operates from (11am – 10pm) and Einstein Bagels which has limited hours from (6am – 2am). These limited hours decrease the need for parking after that time and increase availability for lunch and dinner hours for Chipotle and MyBurger.
In keeping with reducing parking needs and congestion, Chipotle Mexican Grill has come out with the “Chipotlane” which was designed to accommodate pick up orders that are called ahead, online and mobile pre-orders and create a quick and easy way to pick up your food. Chipotlane is not a typical drive thru or used for conventional drive thru purposes, no ordering, thus eliminating stacking and provides a seemingly efficient way to grab and go your order with no disruption to the parking lot and allows patrons to quickly pick up their order without having to park, cross parking lot traffic or come into the restaurant.

In addition to Chipotle’s efforts to reduce parking needs, there are ample trails, businesses within walking distance and bike paths that bring in pedestrian traffic, as well as the concurrent planning of the metro transit “Green Line”.

The request would meet the variance standard as outlined in city code.
LEASE EXHIBITS FOR:
"SHADY OAK & 62"
10995 Red Circle Drive
Minnetonka, MN 55343
STORE NO.: 3495
19 April, 2019

WEST ELEVATION

*NOTE: DRAWING IS NOT TO SCALE

PAINT GRIP MBCI METAL PANELS;
PAINTED TO COLOR MATCH ROASTED RED SIGN PANEL

EIFS SYSTEM, COLOR MATCH ADJACENT BUILDING EIFS

BRICK SYSTEM, COLOR MATCH ADJACENT BUILDING BRICK

INTERNALLY ILLUMINATED EXTERIOR SIGNAGE (D3 - 56 SF) (BY CHIPOTLE)

PREFINISHED BRAKE METAL FINISH TO MATCH STOREFRONT SYSTEM

CHARCOAL ALUMINUM STOREFRONT SYSTEM

6'-0" WIDE STILE DOORS (BY LANDLORD)
LEASE EXHIBITS FOR:
"SHADY OAK & 62"
10995 Red Circle Drive
Minnetonka, MN 55343
STORE NO.: 3495
19 April, 2019

NORTH ELEVATION

*NOTE: DRAWING IS NOT TO SCALE

- Painted Grip MBCI Metal Panels; Painted to Color Match Roasted Red Sign Panel
- EIFS System, Color Match Adjacent Building EIFS
- Internally Illuminated Exterior Signage (D3 - 56 SF) (By Chipotle)
- Exterior Charcoal Mullions
- Charcoal Aluminum Storefront System
- EIFS System Behind Mullions, Color Match to PPG 'Autumn Ridge'
- 6'-0" Wide Stile Doors (By Landlord)
- EIFS System, Color Match to PPG 'Knights Armor'
- Brick System, Color Match Adjacent Building Brick
LEASE EXHIBITS FOR:
"SHADY OAK & 62"
10995 Red Circle Drive
Minnetonka, MN 55343
STORE NO.: 3495
19 April, 2019

*NOTE: DRAWING IS NOT TO SCALE

EAST ELEVATION

EIFS SYSTEM, COLOR MATCH ADJACENT BUILDING EIFS

INTERNALLY ILLUMINATED EXTERIOR SIGNAGE (D3 - 56 SF) (BY CHIPOTLE)

PAINT GRIP MBCI METAL PANELS; PAINTED TO COLOR MATCH ROASTED RED SIGN PANEL

CHARCOAL ALUMINUM STOREFRONT SYSTEM

3'-6" REAR SERVICE DOOR (BY LANDLORD)

EIFS SYSTEM, COLOR MATCH TO PPG 'KNIGHTS ARMOR'

BRICK SYSTEM, COLOR MATCH ADJACENT BUILDING BRICK
Resolution No. 2019-

Resolution amending the master development plan and approving site and building plans with a parking variance for Chipotle at 10995 Red Circle Drive

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

Section 1. Background.

1.01 On March 31, 1997, the city approved the master development plan and site and building plans for three restaurants. As approved, Boston Market at 10995 Red Circle Drive and Caribou Coffee and Einstein Bagels at 10999 Red Circle Drive. A building permit was constructed for Boston Market but it was never constructed.

1.02 The property is located at 10995 Red Circle Drive. It is legally described as:

Lot 1, Block 1, SHARPHOL ADDITION, according to the recorded plat thereof, Hennepin County, Minnesota, lying Northerly of the following described line:

Commencing at the northwesterly corner of said Lot 1: thence South 13 degrees 09 minutes 43 seconds East, assumed bearing along the westerly line of said Lot 1, a distance of 157.17 feet to the point of the beginning of the line to be described; thence North 76 degrees 50 minutes 17 seconds East, a distance of 83.00 feet; thence North 13 degrees 09 minutes 43 seconds West, a distance of 12.76 feet; thence North 86 degrees 08 minutes 33 seconds East, a distance of 91.85 feet; thence South 42 degrees 42 minutes 37 seconds East, a distance of 28.03 feet; thence North 88 degrees 17 minutes 30 seconds East, a distance of 30.00 feet to the Easterly line of said Lot 1 and said line there terminating.

Hennepin County, Minnesota
Abstract Property

1.03 Dusty Austin, on behalf of Wilkus Architects, is requesting an amendment to the existing master development plan, approval of the final site and building plans, with a parking variance to allow the construction of a restaurant.

1.04 City Code §300.28, Subd. 12 requires 126 parking stalls. The applicant is proposing 88 stalls.
1.04 Minnesota Statute §462.357 Subd. 6, and City Code §300.07 authorizes the Planning Commission to grant variances.

1.06 On June 27, 2019 the planning commission held a public hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the request.

Section 2. Standards.

2.01 City Code §300.22, Subd. 9, requires amendments to master development plans.

2.02 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.

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 proposed amendment to the existing master development plan is reasonable as:

1. The development of the site is generally consistent with the previously approved plan, which indicated that the site would be developed with a restaurant.

2. The amendment would to reflect the smaller restaurant footprint, a drive-up window, outdoor patio and the reduction in available parking.

3.02 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 the city’s planning, building, engineering, natural resources, fire and public works staff. The proposal would be consistent with the city’s development guides.

2. But for the parking variance, the site and building plans are consistent with minimum ordinance standards.

3. The proposed restaurant would be located on a site previously prepared for the development of a restaurant. As such, minimal site work would be required to accommodate the proposal.
4. The proposed restaurant would incorporate colors and materials from the building to the south.

5. The proposal would result in a redevelopment of a property that was approved to have a restaurant for over 20 years. Materials and colors would be appropriate and would include orderly routes for vehicular and pedestrian circulation.

6. The proposal would not negatively impact neighboring land uses. Rather, it is anticipated that the restaurant development would result in a physical and visual improvement of the center.

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

1. Purpose and Intent: The intent of the ordinance as it relates to parking requirements is to ensure that there is adequate parking available onsite to accommodate the anticipated parking demand. Based on data collected by the Institute of Transportation Engineers (ITE) the anticipated peak parking demands can be accommodated on site. Additional shared parking is provided on the hotel property to the east.

2. Consistent with Comprehensive Plan: The site is located just south of the South Shady Oak/Bren Rd neighborhood village center. The comprehensive guide plan calls for “connections to land uses with efficient internal traffic circulation”. The proposal would be consistent with the goals.

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

   a) Reasonableness: The requested parking variance is reasonable. By ITE standards, the anticipated parking demand could be accommodated on site.

   b) Unique Circumstance and Character of Locality: The development of a restaurant has been anticipated on the property for over 20 years. Based on ITE standards, the parking demand could be accommodated on site, as the peak parking demand times of the restaurants are varied. Additional parking, with direct/shared access, is available on the hotel property to the east.

Section 4. City Council Action.

4.01 The above-described final site and building plans, with a parking variance, are hereby approved based on the findings outlined in section 3 of this resolution. Approval is subject to the following conditions:
1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, excepted as modified by the conditions below:

- Site plan dated May 3, 2019
- Grading plan dated May 3, 2019
- Floor plan dated May 15, 2019
- Elevations date stamped June 18, 2019

2. Prior to the submission of a building, a pre-permit submittal meeting with appropriate city staff may be required.

3. Prior to issuance of a building permit:

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

   b) Submit the following:

   1. A final materials board for review and approval by city staff.

   2. 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: (1) as-built drawings have been submitted; (2) a letter certifying that the underground facility has been completed according to the plans approved by the city has been submitted; (3) vegetated ground cover has been established; and (4) required landscaping or vegetation has survived one full growing season.

   3. Final stormwater management plan is required. If the proposed activity will disturb less than 50-percent of the existing site’s impervious surface, stormwater management is only required for the disrobed and additional impervious surface. If the proposed activity will disturb more than 50-percent of the site, stormwater management must treat for the entire site’s impervious surface. The plan must demonstrate conformance with the following criteria:

   - Rate: limit peak runoff flow rates to that of the existing 2-, 10- and 100-year events at all points where stormwater leaves the site.
• Volume: provide for onsite retention of 1-inch of runoff from the site’s impervious surface.

• Quality: provide for runoff to be treated to at least 60-percent total phosphorus annual removal efficiency and 90-percent total suspended solid annual removal efficiency.

4. If stormwater facility is underground:

• provide evidence that the underground system will be able to support 83,000 pounds and 10,800 per square foot outrigger load; and

• the underground facility must be inspected by a qualified third party during installation to ensure that the pressure requirements are adequately met.

5. A stormwater maintenance agreement in a city approved format for review and approval by city staff.

6. A landscape plan. The plan must:

• Meet minimum landscape and mitigation requirements as outlined in ordinance. Note, only small shrubs, perennials, and grasses may be located in public easements.

• Include information relating to species, sizes, quantities, and landscape values.

7. Submit a private hydrant maintenance agreement in a city approved format for review and approval by city staff for existing and proposed hydrants.


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

d) Install a temporary rock driveway, erosion control, tree and wetland protection fencing and any other measured as identified as SWPPP for staff inspection. These items must be maintained throughout the course of construction.
4. Permits may be required from other outside agencies including, Hennepin County, the Nine Mile Creek Watershed District, and the MPCA. It is the applicant or property owner’s responsibility to obtain any necessary permits.

5. The applicant or property owner should coordinate site work with private utilities.

6. If the city determines that the restaurant has inadequate parking, the property owner or the restaurant owner must work with city staff to implement a solution.

7. Construction must begin by December 31, 2020, unless the city has issued a building permit for the project or a time extension has been approved.

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 8, 2019.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

**Action on this resolution:**

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on July 8, 2019

Becky Koosman, City Clerk
Resolution No. 2019-

Resolution approving a conditional use permit for a restaurant, with a drive-up window and an outdoor seating area at 10995 Red Circle Drive

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

Section 1. Background.

1.01 Dusty Austin, on behalf of Wilkus Architects, is proposing to construct a restaurant, with a drive-up window and an outdoor seating area.

1.02 The property is located at 10995 Red Circle Drive. It is legally described as:

Lot 1, Block 1, SHARPHOL ADDITION, according to the recorded plat thereof, Hennepin County, Minnesota, lying Northerly of the following described line:

Commencing at the northwesterly corner of said Lot 1: thence South 13 degrees 09 minutes 43 seconds East, assumed bearing along the westerly line of said Lot 1, a distance of 157.17 feet to the point of the beginning of the line to be described; thence North 76 degrees 50 minutes 17 seconds East, a distance of 83.00 feet; thence North 13 degrees 09 minutes 43 seconds West, a distance of 12.76 feet; thence North 86 degrees 08 minutes 33 seconds East, a distance of 91.85 feet; thence South 42 degrees 42 minutes 37 seconds East, a distance of 28.03 feet; thence North 88 degrees 17 minutes 30 seconds East, a distance of 30.00 feet to the Easterly line of said Lot 1 and said line there terminating.

Hennepin County, Minnesota
Abstract Property

1.03 On June 27, 2019, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. Standards.

2.01 City Code §300.21 Subd.2 outlines the general standards that must be met for granting a conditional use permit. These standards are incorporated into this resolution by reference.
2.02 City Code §300.21 Subd.4(f) outlines the following specific standards that must be met for granting a conditional use permit for fast food restaurant with drive-up facility:

1. shall be located only on sites having direct access to minor arterial streets or service roads;

2. public address systems shall not be audible from any residential parcel;

3. stacking for a minimum of six cars per aisle shall be provided within applicable parking lot setbacks;

4. stacking for a minimum of six cars per aisle shall be provided within applicable parking lot setbacks;

5. building shall be located at least 100 feet and screened from any adjacent property designated in the comprehensive guide plan for residential use.

2.03 City Code §300.21, Subd.4(p): outlines the following specific standards that must be met for granting a conditional use permit for outdoor seating areas:

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

2. shall not be permitted within 200 feet of any residential parcel and shall be separated from residential parcels by the principal structure or other method of screening acceptable to the city;

3. shall be located and designed so as not to interfere with pedestrian and vehicular circulation;

4. shall be located to obstruct parking spaces. Parking spaces may be removed only if parking requirements specified in section 300.28 are met;

5. shall be adjacent to the entrance to the principal use;

6. shall be equipped with refuse containers and periodically patrolled for litter pickup.

7. shall not have speakers or audio equipment which is audible from adjacent parcels; and

8. shall be located in compliance with building setback requirements.

Section 3. Findings.

3.01 The proposal meets the general conditional use permit standards outlined in City
The proposal would meet all of the specific conditional use permit standards outlined in City Code 300.21 Subd.4(f) for fast food restaurants with a drive-up facility:

1. The property has frontage onto Shady Oak Road, which is classified as a minor arterial road. The site does have access via Red Circle Drive which would be a service road.

2. Chipotle would not have an exterior address system, as all orders would be made by phone or online. Additionally, the nearest residential property is 600 feet away and is separated by topography, vegetation and Shady Oak Rd.

3. The plans include stacking for six vehicles with space to add additional stacking on the east side of the building.

4. The city has long anticipated restaurant development of the site, actually approving such development over 20 years ago. The restaurant is not anticipated to negatively impact the level of service of the existing roadways.

5. The building would be located 255 feet from the nearest property guided in the comprehensive guide plan for residential use. This residential property, however, is an outlot with a significant amount of vegetation and topography. The nearest developed residential property would be more than 600 feet away from the building.

The proposal would meet all of the conditional use permit standards outlined in City Code §300.21, subd. 4(p) for outdoor seating areas:

1. The outdoor seating area would be fenced with an opening to the sidewalk. The proposal would not include a liquor license.

2. The outdoor seating area would be roughly 225 feet from the nearest residential property. This property is an outlot and is not developed but would serve as screening for the developed residential property which is more than 600 feet away from the patio.

3. The outdoor seat area would not interfere with pedestrian and vehicular circulation.

4. The outdoor seating area would be created by the conversion of one parking space. The proposal does include a variance to reduce the parking standards. That variance is support by Resolution 2019-xx.

5. The outdoor patio would be located between two entrances, but generally outside of the main entrance, on the west side of the building.
6. As a condition of this resolution, the outdoor area must be equipped with refuse containers and regularly patrolled for litter pick-up.

7. The nearest developed residential parcel is roughly 600 feet away additionally buffered by existing vegetation.

8. As a PUD, the setbacks are regulated by the master development plan. The applicant has requested an amendment to the existing master development plan to allow for the outdoor seating area.

Section 4. City Council Action.

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

1. This resolution must be recorded with Hennepin County.

2. Subject to staff approval, the property must be developed as per Resolution No. 2019-XXX.

3. The outdoor seating area must be equipped with refuse containers and regularly patrolled for litter pick-up.

4. Outdoor audio equipment that is audible from adjacent property is not allowed.

5. The restaurant and outdoor seating area must conform to all aspects of City Code Chapter 8, Public Health and Public Nuisance ordinances.

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

7. Any change to the approved use that results in an significant increase in traffic, or a significant change in character would result in a revised conditional use permit.

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 8, 2019.

Brad Wiersum, Mayor
Attest:

Becky Koosman, City Clerk
**Action on this resolution:**

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

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on July 8, 2019.

__________________________________
Becky Koosman, City Clerk
MINNETONKA PLANNING COMMISSION
June 27, 2019

Brief Description
Ordinance amending various sections of city code related to pollinators

Recommendation
Recommend the city council adopt the ordinance

Background
Community resiliency has become an important city planning topic in recent years. Generally defined, a resilient community is one that can effectively prepare for, recover from, and adapt to the adverse impacts of both natural and human-created events. An important component of community resiliency is the protection, maintenance and restoration of natural habitat. Minnetonka has historically used a variety of strategies to promote protection, maintenance, and restoration, including:

| Education                                      | Articles in the Minnetonka Memo, e-newsletters, social media, city website, and employee intranet |
|                                               | Presentations to Master Water Stewards, gardening clubs, homeowner associations, schools and local businesses |
| Stewardship Activities                        | Habitat restoration in city parks and on city property                                                |
|                                               | Pollinator Field Day                                                                                   |
|                                               | Native plant and tree sales                                                                             |
|                                               | Mayors’ Monarch Pledge                                                                                  |
|                                               | Volunteer habitat restoration activities                                                               |
|                                               | Wetland Health Evaluation Program                                                                      |
|                                               | Collaboration on programs led by partnering organizations                                              |
| Regulation                                    | Wetland, Floodplain, Shoreland, Steep Slope, and Tree Protection Ordinances                              |
|                                               | Erosion Control Standards                                                                               |

Mayors Monarch Pledge

In 2017, the city began participating in the National Wildlife Federation's Mayors' Monarch Pledge. The city has committed to a wide range of actions including habitat restoration and protection, multifaceted public outreach efforts and events, partnership with other agencies, and long-range planning for sustainable practices on city properties. The pledge itself includes 24 possible action steps. To date, the city has accomplished 21 of the 24 steps. Remaining action steps include:
• Increase the percentage of native plants, shrubs, and trees that must be used in city landscaping ordinances and encourage the use of milkweed where appropriate.

• Change landscape ordinances to support integrated pest management and reduce the use of pesticides and insecticides.

• Adopt pesticide practices that are not harmful to pollinators.

Proposed Ordinance Amendments

Staff is proposing amendments to several sections of the zoning ordinance to support two of the three remaining action steps. The intent of the amendments is to increase pollinator habitat in the community. Pollinator habitat can include wildflowers and certain shrubs, trees, aquatic plants, buffer plants, and grasses. Increasing native habitat – which is also used by other animal species – has the additional benefits of capturing runoff, reducing erosion, improving air quality, and enhancing climate resilience.

The primary ordinance changes proposed are:

1) **Purpose:** The purpose of the zoning ordinance is to promote the public health, safety, and welfare of the community. The first section of the ordinance outlines the variety of ways this is accomplished, including conserving the environmental assets of the city. As proposed, “habitat” would be added to the existing list of assets:

   **conserving the natural beauty and environmental assets of the city including areas of steep slopes, mature trees, and wetlands, and habitat:**

2) **Definitions:** As proposed, five new definitions would be added to the definition section of the zoning ordinance:

   **Habitat** – the place(s) where an organism lives, including the resources and conditions required for its survival.

   **Landscape plan** – a plan that details the location, size and species of existing and proposed plantings on a property or development site. The plan may include other features such as fences, retaining walls, or berms.

   **Native cultivar** - a variation of a native plant, deliberately selected, cross-bred or hybridized for desirable traits.

   **Native plant** – a plant that was found naturally in an area prior to human introduction, usually defined as pre-European settlement.

   **Pollinator** – an animal that transfers pollen between flowering plants, including but not limited to hummingbirds, butterflies and moths, bees, and other insects.

3) **Landscaping Requirements**

   The zoning ordinance requires site and building plan (SBP) review and approval prior to construction of any building in the city, with the exception of single-family homes. SBP review/approval may also be necessary for modifications to existing multi-family
residential, commercial, office, or industrial buildings. Landscaping plans – meeting minimum monetary values and specific planting requirements – are a component of any SBP approval. Staff proposes amending the existing planting requirements to include the following:

At least 25 percent of proposed new plantings must be species beneficial to pollinators derived from the city's native or native cultivar plant list, unless approved by the city. The city may allow credit for existing, native and/or significant plant materials beneficial to pollinators that are preserved as part of the landscape plan.²

This new standard would not require developers/builders to “do” or “spend” more on landscaping. Rather, a portion of the landscaping already required would simply need to be pollinator-focused. There are several existing resources on eminnetonka.com to assist developers/builders in incorporating plant materials beneficial to pollinators: Planting for Pollinators, Attracting Birds, Butterflies, and Wildlife. Staff will also draft guidance documents and resources that can be provided during individual meetings.

- **Organization**

  Staff proposes reordering and rewording existing landscape plan requirements for clarity.

**Staff Comment**

The proposed ordinance amendments – in particular the requirement that 25 percent of the plantings at new development be species beneficial to pollinators – could be considered innovative and forward-thinking. Staff knows of no other communities in Minnesota, including the 13 other Mayors’ Monarch Pledge cities in the state, which have adopted specific, pollinator-focused landscaping requirements. However, the proposed amendments could also be considered a simple continuation of Minnetonka’s historical efforts to protect, maintain and restore its natural resources assets.

**Staff Recommendation**

Recommend the city council adopt the ordinance amending various sections of city code related to pollinators.

Originators: Christine Petersen, Natural Resources Program and Outreach Coordinator
Aaron Schwartz, Natural Resources Specialist
Susan Thomas, AICP, Assistant City Planner
Leslie Yetka, Natural Resources Manager

Through: Loren Gordon, AICP, City Planner

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¹ As is staff’s current practice, decisions on credit for existing species would be based on specific and unique site conditions. Similarly, there may be specific and unique sites where pollinator-beneficial species may not be appropriate.
Supporting Information

Introduction

The ordinance amendments were introduced to the city council on May 20, 2019. Councilmembers unanimously supported the amendments.

Pyramid of Discretion

Voting Requirement

The planning commission will make a recommendation to the city council. Both the commission recommendation and council approval requires only a majority vote.

Deadline for Action

N/A
Ordinance No. 2019-

An ordinance amending Minnetonka City Code Sections 300.01, 300.02, 300.25, and 300.27 as they relate to pollinators

The City Of Minnetonka Ordains:

Section 1. Section 300.01 Subd.2 of the Minnetonka City Code, regarding the zoning ordinance, is amended to read as follows:

This ordinance is enacted to promote the public health, safety and general welfare of the city of Minnetonka through the following:

  g) conserving the natural beauty and environmental assets of the city including areas of steep slopes, mature trees, and wetlands, and habitat;

Section 2. Section 300.02 of the Minnetonka City Code, regarding definitions, is amended to include the following definitions in appropriate alphabetic order and the succeeding definitions are renumbered consecutively:

  Habitat – the place(s) where an organism lives, including the resources and conditions required for its survival.

  Landscape plan – a plan that details the location, size and species of existing and proposed plantings on a property or development site. The plan may include other features such as fences, retaining walls, or berms.

  Native cultivar - a variation of a native plant, deliberately selected, cross-bred or hybridized for desirable traits.

  Native plant – a plant that was found naturally in an area prior to human introduction, usually defined as pre-European settlement.

  Pollinator – an animal that transfers pollen between flowering plants, including but not limited to hummingbirds, butterflies and moths, bees, and other insects.

Section 3. Section 300.25 Subd.11 of the Minnetonka Code, regarding shoreland alteration, is amended to read as follows:

The struck language is deleted; the underlined language is inserted.
The removal of natural vegetation within shore and bluff impact zones must be restricted to prevent erosion into public waters, and to preserve soil nutrients in the soil, habitat, and to preserve shoreland aesthetics.

Section 4. Section 300.27 Subd.14 of the Minnetonka City Code, regarding landscape plan requirements, is amended to read as follows:

Landscape plans shall be prepared by a landscape architect or other qualified person acceptable to the city planner, drawn to a scale of not less than one inch equals 50 feet and shall show the following:

a) **Property:**

   1) boundary lot lines of the property with accurate dimensions;

b) 2) locations of existing and proposed buildings, parking lots, roads and other improvements;

   3) existing and proposed easements;

c) 4) proposed grading plan with two foot contour intervals;

d) 5) location, approximate size and common name of existing trees and shrubs;

e) 6) a planting schedule containing symbols, quantities, common and botanical names, size of plant materials, root condition and special planting instructions;

f) 7) planting details illustrating proposed locations of all new plant material;

g) 8) locations and details of other landscape features including berms, fences and planter boxes;

h) 9) details of restoration of disturbed areas including areas to be sodded or seeded;

i) 10) location and details of irrigation systems; and

j) 11) details and cross sections of all required screening.

b) **Existing Vegetation:**

   1) All trees that will be removed, relocated, or preserved;

   2) Any shrubs or planting beds that will be removed or modified;

   3) Tree protection measures for trees to be saved;

   4) Any other vegetation identified as significant by city staff.

c) **New Plantings:**
1) A planting plan with the location of each new plant with the species and size labeled;

2) A plant schedule with symbols, quantities, common and botanical names, size, container/root type, and any details or remarks summarizing the plant material to be used;

3) Planting details for planting trees and shrubs.

4) Areas to be seeded or sodded, or otherwise established with groundcover. Note, gravel or landscape rock does not, by itself, constitute landscaping.

d) Other landscape elements:

1) Fences, retaining walls, patios, and other similar features, and associated construction details.

2) Berms and associated grading details.

3) Lighting and associated details.

4) Irrigation systems and associated details.

Section 5. Section 300.27 Subd.15 of the Minnetonka City Code, regarding minimum landscaping requirements, is amended to read as follows:

a) A reasonable attempt must be made to preserve as much existing vegetation as is practicable and to incorporate it into the landscape plan.

ab) All open areas of a lot which are not used or improved for required parking areas, drives or storage shall must be landscaped with a combination of overstory trees, understory trees, shrubs, flowers and ground cover materials. The plan for landscaping shall must include ground cover, bushes, shrubbery, trees, sculpture, foundations, decorative walks or other similar site design features or materials in a quantity having a minimum value in conformance with the following table:

<table>
<thead>
<tr>
<th>Project Value</th>
<th>Minimum Landscape Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below $1,000,000</td>
<td>2% of project value</td>
</tr>
<tr>
<td>$1,000,001-$2,000,000</td>
<td>$20,000 + 1% of project value</td>
</tr>
<tr>
<td>$2,000,001-$3,000,000</td>
<td>$30,000 + 0.75% of project value</td>
</tr>
<tr>
<td>$3,000,001-$4,000,000</td>
<td>$37,500 + 0.25% of project value</td>
</tr>
<tr>
<td>Over $4,000,000</td>
<td>1%</td>
</tr>
</tbody>
</table>

-In instances where healthy native or significant plant materials of acceptable species exist on a site prior to its development, the application of the standards in this subdivision may be adjusted by the city to allow credit for such material, provided that such adjustment is consistent with the intent of this ordinance. -The city may permit the

The stricken language is deleted; the underlined language is inserted.
seeding of areas reserved for future expansion of the development if consistent with the intent of this ordinance.

b) A reasonable attempt shall be made to preserve as many existing trees as is practicable and to incorporate them into the site plan.

c) At least 25 percent of proposed new plantings must be species beneficial to pollinators derived from the city’s native or native cultivar plant list, unless approved by the city. The city may allow credit for existing, native and/or significant plant materials beneficial to pollinators that are preserved as part of the landscape plan.

d) Not more than 25 percent of the required number of trees may be composed of any one species unless approved by the city. The following trees are not allowed as new plantings:

1) a species of the genus Ulmus (elm), except those elms bred to be immune to Dutch elm disease;

2) box-elder;

3) ash;

4) female ginkgo; or

5) Colorado spruces.

c) All new landscape trees and shrubs must meet the American Standard for Nursery Stock and American National Standard relating to planting guidelines, quality of stock and appropriate sizing of the root ball. Landscape trees must be balled and burlapped or moved from the growing site by tree spade. Deciduous trees will be not less than one and one quarter inches but not more than three inches caliper for balled and burlapped trees, and not less than three inches but not more than six inches caliper for spade-moved trees. Coniferous trees will not be less than six feet in height but no more than eight feet for balled and burlapped trees, and not less than eight feet in height but not more than fourteen feet for spade-moved coniferous trees.

The city may allow larger balled and burlapped or spade moved trees if these trees are accompanied with a three year guarantee.

d) All site areas not covered by buildings, sidewalks, parking lots, driveways, patios or similar hard surface materials shall be covered with sod or an equivalent ground cover approved by the city. This requirement shall not apply to site areas retained in a natural state.

e) In order to provide for adequate maintenance of landscaped areas, an underground sprinkler irrigation system shall be provided as part of each new development, except one and two-family dwellings and additions to existing structures which do not at least equal the floor area of the existing structure. The irrigation system shall be provided for must include a properly installed and operating
rain sensor or other smart irrigation controller, and must be installed in all landscaped areas except areas to be preserved in a natural state.

f) Not more than 25 percent of the required number of trees shall be composed of one species unless approved by the city. No required tree shall be any of the following:

1) a species of the genus ulmus (elm), except those elms bred to be immune to dutch elm disease;

2) box elder;

3) ash;

4) female ginko; or

5) Colorado spruce.

Section 6. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 7. This ordinance is effective the day after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on ________, 2019.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this Ordinance:

Date of introduction: May 20, 2019
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 ________________, 2019.

Becky Koosman, City Clerk

The stricken language is deleted; the underlined language is inserted.