

Addenda
Minnetonka City Council Meeting
Meeting of January 29, 2024

ITEM 6B – Strategic Profile quarter four and end of year report

Item is tabled until the next City Council Meeting, February 12, 2024.

ITEM 14A – Items concerning Walser Kia at 15700 and 15724 Wayzata Blvd

The attached comments were received after publication of the agenda packet.



CITY OF MINNETONKA

14600 Minnetonka Blvd. | Minnetonka, MN 55345 | 952-939-8200 | minnetonkamn.gov

TO: City Council
FROM: Loren Gordon, AICP
DATE: Jan. 29, 2024
SUBJECT: Change Memo for Jan. 29, 2024, City Council Meeting

Item 14A: Items concerning Walser Kia at 15700 and 15724 Wayzata Blvd

The attached comments were received after publication of the agenda packet.

Susan Thomas

From: Public Comment
Subject: FW: Walser Kia Proposed Development - Council Meeting January 29

From: Carol Kreter and Joan Spehar
Sent: Tuesday, January 23, 2024 11:14 AM
To: Brad Wiersum; Deborah Calvert; Patsy Foster-Bolton; Rebecca Schack; Paula Ramaley; Kissy Coakley; Kimberly Wilburn
Subject: Walser Kia Proposed Development - Council Meeting January 29

I would like to submit these comments for the upcoming council meeting regarding the Walser Kia Proposed Development.

My name is Carol Kreter and I live at the Wyldewood Condo Association, 408 Parkers Lake Road, which faces the proposed property development by Walser Kia located on Wayzata Boulevard.

For our future's sake, we as residents need to care for our evermore shrinking wetlands, and it's incumbent upon us to be good stewards. I implore the Minnetonka City Council to not allow anyone to encroach or any build on the wetlands.

As a voice for the wetlands and animals, here are my concerns:

1. The wetlands abutting the proposed Walser Kia development houses a great variety of birds, mammals, and fish, including, for example, resident sandhill cranes, trumpeter swans and a wide variety of birds, especially the pileated woodpecker. The cranes nest near the proposed ramp area. Please note: sandhill cranes and trumpeter swans are a protected species by Federal and State Law. Additionally, the pileated woodpecker falls under the U.S. Migratory Bird Act. I'd like to believe that Walser and the City Council would recognize these laws and acts and not allow building on the wetland.
2. At the December 2023 council meeting, Walser representatives indicated that 350 piles over a three-to-four-month period would need to be driven. If you have ever experienced the continuous "boom, boom, boom" noise by a piledriver for hours on end, it is very disturbing. No doubt it will be disturbing to wildlife, so much so they'd abandon the area, especially the nearby nesting sandhill cranes.
3. Please know, if the City Council allows building on the wetland, that there may be future requests to encroach the wetlands for other developments. It will be hard for the Council to say no to future requests if precedent is set with Walser. Do we want more wetland to go by the wayside in the future?
4. Lastly, I wonder whether Walser has considered other options. For example, could Walser Nissan and Walser Kia share properties without going onto the wetland? It also seems the ramp is housing a very large number (over 350) of cars for quick turnaround. Some may think I should not be in a company's "business" and suggest alternatives, but when Walser is

making a big ask to be on our wetlands, then it is our business to know if all options have been exhausted.

Thank you for your kind consideration. I hope the Council will deny any encroachment or use of the wetland for building at this time or in the future.

Carol Kreter
408 Parkers Lake Road, #207
Wayzata, MN 55391

Susan Thomas

From: Public Comment
Subject: FW: Objection notice to the Walser Kia Development Proposal

-----Original Message-----

From: Linda Koblick
Sent: Thursday, January 25, 2024 6:18 PM
To: Susan Thomas <sthomas@minnetonkamn.gov>
Cc: Jeffrey Koblick
Subject: Objection notice to the Walser Kia Development Proposal

Please note and share with city council and staff that I strongly object to Walser Kia being on the agenda Monday, especially without going through the planning commission process.

I made an inquiry after the last denial asking about process, and what timing is required for any resubmission-unfortunate, I wasn't provided a response.

I now see it is within days.

I am unable to attend Monday's, meeting.

I am opposed to this proposal.

A variance requires a "hardship" (!) and this proposal in the past and now does not have one- an economic "want to maximize profits for a parcel just purchased" does not meet city requirements.

The "landing strip" built by fill brought into the wetlands -debris and junk as noted- is not by any sense of the imagination a lot worthy of build out.

Other options exist.

There was in decades past a mound in a wetland one could not access with out a bridge or some contrived access...the city (John Gunyou manager then) worked with the landowner (east of 494, between 394 and Minnetonka blvd) and a land conservation group to have a dedication of this parcel to another use rather than development.

It has happened in the past-contrary to what we have been told this is not a one off.

A better solution was found for another property similar and that solution was creative and could happen again. Other uses are available for this wetland portion of the strip mall's land. It will not take that much creativity.

The reality is, without neighboring properties even being contacted or brought together for discussion, the Walser group is just the 'new purchaser' trying to 'get something' others in the past four decades couldn't. Walser thinks the city is weak and the neighbors don't matter. I think we do.

There are better uses for this parcel and for the environment surrounding it. It doesn't meet the requirements for any variance—much less the one proposed.

Walser -or any other owner of this parcel - can meet the ordinance requirements without need for variances. Protect our wetlands and the integrity of the city's standards for development.

Say no. Send the right message to this aggressive developer and this out of bounds proposal.

Thank you.

Linda Koblick
351 Townes road

Susan Thomas

Subject: FW: Walser Proposal

From: Deborah Calvert <dcalvert@minnetonkamn.gov>

Sent: Monday, January 29, 2024 8:01 AM

To: Mike Funk <mfunk@minnetonkamn.gov>

Cc: Sarissa Falk <sfalk@minnetonkamn.gov>

Subject: Fwd: Walser Proposal

Sent from my iPhone

Begin forwarded message:

From: Julie Trones

Date: January 28, 2024 at 11:53:06 PM CST

To: Julie Trones, Len Riley, Brad Wiersum <bwiersum@minnetonkamn.gov>, Deborah Calvert <dcalvert@minnetonkamn.gov>, Kimberly Wilburn <kwilburn@minnetonkamn.gov>, Brian Kirk <bkirk@minnetonkamn.gov>, Rebecca Schack <rschack@minnetonkamn.gov>, bschaepie@minnetonkamn.gov, Kissy Coakley <kcoakley@minnetonkamn.gov>

Subject: Walser Proposal

Good Evening!

First of all, we want to thank you for your service. We are very grateful.

We are writing to ask you to vote no regarding the Walser proposal. We are residents at Wyldewood. This project will directly impact Wyldewood residents and our neighbors. The project will adversely affect our view during the day and night as well as add additional noise.

As a Realtor, I understand the negative impact this will have on our property values which will also lower the Minnetonka tax base.

There are certainly environmental concerns here as well.

We elected you to represent us. Kindly vote no as you represent your constituency.

Best Regards,

Julie Trones and Len Riley

Julie Trones
RE/MAX Results

From: [City of Minnetonka, MN](#)
To: [Kelsey Engelen](#); [Becky Koosman](#)
Subject: *NEW SUBMISSION* City council and EDA email comments
Date: Monday, January 29, 2024 10:13:39 AM

City council and EDA email comments

Submission #: 2965971
IP Address: 54.219.193.38
Submission Date: 01/29/2024 10:13
Survey Time: 3 minutes, 38 seconds

You have a new online form submission.

Note: all answers displaying "*****" are marked as sensitive and must be viewed after your login.

Name

Carol Kreter

Full Address

408 Parkers Lake Road
#207
Wayzata, MN 55391
Hennepin

Phone

Email

City Council, EDA or LBAE

City Council

Meeting date

January 29, 2024

Agenda item

Kia Walser Development Proposal

Comment

For our future's sake, we as residents need to care for our evermore shrinking wetlands, and it's incumbent upon us to be good stewards. I implore the Minnetonka City Council to not allow anyone to encroach or any build on the wetlands. Here are my concerns: 1) The wetlands abutting the proposed Walser Kia development houses a great variety of birds, mammals, and fish, including, for example, resident sandhill cranes, trumpeter swans and a wide variety of birds, especially the pileated woodpecker. The cranes nest near the proposed ramp area. Please note: sandhill cranes and trumpeter swans are a protected species by Federal and State Law. Additionally, the pileated woodpecker falls under the U.S. Migratory Bird Act. I'd like to believe that Walser and the City Council would recognize these laws and acts and not allow building on the wetland. 2)At the December 2023 council meeting,

Walser representatives indicated that 350 piles over a three-to-four-month period would need to be driven. If you have ever experienced the continuous “boom, boom, boom” noise by a piledriver for hours on end, it is very disturbing. No doubt it will be disturbing to wildlife, so much so they’d abandon the area, especially the nearby nesting sandhill cranes. 3) Please know, if the City Council allows building on the wetland, that there may be future requests to encroach the wetlands for other developments. It will be hard for the Council to say no to future requests if precedent is set with Walser. Do we want more wetland to go by the wayside in the future? 4) Lastly, I wonder whether Walser has considered other options. For example, could Walser Nissan and Walser Kia share properties without going onto the wetland? Some may think I should not be in a company’s “business” and suggest alternatives, but when Walser is making a big ask to be on our wetlands, then it is our business to know if all options have been exhausted.

Thank you,
City of Minnetonka, MN

This is an automated message generated by Granicus. Please do not reply directly to this email.

From: [Mike Funk](#)
To: [Julie Wischnack](#); [Loren Gordon](#); [Public Comment](#)
Subject: FW: Walser Kia building proposal on Minnetonka Wetlands
Date: Monday, January 29, 2024 11:44:04 AM

Begin forwarded message:

From: Julie Haltom
Date: January 28, 2024 at 6:56:04 PM CST
To: awalser@walser.com, Brad Wiersum <bwiersum@minnetonkamn.gov>, Deborah Calvert <dcalvert@minnetonkamn.gov>, Kimberly Wilburn <kwilburn@minnetonkamn.gov>, Brian Kirk <bkirk@minnetonkamn.gov>, Rebecca Schack <rschack@minnetonkamn.gov>, Bradley Schaeppi <bschaeppi@minnetonkamn.gov>, Kissy Coakley <kcoakley@minnetonkamn.gov>
Subject: FW: Walser Kia building proposal on Minnetonka Wetlands

Including additional individuals.

Thank you.

Sent from [Mail](#) for Windows

From:
Sent: Sunday, January 28, 2024 5:53 PM
To: awalser@walser.com; [Brian Kirk](#); [Bradley Schaeppi](#); [Deborah Calvert](#); [Kissy Coakley](#)
Cc:
Subject: Walser Kia building proposal on Minnetonka Wetlands

I am writing again to protest against the Walser Kia building proposal. I live at Wyldeewood, and the main reason this condo was purchased was the view of the wildlife. This area and the wetlands have already taken a big environmental hit due to the Ron Clark building project. Now, the Walser proposal has been voted down twice. What is the purpose of voting when the mayor and some council members continue to support and push the approval of this project once it has been voted down twice? There needs to be more done than lowering the ramp by one level. The ramp is still an ugly, unnatural building on a protected marshland: we have protested against this building with valid, solid reasons. We value the protection of wildlife and nature versus the almighty dollar. The big question that so many of us are discussing is why an environmental impact study has not been completed.

In addition, the noise impact while building the ramp will be horrific for many who work from home. Light pollution will also cause long-term health conditions for humans and wildlife. We should have been notified sooner about the meeting. I wish there would have been more engagement from the developer and the city to compromise and reach a solution. Most neighbors would agree that a surface-level lot would be acceptable if it is within the city ordinance and proper screening. A surface lot would cost considerably less for the Walser's and result to be a win-win for all. Please consider revisiting a surface-level parking lot.

Thank you for your time.
We appreciate your consideration.

Julie Haltom
Cheryl Commers

Sent from [Mail](#) for Windows

From: [Mike Funk](#)
To: [Julie Wischnack](#); [Loren Gordon](#); [Public Comment](#)
Subject: FW: Walser Kia project
Date: Monday, January 29, 2024 11:44:18 AM

Sent from my iPhone

Begin forwarded message:

From: Joel Stone
Date: January 27, 2024 at 10:28:48 AM CST
To: Deborah Calvert <dcalvert@minnetonkamn.gov>
Subject: Walser Kia project

Hi Ms Calvert

Nextdoor (the app like facebook) is filled with comments (mostly false) about the Kia project.

I watched the entire Dec 4 council meeting regarding the project.

I wanted to tell you how impressed I was with your comments and also Brad Schaeppi's comments.

Also impressed that you are wearing the Star of David. That takes a certain special person. I am Jewish and not sure if I could do that in public these days.

I live in Paula Ramaley's ward and sent her an email also.

I dont have a dog in this fight, but it pains me to see council giving so much weight to the planning staff. They have burned me in the past when they are wrong or misguided, and it takes alot of inner strength to keep struggling to get them to see the light.

One instance when I built my house: an inspector wouldnt allow me to have egress windows in my basement on a technicality. I explained to him that I dont want a firefighter or police officer to become trapped in my basement one day due to his "technicality". He wouldnt budge. I had to go to other towns, up and down the ladder to get him over-ruled. (Fortunately he retired) In their defense, Im sure planners reject the 9 out of 10 crazy ideas that homeowners bring to them every day, and rightly so. The problem is when a good idea is presented, they are so used to saying "no" that they dont look at it seriously.

I am afraid that they are at it again with the Kia project.

Brad Schaeppi and you had the best comments at the meeting. Brad suggested that the surface lot is the way to go, with a nice berm to hide headlights from the north neighbors.

Please consider promoting this idea at the next meeting.

Although viewlines are not to be regarded, having a large wetland makes headlights in residential kitchens and backyards a real nuisance. Even though a surface lot may be a tad worse for the wetlands, I am guessing that it would be well received by the north neighbors - compared to a tall parking garage.

Sincerely

Joel Stone

From:
To: [Kissy Coakley](#); [Patsy Foster-Bolton](#); [Brad Wiersum](#); [Deborah Calvert](#); [Rebecca Schack](#); [Kimberly Wilburn](#)
Cc: [Public Comment](#)
Subject: Kia Comments
Date: Monday, January 29, 2024 1:17:41 PM

Dear City Council.

Bradley Schaeppi, 315 Townes Lane, Minnetonka.

Please see my email comments. I appreciate everyone's time and attention. The primary purpose of my comments is to highlight helpful information and propose potential questions for staff and/or the applicant. I truly feel for Council on this topic as the predicament. I even included alternative findings. As you will see--I believe staff, through its recommendation and decision to not support a parking variance, has placed council in a lose-lose scenario--where both outcomes have the potential for litigation. The proper reasonable and legal path forward was to not double down on a 2008 ordinance opposed by car dealers and neighbors then. The ironic legacy of this vote may be forcing a parking structure onto an applicant and neighborhood months before the legislature overrides and eliminates such an ordinance. Beyond this vote--this vote also highlights multiple broken areas of the ordinance--parking structure SF is exempt from FAR calculations creating conflict with appropriate building size (not the case in Plymouth, EP, etc.), non-buildable wetlands SF provides credit for FAR calculations and buildings---over complicated code definitions within definitions--i.e. in order to determine parking structure is exempt, a reader has to navigate through two separate defined terms, etc. I am a real estate attorney and find the language complex. The existing code gives the upper hand to a few small expert attorneys and staff--everyone else is largely excluded from having any idea what it all means. We need plain english standards to remove a small handful of experts from the analysis.

Executive Summary:

A "Yes" vote on the Kia project fails 300.31 4(b)(2)(i)(5)(h) therefore Staff Proposed Resolution 2024 Section 2.01 that seeks to approve a CUP fails.

I do not know why the City of Minnetonka has avoided discussing the topic I raised in 2023 except for 1 reference in a packet that confirmed the parking ramp itself meets the landscape standard. In short, the application has no "*landscaping*"..."*wall, berm or other feature that is constructed for long term durability.*" Are there buffer trees--Yes, but that is not the point. This specific provision does not include the word "buffer." In sum, the city misapplies its own landscape ordinance in its attempt to enforce its own parking ordinance upon Kia. In its failure to avoid requiring the applicant to comply with the provision cited, not grant a parking variance and force structured parking compliance upon Kia, the City of Minnetonka opens itself up to liability from both Walser Kia AND from neighbors. That is the pickle it finds itself in. The proper route out of this was a parking variance with findings--that clearly meet the standard. Staff's insistence to

This same failure occurred in 2023 with the proposed parking ramp. The reasons can be found in Sheet C100 Existing Conditions With Proposed Site Overlay. You will see a hashed blue line titled "Wetland Setbacks" in the lower right key. There are setbacks for the parking and for the building. The parking ramp requires a large biofiltration on the east side. The biofiltration plus the area needed for parking and the up/down ingress/egress requires the wetland setback to wetland setback line. In the end, the city ordinance that requires the

structured parking count ends up failing the landscape ordinance above because there is in fact--no room on the unique site to fit the total parking and parking structure the city seeks to require.

While I was on Council, City Manager Mike Funk re-affirmed the city's position that it believes it meets the landscape ordinance via the "*totality*" of the application. The city's own ordinance was drafted and approved in a very specific way--there is no city discretion on this issue.

The key language 300.31 4(b)(2)(i)(5)(h) is copied here:

h) *the landscaping must comply with Section 300.31(7)(b) and must contain a wall, berm or other feature that is constructed for long term durability when adjacent to residentially zoned property to minimize to the greatest extent reasonably possible, noise and visual impacts;*

Structured parking ordinance was opposed from the start and provides context to "berm" language located in other areas of the ordinance;.

Direct Quotes from Star Tribune in 2008:

1. Dealership Opposition in 2008 + Berm language "To put up a ramp, I would have to more than double the investment I have in my current land and building," said Steve Bloomer, owner of Village Chevrolet on I-394 in Minnetonka and the Lexus dealership next door in Wayzata."Bloomer has owned and operated the Chevrolet dealership on I-394 for 50 years, and says he makes every effort to be a good neighbor. He said the *buffering berm he put up behind his building is now topped by trees that are 60 to 70 feet tall. It serves as a barrier between a residential area and the dealership.*" "But if the city requires me to put a ramp up, they would be looking right into the ramp because it would be high enough that they would see it over the trees," he said.

2. Juile Wischnack confirmed the intent of the ordinance was about aesthetics: parking ramps will "make 394 corridor better looking" than sea of cars "Wischnack said minimizing outdoor car storage would make the 394 corridor better looking. The specifics of how parking ramps would work for nearby neighbors is something the planning commission will discuss, she said." "What is *visually most bothersome about car dealerships is the sea of cars*, Wischnack said. ""It's the large amount of asphalt compared with any other use."

3. 2008 Neighborhood Opposition

Minnetonka resident Steve Stewart, who lives near the car dealerships, said he sides with dealers in opposing a ramp requirement."Existing buildings are ground level and outdoor parking is ground level, and we have already worked with the trees and berms and so on for the view," Stewart said. He said it seems "backward" to now require a bigger building on the dealers' properties for car storage.

Questions for Council to ask of Staff:

1. Where specifically in the Kia plan is the "landscaping" --wall, berm or other feature that

is constructed to minimize the impact? 300.31 4(b)(2)(i)(5)(h)

2. Either there is a wall, berm or feature constructed--or there is not. What am I missing? How should I interpret 300.32 I 394 overlay language from 4. Redevelopment Requirements that says "*approval only upon compliance with all provisions of the zoning ordinance.*"

3. Question to City Attorney: Does the City believe residents would have a 0% chance of success if brought a lawsuit seeking an injunction to stop this project for failure to apply city's own landscape ordinance 300.31 4(b)(2)(i)(5)(h) --no wall, berm or other feature that is constructed when the ordinance is not discretionary and states "*must?*" If vague answer--ask for more specifics.

4. Can Walser and Neighbors both be right--Kia could sue and win against the city AND neighbors could sue and can win? IF both are YES, what does staff recommend? Can we vote to continue this matter for city attorney further clarification to city council on the liability risk of a yes vote tonight?

5. What does staff recommend on how to vote if uncomfortable with approving or denying--and need more time and information from city attorney on landscape requirements?

6. Why specifically did staff not support a parking variance for a surface parking lot--lets review each standard? What procedurally would need to happen if council wanted to support a parking variance with the following findings?

Practical Difficulties:

Reasonable. Property owner seeks to use property in reasonable manner--but for the structured parking minimum. It is reasonable to grant the variance because the applicant cannot BOTH meet the structured parking minimum and landscape berm/wall constructed feature minimum--the width of the site does not allow both.

Uniqueness: Circumstances are not caused by Kia. League of MN Cities states, "anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees." The site has wetlands on multiple sides and locations with wetland setbacks further encroaching on buildable area. These unique features plus the structured parking ordinance are unique to the property and not preferences of Kia.

Essential Character: The parking variance will allow the proposal to better fit into the character of the area. There is no open air parking ramp in this district. There only is surface parking or indoor parking. The reverse is actually true--building the parking ramp to meet code will negatively impact the essential character of the locality.

Harmony with other land use:

-The intent of the ordinance was to address aesthetics and keep surface parking away from 394 and amenities on frontage road. The proposal does just that--surface parking tucked away and new improvement on 394/frontage road.

-The variance is consistent with comprehensive plan

"I-394 corridor--"encourage development to utilize a showcase concept to improve the image of the corridor and the city"

"Establish and promote neighborhood stability through rational land use planning and the establishment of spacing/buffering requirements between land uses of different intensity."

"Manage growth in a planned, responsible manner in the best interests of the city, residents of the community and corridor development interests."

Conditions

Parking Lights at night. Even interior structure parking lights of a ramp will shine down on the dark wetlands full of waterfowl and other wildlife. There should be a strict standard to turn off all lights at a specific time--otherwise this project will be a christmas tree. The rest of the properties all have a large earthen berm plus trees or BMW--dark glass on rear.

Walser & Andrew Walser Acted in Good Faith

Walser and more specifically Andrew Walser have exhibited professionalism and I believe have been left with no choice but to seek a parking structure in order to obtain a staff recommendation. No need to take my word for it--Walser's original concept proposal was surface parking that staff recommended against and Walser stated at a public hearing they don't want or need to build a ramp--but the city's parking ordinance requires one. Andrew Walser spent hours and multiple meetings listening to my feedback. He has worked hard in good faith with the community and relies upon city staff recommendation. They are a great business caught up in a city seeking a parking structure in 2024 that similarly no one wanted in 2008.

Final Personal Note:

I regularly watch a pair of sandhill cranes land and fly for several months each year over the last two years in a wetland location just north of the Walser/BMW property. They land and fly around the wetlands daily for a couple months--they are not simply migrating over the wetlands. The wetlands is full of brush and water so it is impossible to see a nest. Trumpeter swans also frequent the wetlands but

Related--this update came with a 3 day notice yellow card to residents. Yellow cards arrived Thursday late afternoon in the mail--after Monday packet cut off. Council should move this to 7 days like standard application to allow for time to include comments in packet--for better informed decisions.

--/S/ Bradley Schaeppi