



**CITY OF MINNETONKA
PLANNING COMMISSION
FEBRUARY 4, 2016**

14600 Minnetonka Blvd. • Minnetonka, MN 55345
(952) 939-8200 • Fax (952) 939-8244
eminnetonka.com





Planning Commission Agenda

February 4, 2016—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: January 21, 2016

5. Report from Staff

6. Report from Planning Commission Members

7. Public Hearings: Consent Agenda

- A. Twelve month extension of previously approved variance for an addition to Lakewinds Food Co-op at 17501 Minnetonka Boulevard.

Recommendation: Approve the time extension (4 votes)

- Final Decision Subject to Appeal
- Project Planner: Susan Thomas

8. Public Hearings: Non-Consent Agenda Items

- A. Ordinance amending City Code 300.37, regarding lot width in the R-1A zoning district.

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

- Recommendation to City Council (Tentative Date: February 29, 2016)
- Project Planner: Susan Thomas

B. Ordinance amending City Code Section 300.02, regarding zoning ordinance definitions.

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

- Recommendation to City Council (Tentative Date: February 29, 2016)
- Project Planner: Susan Thomas

9. Adjournment

Notices

1. Please call the planning division at (952) 939-8274 to confirm meeting dates as they are tentative and subject to change.
2. Applications scheduled for the February 18, 2016 Planning Commission meeting:

Project Description: Items concerning Williston Woods West, a four-lot subdivision at 5431 Williston Road

Project No.: 15028.15a

Ward/Council Member: 4—Tim Bergstedt

Staff: Jeff Miller

Section: 33

Project Description: Concept plan for a 7 story, 350 unit apartment building at 10101 Bren Rd E.

Project No.: TBD

Ward/Council Member: 1—Bob Ellingson

Staff: Susan Thomas

Section: 36

Project Description: Glen Lake Study.

Project No.: NA

Staff: Julie Wischnack

WELCOME TO THE MINNETONKA PLANNING COMMISSION MEETING

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

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

It is possible that a quorum of members of the City Council may be present. However, no meeting of the City Council will be convened and no action will be taken by the City Council.

**Unapproved
Minnetonka Planning Commission
Minutes**

January 21, 2016

1. Call to Order

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

2. Roll Call

Commissioners Powers, Calvert, Knight, Odland and Kirk were present. Magney and O'Connell were absent.

Staff members present: City Planner Loren Gordon, Principal Planner Susan Thomas, Senior Planner Ashley Cauley, and Natural Resource Manager Jo Colleran.

3. Approval of Agenda: The agenda was approved as submitted with additional comments provided in the change memo dated January 21, 2016.

Odland moved, second by Knight, to approve the agenda with additional comments provided in the change memo dated January 21, 2016.

Powers, Calvert, Knight, Odland, and Kirk voted yes. Magney and O'Connell were absent. Motion carried.

4. Approval of Minutes: January 7, 2016

Odland moved, second by Powers, to approve the January 7, 2016 meeting minutes as submitted.

Powers, Calvert, Knight, Odland, and Kirk voted yes. Magney and O'Connell were absent. Motion carried.

5. Report from Staff

Gordon briefed the commission on the Glen Lake neighborhood meeting.

The next planning commission meeting will be held February 4, 2016.

6. Report from Planning Commission Members: None

7. Public Hearings: Consent Agenda: None

8. Public Hearings

A. Wetland setback and buffer variances for a retaining wall generally located at 315, 319, 323, and 327 Bellwether Path.

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

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

In response to Calvert's question, Thomas explained that there would be a wetland buffer in place. Collieran added that a wetland buffer protects the wetland by requiring lawn care practices a greater distance from a wetland and helps water filtration. There would still be an 11-foot buffer. The required buffer is 16.5 feet. Thomas explained that the proposal meets the Minnehaha Creek Watershed District requirements.

Mike Roebuck, of Ron Clark Construction, applicant, explained that the private drive accesses four houses. The retaining wall at the end of the public cul-de-sac was part of the original development. A public trail is located on the west edge of the property. There is a steep grade from the wetland to the road. It made good sense to continue the wall to support the road and prevent erosion of the slope and road.

Odland asked if something would be done to prevent someone from falling off the retaining wall. Mr. Roebuck believed that a railing or fence would be added.

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

Odland moved, second by Knight, to adopt the resolution approving wetland setback and buffer variances for a private drive retaining wall generally located at 315, 319, 323, and 327 Bellwether Path (see pages A7-A9 of the staff report).

Powers, Calvert, Knight, Odland, and Kirk voted yes. Magney and O'Connell were absent. Motion carried.

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

B. Preliminary and final plat for Wilson Ridge.

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

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

Cauley clarified that there are 155 high priority trees. The proposal would remove 52 trees.

Odland asked how many additional trees could be saved if the grading area would be limited. Cauley estimated 14 trees.

Bill Coffman, of Gonyea Homes, applicant, concurred with staff's recommendation. He would attempt to shrink the grading area. The homes would be custom fit onto each lot. The proposed houses would be as far back as the existing houses.

The public hearing was opened.

Jeff Detloff, 4301 Wilson Street, stated that he was concerned that the drainage would run through his yard. There is a lot of water now that travels through his property. He asked how a rain garden would handle the increased hard-surface coverage.

No testimony was submitted and the hearing was closed.

Cauley explained the topography of the site. Engineering staff would review drainage mitigation plans that would require one-inch of infiltration of run off for the increase in impervious surface. The stormwater requirements take into consideration what is part of the proposal. It would look at the existing site, but not mitigate for current conditions.

Calvert understood why the houses would be setback from the street, but was concerned that it would increase the amount of impervious surface from the long driveways. She was glad that the older, high-priority trees would be saved.

Chair Kirk noted that grading would be reviewed during the building permit process. The current application is for the lot split. Cauley agreed.

In response to Calvert's question, Colleran explained that tree regulations do not differentiate between a tree that was planted for landscaping and one that grew naturally.

In response to Calvert's question, Colleran explained that decreasing the grading area to save trees is a requirement in the resolution. Mitigation would require planting 87, 6-foot evergreen trees and 13 deciduous trees on 2 lots.

Odland asked if the houses could be moved closer to Wilson to reduce the driveway length. Cauley said that would be an option to reduce the mitigation requirements.

Chair Kirk visited the site and understands the reasoning for the layout. The site is large enough to be subdivided. It would make a lot of sense.

Powers moved, second by Odland, to recommend that the city council adopt the resolution approving the preliminary and final plats of Wilson Ridge (see pages A22-A27 of the staff report).

Powers, Calvert, Knight, Odland, and Kirk voted yes. Magney and O'Connell were absent. Motion carried.

C. Items concerning a licensed daycare facility at 10401 Bren Road East.

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

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

Odland asked if there would be a safety concern with the close proximity to lite rail. Cauley explained that the outdoor play area would be fenced.

Kristy Couture, of Yellow Brick Road Preschool, applicant, stated that there has been a facility operating in Plymouth for over 10 years. She was available for questions. The program believes that all children should have the right to learn and grow in a safe, nurturing environment. The Bren location would be perfect. The goal is to open in September 2016. The aim is to be a great place to work, be kind to the environment, and be supportive of local schools.

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

Knight thought it looked good. There is a need for more daycare.

Odland moved, second by Knight, to recommend that the city council adopt the resolution on pages A18-A25 of the staff report. This resolution

approves a conditional use permit and site and building plans for a licensed daycare facility at 10401 Bren Road East.

Powers, Calvert, Knight, Odland, and Kirk voted yes. Magney and O'Connell were absent. Motion carried.

9. Other Business

A. Concept plan review for Villa West at 16913 State Highway 7.

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

Thomas reported. Staff recommended that commissioners provide comments, feedback, and direction that may lead to the preparation of more detailed development plans.

Kirk noted that the proposal has changed to only include 16913 State Highway 7.

David Carlson, real estate developer with Gatehouse Properties, applicant, stated that the design would be for empty nesters. The houses would be one level with master bedroom, second bedroom, two bathrooms, and sunroom or loft within the roof line. There is little new construction at a reasonable price for empty nesters. The property owner of the adjacent property declined to sell, but a plan was created to show what could be done on the Anderson property. The proposal is at the minimum number of units per acre. The base price would be \$489,900 for 1,500 square feet and a 12 x 12-foot sunroom or 700-square-foot loft. Three of the lots could have a basement. A loft is a lot less expensive than a basement.

Knight asked about the different plans. Mr. Carlson explained that six units on the Carlson piece would be done if the Anderson property would not be included. The other plan is an example of what could be done if the Anderson property was included in the proposal.

Scott Dahlke, applicant's engineer, explained that a small modification could be done to keep the extension if the Anderson property would be included in the project.

Odland asked what would be done to make the site blend in with the neighborhood. Mr. Carlson said that the minimum number of units per acre would blend in nicely. He provided a clearer rendering to commissioners. The mass would be kept to one level or within the roof line for units with a loft.

Odland asked if there would be a yard. Mr. Carlson answered in the affirmative. All of the units would be end units. The windows would be staggered to provide private backyards.

Calvert said that the proposal feels like it would be part of the neighborhood.

Mr. Carlson said that he received no objections from the neighbors to the south.

Chair Kirk invited those present to provide comments.

David Devins, 17100 Sandy Lane, stated that he objected to the last proposal and favored something like the current proposal. The current proposal would fit into the neighborhood. He preferred one entrance and one exit.

Calvert thought the other concept plan was too dense, but this transitions from the surrounding neighborhood and fits the space better. The homes are attractive. The price point is right. This fits all of the criteria for a down-sizing demographic.

Powers likes the proposal.

Chair Kirk appreciated the proposal taking bicyclists into account and the applicant including an example of what could happen with the Anderson property.

Chair Kirk noted that there would have to be another entrance and exit on Highway 7 if the three parcels to the east would be developed.

Odland asked if it would be possible to add a bridge to mirror what is proposed on the west side and provide safety for bicyclists and pedestrians if all of the parcels would be developed at one time.

The city council will review the concept plan February 8, 2016.

B. Concept plan for Highview Villas, a residential development of properties at 4301 Highview Place and an adjacent, unaddressed parcel.

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

Cauley reported. Staff recommended that commissioners provide comments, feedback, and direction related to the contemplated density and general site design of the previous concepts and the current nine-lot concept.

Robert Eldridge, applicant, said that:

- The cul-de-sac lots would meet all R-1A requirements. The three lots on the north end would not meet the lot-width requirement.
- The mayor favored the cul-de-sac, but thought the lots felt tight in the previous proposal. One lot was removed from the previous proposal. He reviewed the increased setbacks.
- The proposal strives to bring “affordable” new construction in Minnetonka. He hopes to keep the prices in the \$500,000s.
- Less than half of the single-family residential properties in Minnetonka meet the 22,000 square-foot lot-size requirement.
- Six lots might be tough to sell due to the site’s proximity to Highway 7 and Interstate 494. Woods of Fairview and Williston Glen took over 10 years to sell out.
- He appreciated the commission’s feedback and time.

Powers asked for the sizes of houses. Mr. Eldridge estimated from 1,800 square feet to 2,700 square feet. He has buyers interested in the proposed houses. Adding upscale features could increase the price from the \$500,000s.

Chair Kirk asked for the benefits of PUD zoning. Mr. Eldridge stated that the building pad width would be limited to 40 feet to keep the units affordable, more trees could be saved on the east and south to keep more of the buffer, and there would be more control of storm water management. Vehicles would fit easily on the wide street. Each of the driveways would hold two to four vehicles and the garages would hold two to three vehicles.

Mr. Eldridge differentiated his proposal from Williston Glen with its price point over \$700,000. An R-1 in this location would not make sense. The 80-foot cul-de-sac would be huge.

Rene Fine, 13900 Lake Street, asked if the proposal is within standard guidelines. She is pretty excited to see something developed. A lot of the houses have been sold in the last 15 years. She supports revitalization.

Greg Carson, 4222 Maple Lane, preferred the zoning to stay the same. The conceptual turn-around looks smaller than one that is the minimum size allowed for a turn around.

Tony Fernandes, 4232 Highview Place, saw no reason why the proposal should not be accepted. Apartments could be constructed. The proposal would increase property values.

Bob Anderson, 4316 Highview Place, objected to the proposal because it would be too many houses. The houses would be too close together. Six houses would be allowed without a zoning change. The builder said gigantic houses would have to be built then. Average-size houses could be built. The property has been zoned R-1 for years. Someone's desire to maximize financial gain needs to be balanced with the effect that would have on the neighbors. He objects to the proposal because it would damage the character of the neighborhood and quality of life to the neighbors. It would be too many houses.

Leif Swenson, 4214 Maple Lane, stated that it is not the problem of current residents if the houses would not sell right away. Christy Lane is a good mirror of the site and would be reasonable. Twelve houses would not fit with the aesthetic and cause more vehicle trips.

Chad Colsch, 4320 Highview Place, questioned the differences between R-1 and PUD zoning for the site and requested an example of a similar situation and the impact that PUD zoning had on the neighborhood. He asked who would pay for a sound barrier if the neighbors would want one constructed.

Daniel Swanson, 4301 Highview Place, stated that a big cul-de-sac is not needed. He prefers a 6-lot plan that follows R-1 zoning regulations, but he could not find a builder. He has a builder now who wants to do the 9-lot plan. He wants to retire and not live there 10 more years.

Greg Lewis, 4230 Maple Lane, stated that he agrees with Dan and Tony. It would be nice to have some change in the neighborhood. He agrees with staff's recommendation for Villa West. He wants to agree on something. Nine houses would not be a good fit. There would be too many houses, vehicles, and trees removed. He has 13 oak trees and has lost 4 to oak blight. A bus would not be able to turn around. Snow removal would be an issue. A lot of vehicles use the road. Six lots would be better. He lost a buyer for his house because the buyer did not want to see construction.

Ms. Fine stated that it seems that there would be no developer interested in a plan with six lots. She wondered if there would be a compromise. Change is hard. She is planning to stay and raise her small children. The developer widened the lots on Highway 7 and maintained the natural beauty of the trees. A compromise would be beneficial to the neighborhood.

Sherry Bloom, 4328 Highview Place, was concerned with the change in zoning. She favored R-1 zoning regulations. She wants the look of the neighborhood preserved.

Chair Kirk asked if the cul-de-sac would meet requirements. Cauley answered that the cul-de-sac would be reviewed when a formal application is received.

Chair Kirk asked staff to address the sound-barrier question. Gordon stated that a developer may construct a wall or fence as part of a development. MNDOT maintains a list of requests for sound barriers on highways and freeways and would be the authority for a barrier constructed in the right-of-way.

Knight asked if one of the lots on the street would be removed, then would R-1A zoning requirements be met. Cauley answered affirmatively. The lot widths would then meet R-1A standards.

Knight noted that the view would not change from Maple Lane or Highview Place if one lot would be removed. Knight favored 8 lots.

Calvert noted that the proposal would create new construction at a price-point for a demographic that does not have new construction, but it does seem dense. She does see a benefit to new construction. She did not see a lot of space to store snow in the cul-de-sac.

Powers thought the neighborhood does not need revitalization. He did not want to tell a developer how big a house could be. Going from 9 lots to 8 lots would cause a fairly significant change in the cost per square foot. He prefers the current concept plan to the one with 10 lots. Relative to Legacy Oaks, the proposal would not be dense at all. The concept plan is headed in the right direction. He likes 8 lots. Change is not always that difficult. It is healthy to have new houses built in a neighborhood. Engineering staff would figure out the subtleties.

Chair Kirk noted how the site would be connected to the surrounding neighborhood. The character is not isolated.

Odland asked if 7 lots would meet R-1 zoning requirements. Cauley estimated that if the existing house would be removed, then 8 lots would be possible based on the total area of the site.

Calvert asked for the zoning for the area. Gordon answered single-family residential of up to 4 units per acre.

Chair Kirk noted that diversified housing stock is a city goal. The property owner has the right to develop the land. The concept plan is still too dense. These comments go to the city council.

Powers did not see anything healthy about vacant property sitting empty. Lots need to sell within a reasonable amount of time. It is better for the health of a neighborhood.

Calvert was conflicted. She agreed that diversified housing is needed and a vital development that sells in a reasonable amount of time is positive. On the other hand, she had some concern that eight might fit better than nine, but then the price point would go up and the housing stock reverts back to large houses on large lots.

Knight was concerned that decreasing the number of lots would create something similar to the Williston Road project which was an absolute disaster for a long time. Neighbors did not like having empty lots adjacent to them. It was an eyesore. He understood the developer not wanting to create a similar development. Six lots would have big houses.

Chair Kirk did not think it would be fair to require the current owner to provide a buffer between other neighbors and Highway 7. This is a great spot for a decent price point. He hopes it works. He thanked those present for attending.

10. Adjournment

Odland moved, second by Calvert, to adjourn the meeting at 9 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary

Minnetonka Planning Commission Meeting

February 4, 2016

Agenda Item 7

Public Hearing: Consent Agenda

MINNETONKA PLANNING COMMISSION
Meeting of February 4, 2016

Brief Description Twelve month extension of previously approved variance for an addition to Lakewinds Food Co-op at 17501 Minnetonka Boulevard

Recommendation Approve the time extension

Background

June 2012. The planning commission approved a setback variance for an addition on the south side of the Lakewinds Food Co-op building. By city code, a variance expires on December 31 of the year following approval, unless: (1) a building permit has been issued for the project covered by the approval; or (2) the city approves a time extension. As such the approved variance would expire on December 31, 2013. (See pages A1–A16.)

December 2013. Lakewinds Food Co-op requested a time extension. The extension was approved. The new deadline for construction was December 31, 2014. (See page A17.)

December 2014. Lakewinds Food Co-op requested a time extension. The extension was approved. The new deadline for construction was December 31, 2015. (See pages A18–A19.)

December 2015. Lakewinds Food Co-op requested a time extension. Staff was unable to place the request on the commission’s agenda until February 2016. Nevertheless, staff finds the applicant met the intent of the code requirement by applying for the extension prior to the deadline. (See page A2.)

Staff Analysis

City code does not include any specific conditions under which previous approvals may be extended. However, the city has generally considered whether: (1) there have been changes to city code or policy that would impact the previous approvals; and (2) such extension would adversely impact the interests of neighboring property owners.

Staff finds that: (1) there have been no changes to city code or policy that would affect the previous approvals; and (2) an extension would not adversely affect the interests of neighboring property owners.

Though recommending approval of this extension, staff is concerned that the public input process, including neighborhood comment and the formal public hearing, associated with the request occurred over four years ago.

If a building permit for the approved addition is not submitted in the 2016 calendar year, staff would be inclined to require the variance be reviewed through the full formal process again, such that the public input may be received and both staff and the planning commission may thoroughly review the project again.

Staff Recommendation

Approve the extension to a new deadline of December 31, 2016.

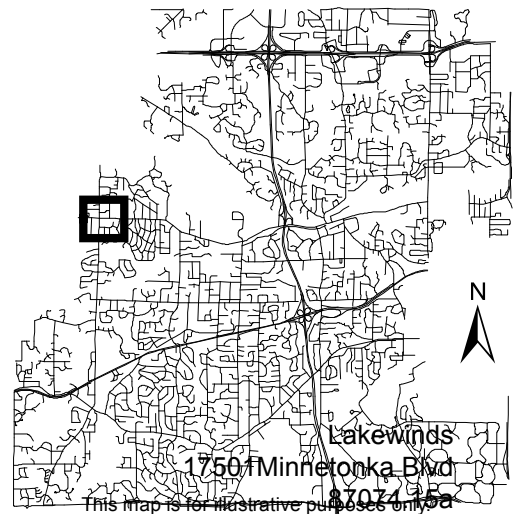
Originated by: Susan Thomas, AICP, Principal Planner

Submitted through: Loren Gordon, AICP, City Planner

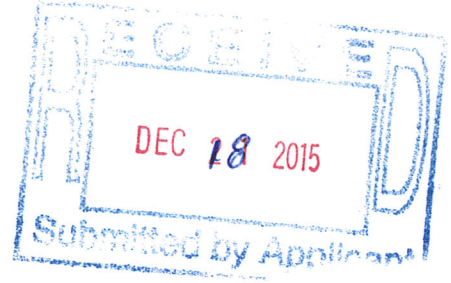


Location Map

Project: Lakewinds Food Co-op
 Address: 17501 Minnetonka Blvd



Lakewinds
 17501 Minnetonka Blvd
 55345
 This map is for illustrative purposes only.



December 14, 2015

Loren Gordon
City Planner
City of Minnetonka
14600 Minnetonka Blvd.
Minnetonka, MN 55345

Dear Loren:

Thanks for your time on the phone last week to discuss the status of the variance and proposed construction project at our store.

On June 21, 2012, Lakewinds was granted a setback variance for construction of an addition to the rear (south side) of our store. On November 20, 2013, we requested a time extension. That extension was granted on January 9, 2014. We requested a further extension in November, 2014, which was also granted. We are now requesting an additional extension of one year. We understand there is a \$200 charge for this procedure and have enclosed a check for that amount.

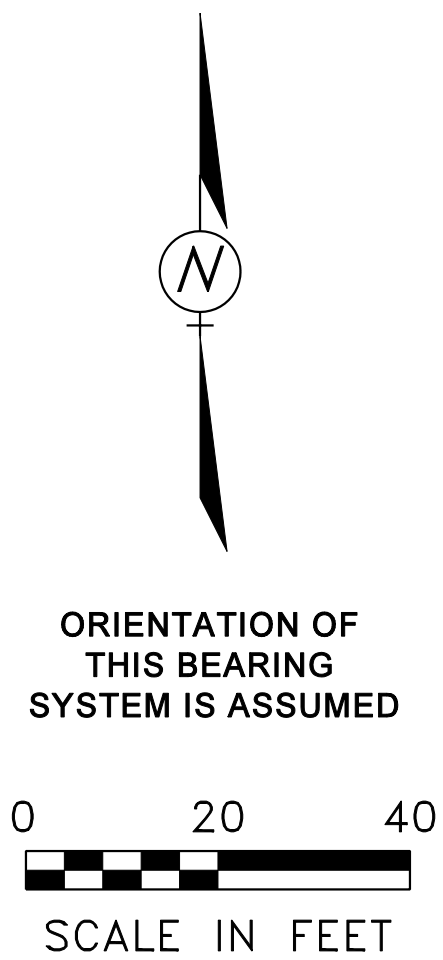
We requested the previous variances as we shifted resources to open our store in Richfield in June, 2014. We are continuing to catch up on our other capital priorities, primarily at the store on Minnetonka Boulevard. We're almost finished with work on the façade of the store, with new lighted signs scheduled to arrive on December 18. We have further plans to do extensive remodeling inside the store this winter. As we've planned the store remodel, we've realized that it will be very difficult to accommodate our new offerings without expanding the building to move some administrative functions away from the retail areas and to create additional storage space.

We request that our variance time limit be extended another year, through December 31, 2016.

Thanks for your time and consideration,

Dale Woodbeck
General Manager
Lakewinds Food Co-op
6321 Bury Dr., Suite 21
Eden Prairie, MN 55346
(952) 512-2101
dalew@lakewinds.com

EXISTING CONDITIONS



LEGAL DESCRIPTION

(Tax Parcel ID: 17-117-22-32-0059)

Tract A, REGISTERED LAND SURVEY NO. 584, Hennepin County, Minnesota, Excepting therefrom the easterly 150 feet of the northerly 150 feet thereof.

Together with the westerly 254 feet of Tract B, REGISTERED LAND SURVEY NO. 584, Hennepin County, Minnesota,

Subject to right of way for Minnetonka Boulevard (Hennepin County State Aid Highway No. 5) across the northerly portion thereof.

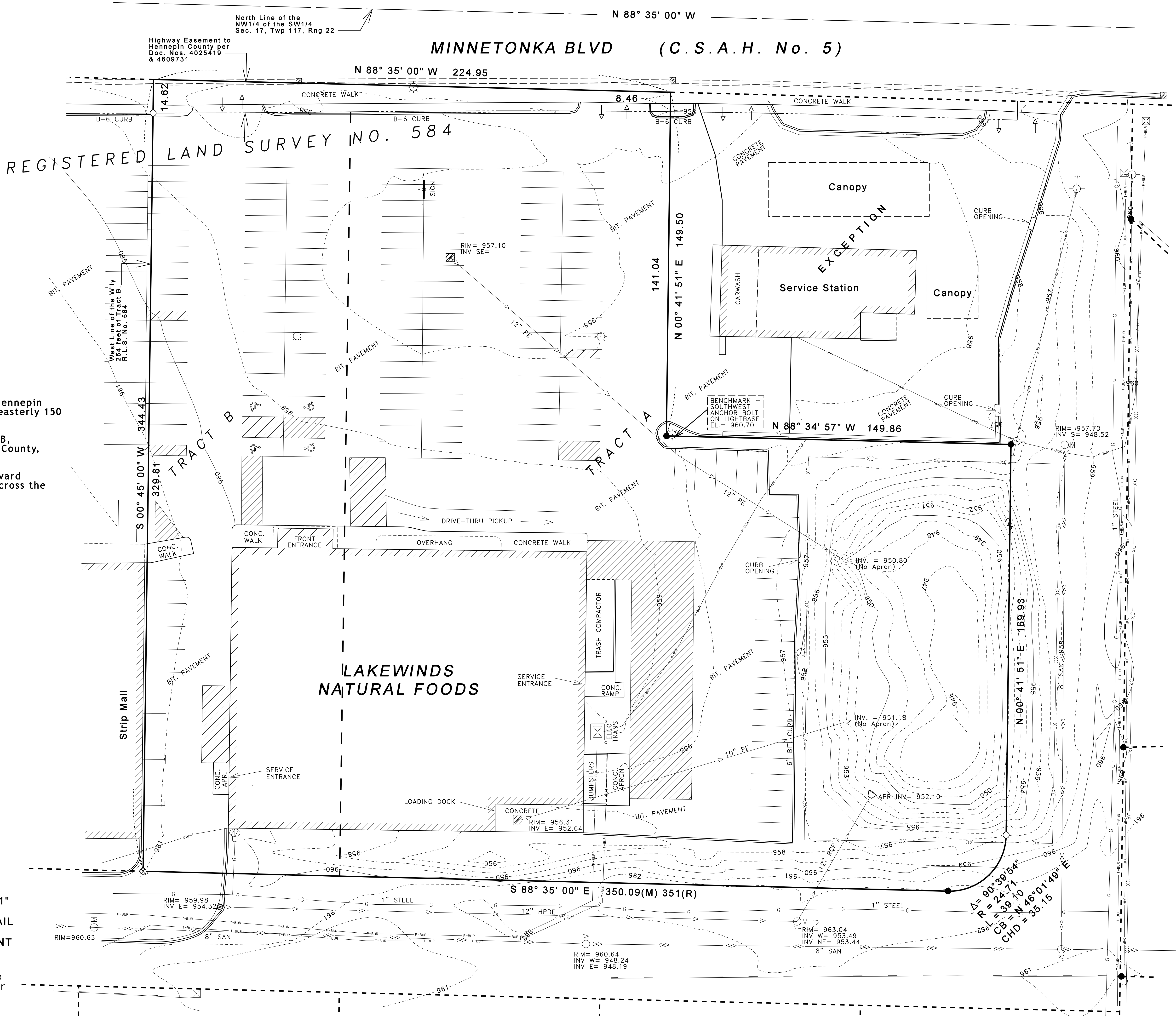
Containing 2.45 acres, more or less.

LEGEND OF SYMBOLS:

- UTILITY PEDESTAL ☒
- MANHOLE ○M
- CATCH BASIN ☒
- WATER VALVE X
- HYDRANT ⚡
- LIGHT POLE ☼
- TREE ○
- UTILITY HANDHOLE ○H
- UTILITY METER ○M
- BURIED ELECTRIC LINE — P-BUR —
- BURIED TELEPHONE LINE — T-BUR —
- BURIED GAS LINE — G —
- BURIED FIBER OPTIC — F/O —
- BURIED TELEVISION LINE — TV-BUR —
- CURB & GUTTER ———
- PROPERTY LINE ———
- SANITARY SEWER LINE ———
- STORM SEWER LINE ———
- WATER MAIN ———

- DENOTES: SET IRON PIPE WITH CAP STAMPED "DELEO 40341"
- ⊗ DENOTES: SET MAGNETIC "PK" NAIL
- DENOTES: FOUND IRON MONUMENT

The utilities shown hereon represent the utilities as marked and as observed per Gopher State One Call Locate Request Ticket Number: 113210686



REVISIONS	
No.	DATE

I HEREBY CERTIFY THAT THIS PLAN, SURVEY OR REPORT 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.

Signature: *Samuel J. DeLeo* License No. 40541
 Samuel J. DeLeo, M.S. License No. 40541

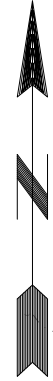
KRAMER LEAS DELEO
 SURVEYING • ENGINEERING • PLANNING
 BRAINERD ST. • CLOUD

PROJECT NO. KLAND1201 17-117-22

CERTIFICATE OF SURVEY
 Topographic and Property Boundary Survey
 LAKEWINDS NATURAL FOODS (AEA Enterprises)
 17501 Minnetonka Blvd., Minnetonka, MN 55345
 Located in Section 17, Township 117, Range 22 West
 County of Hennepin, State of Minnesota

Sheet No. 1 of 1

PROPOSED SITE PLAN

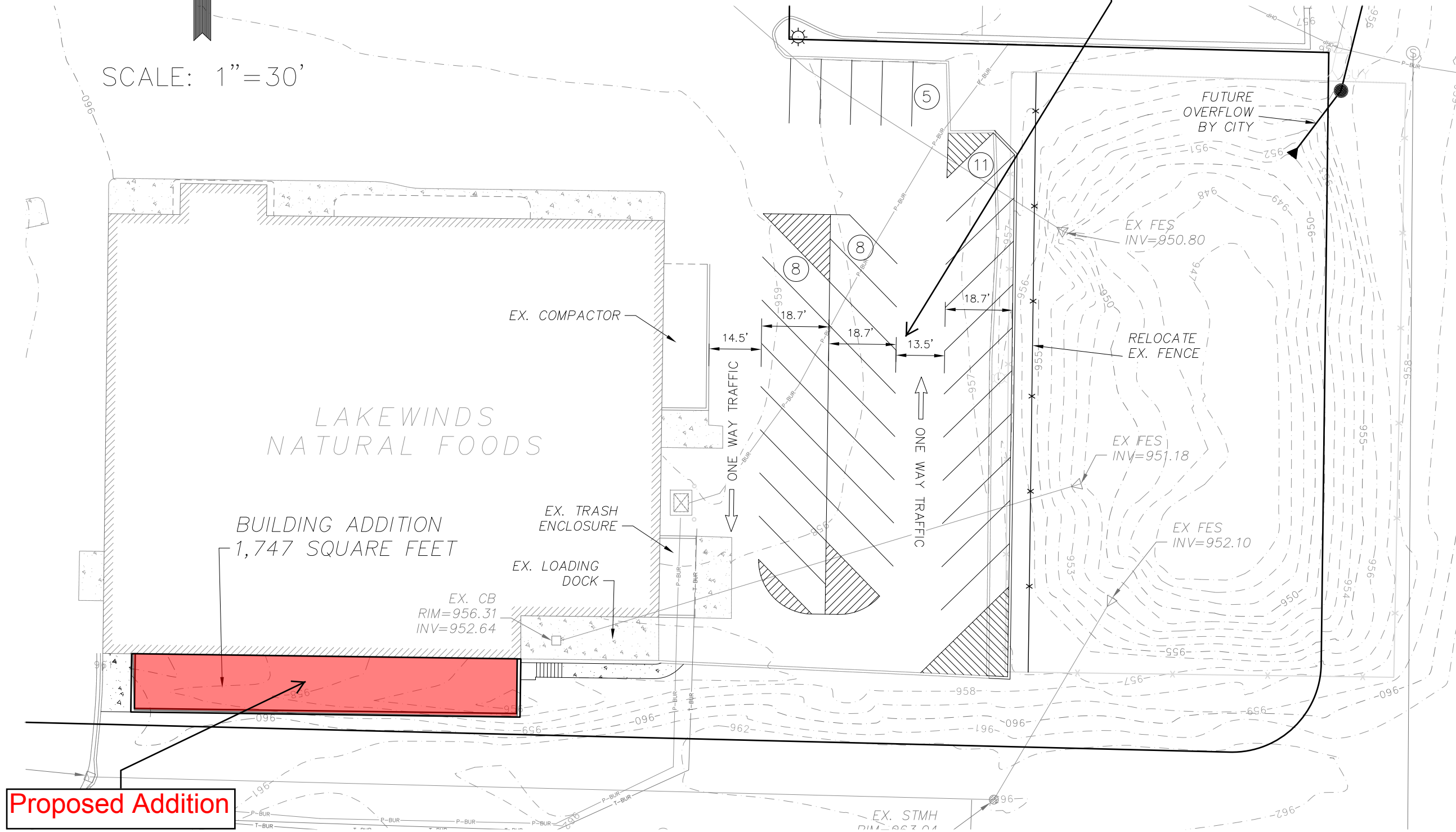


NOTES:

1. EXISTING SITE IMPERVIOUS = 70%, PROPOSED SITE IMPERVIOUS = 72%.
2. EXISTING STORMWATER POND VOLUME DECREASE = 2%.

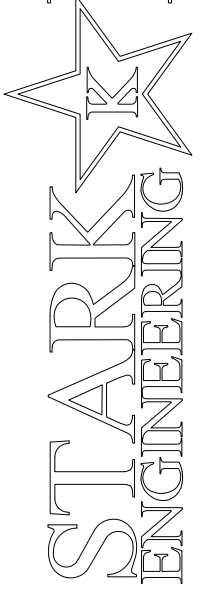
SCALE: 1" = 30'

Parking Lot Re-striping



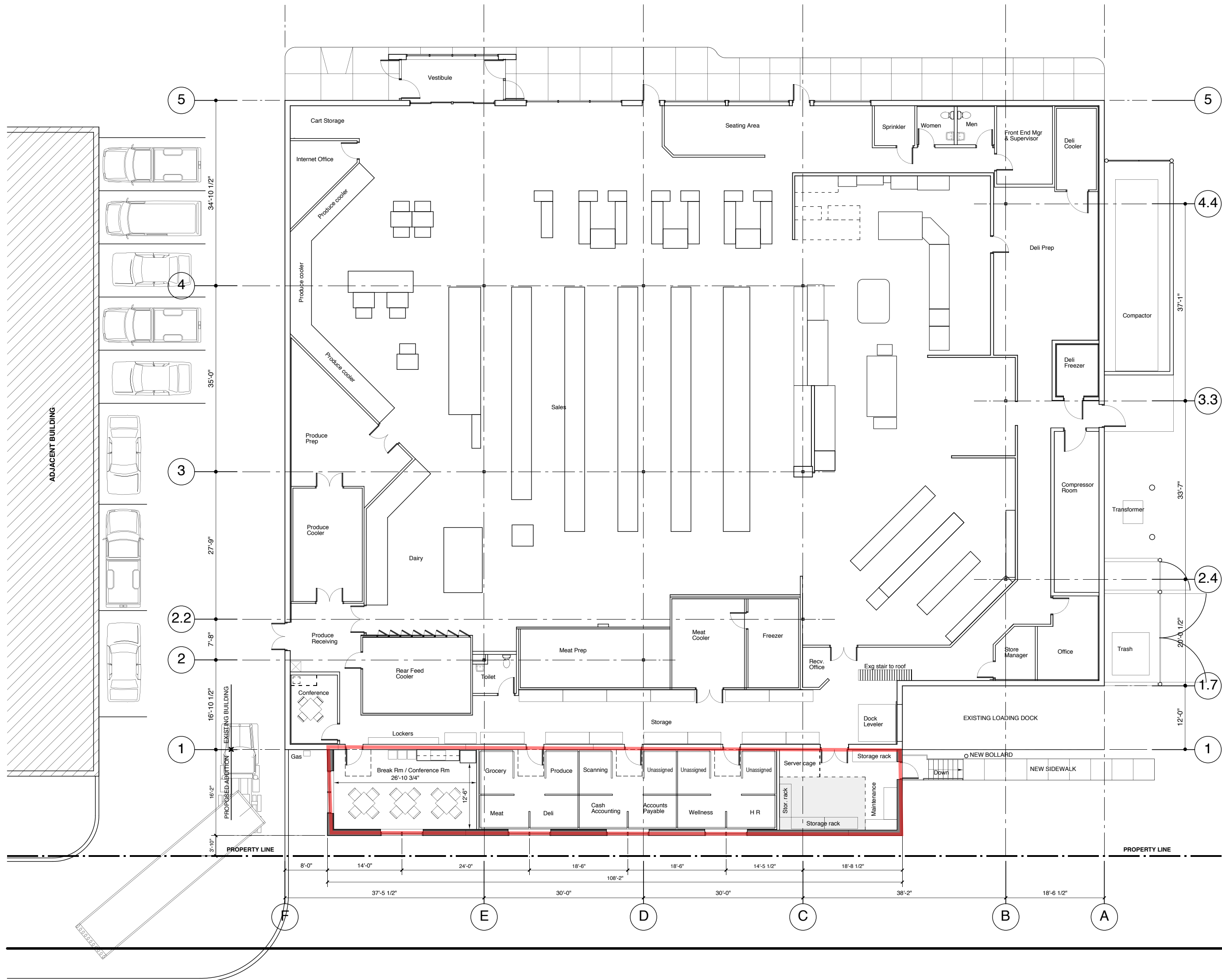
Proposed Addition

www.starkengineer.com
320-249-2611
Sauk Rapids, Minnesota



LAKEWINDS EXPANSION
SITE PLAN
PRELIMINARY 3/12/12

FLOOR PLAN



Charles Levin Architects
 2300 Milwaukee Avenue
 Minneapolis Minnesota 55404-3150
 P: 612.729.5333
 F: 612.729.8351
 E: chuck@clevin.com

ARCHITECT'S PROJECT #1515 F

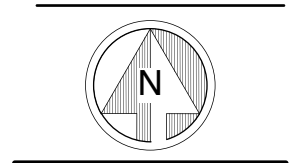
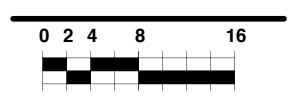
LAKEWINDS NATURAL FOODS

Office:
 17515 Minnetonka Blvd.
 Minnetonka, MN 55435

ISSUED: 2/7/12
 REVISED: 4/19/12

MINNETONKA STORE

Store Address:
 17501 Minnetonka Blvd.
 Minnetonka, MN 55435

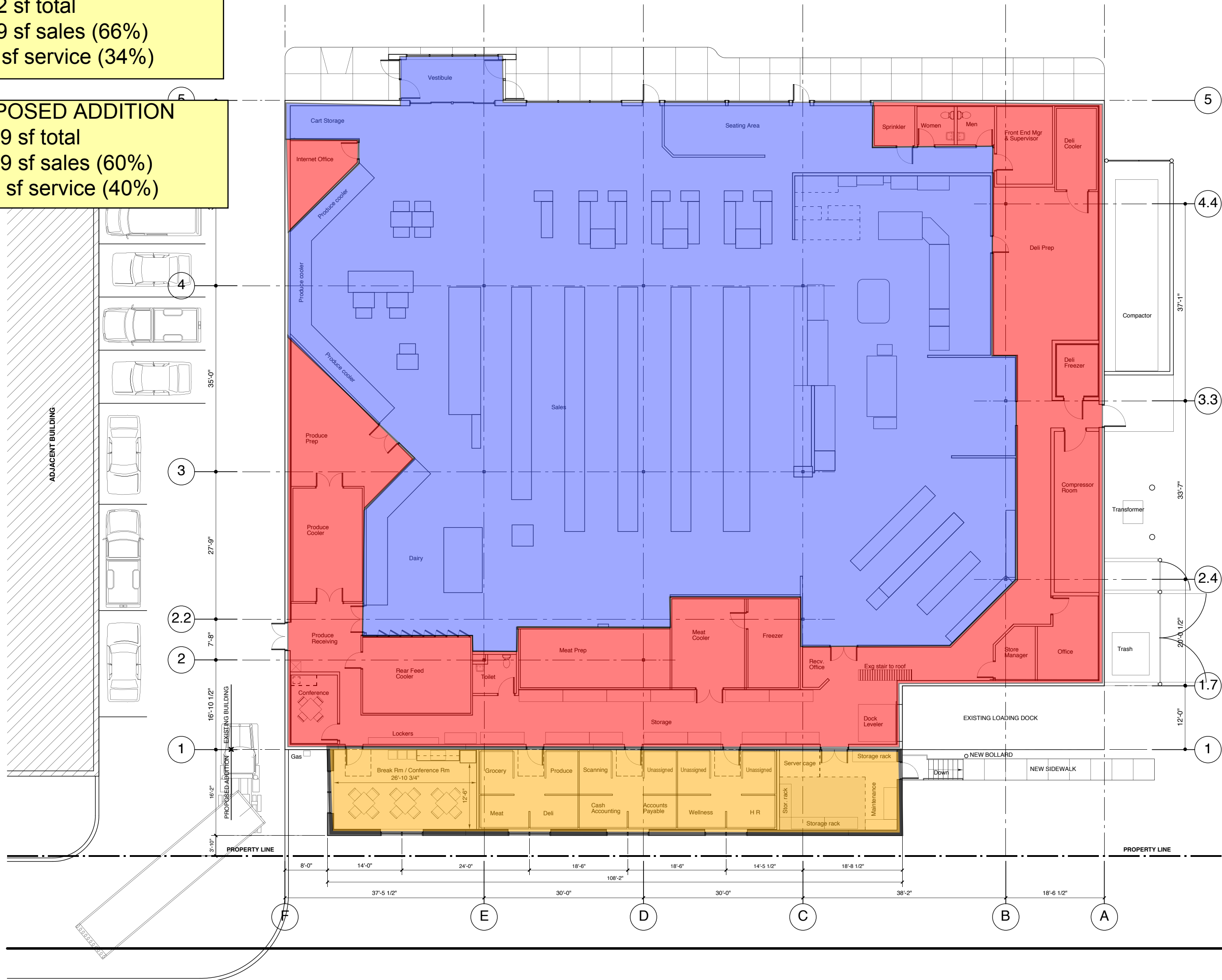


FLOOR PLAN

© 2012 Charles Levin Architects

LAKEWINDS
 18,542 sf total
 12,219 sf sales (66%)
 6,323 sf service (34%)

PROPOSED ADDITION
 20,289 sf total
 12,219 sf sales (60%)
 8,070 sf service (40%)



Charles Levin Architects
 2300 Milwaukee Avenue
 Minneapolis Minnesota 55404-3150
 P: 612.729.5333
 F: 612.729.8351
 E: chuck@clevin.com

ARCHITECT'S PROJECT #1515 F

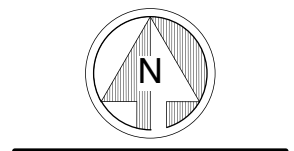
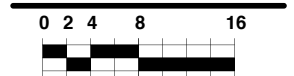
LAKEWINDS NATURAL FOODS

Office:
 17515 Minnetonka Blvd.
 Minnetonka, MN 55435

ISSUED: 2/7/12
 REVISED: 4/19/12

MINNETONKA STORE

Store Address:
 17501 Minnetonka Blvd.
 Minnetonka, MN 55435



FLOOR PLAN

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2. Directional signs must comply with the sign ordinance standards for commercial buildings greater than 400,000 square feet in size. All directional signs must be located on the office campus and must not be located with public right-of-way or other public easements. Any directional signs located on adjacent private property must receive permission of the property owner.
3. Sign permits are required for the wall signs and monument signs.
4. Any changes to the sign plans require an amendment to this approval.
5. The signs must be installed prior to December 31, 2013, unless the planning commission grants a time extension.

Lehman, Yetka, Daeges, Knight, and Cheleen voted yes. Magney and Thaler were absent. Motion carried.

Chair Cheleen stated that an appeal of the planning commission's decision must be made in writing to the planning director within 10 days.

C. Setback variance for an addition to Lakewinds Natural Foods at 17501 Minnetonka Boulevard (87074.12a)

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

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

Yetka asked if the proposal would include a new entrance into the building that would increase foot traffic to that area. Thomson explained that there would be an access door to the loading dock and emergency exit for the addition. The area would not have sales and customers would not enter the store from there. The employees currently use a door on the east side of the building near employee parking. There is also an entrance on the west side of the building.

Yetka asked if there would be changes in outdoor lighting that would impact neighbors. Thomson said that the applicant does not intend to add exterior lights to the addition. A condition of approval requires an illumination plan be submitted to staff for approval if outdoor lighting is added in order to ensure ordinance requirements would be met. There is a maximum illumination standard.

Lehman asked what the city plans to do with the right of way. Thomson answered that the city has no short-term or long-term plans for use of the right of way. It is currently used for utilities.

Lehman questioned if the 4-foot setback created by the proposal would be enough if the right of way would be turned into a lane of traffic. Thomson explained that the street would never be a through street because it does not provide access to anything that does not already have access. The city's standard right of way width is 50 feet. Between where the road would be located and the property line would start would require additional land. Hypothetically, there would be 15 feet or 20 feet between the road and where the addition would actually be located. A major road improvement is not expected for the area. The west side of the building is already fairly close to trash enclosures and service areas so a new issue would not be created by the proposal.

Lehman felt staff did a good job of addressing why the proposal is located on the back of the building. He asked Thomson to reemphasize that for him. Lehman understood that staff looked at locating the addition on a different side that would not require a variance, but that would require moving trash enclosures and negatively impacting parking. His personal experience has shown him that parking impact is important and that could outweigh the standard that might otherwise be used to deny the variance. Thomson reviewed options with the applicant and all agree the proposal is the best option. The unique circumstances such as the building being constructed many years ago so the site has nonconforming setbacks are outlined in the staff report. Thomson noted that the proposed addition located on the west side would require a setback variance as well. The east side would be the only side that would technically meet setback requirements, but there are other practical difficulties related to the layout of the building that that would create.

Knight asked how delivery trucks access the dock now and how the proposal would change the parking lot structure and impact access to the loading dock. Thomson responded that there are two delivery areas on the building now. The main loading dock is on the southeast corner of the building. There is also a service entrance on the west side for small trucks and quick deliveries. Those would continue to operate as they do now. This plan shows the existing layout of the east parking lot. Thomson explained the existing and proposed traffic patterns.

Yetka asked if the trash enclosure and compactor would be moved to the south side if the addition would be located on the east side. She asked if the compactor

makes noise. Thomson answered affirmatively that the compactor makes noise. Moving it closer to the south property line could cause issues.

Yetka commented that moving the trash enclosure to the south could impact neighbors from the noise of garbage trucks servicing the dumpsters.

Chair Cheleen liked the idea of additional parking. He asked if the turn lane could be made wider and felt striping would be adequate, but asked if a berm was considered in the middle to indicate where parking is in the winter time. Thomson answered that expanding the parking lot to the east would be restricted due to its proximity to a pond. The pond does not have an outlet, so expanding the parking lot closer to the pond could cause flooding issues. Thomson suggested the applicant address if a berm had been considered to help identify parking and the traffic pattern.

Dale Woodbeck, Lakewinds general manager, was present with the project architect, Chuck Lavine, and Doug Engin, Lakewinds' board chair. Mr. Woodbeck explained that all employees are required to enter and exit through the front of the building. The other doors are strictly service doors. The purpose of the door next to the loading dock is for truck drivers. The door would be secure with an emergency exit. All activity would be through the front of the building. The electrical transformer is located on the east side of the building. His concern with a berm in the parking lot is that it could cause problems with snow removal. Chair Cheleen thought of that after he asked the question. The berm would probably not be necessary especially since it would only be employee parking.

Mr. Woodbeck stated that six feet is as far as the lot could be extended without changing the grade.

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

Chair Cheleen was impressed with the neighbors and the applicant working together. The additional landscaping could be a win for everyone.

Lehman moved, second by Knight, to adopt the resolution on pages A31-A35 of the staff report and the modifications included in the change memo dated June 21, 2012, which approves a rear yard setback variance from 35 feet to 4 feet for an addition to the back of the building at 17501 Minnetonka Boulevard. Approval is based on the following finding:

1. The proposal meets the variance standard outlined in City Code §300.07 Subd. 1(a):
 - a) **INTENT OF THE ORDINANCE:** The intent of the ordinance is to provide appropriately separation between structures and properties. There is 50 feet of undeveloped right-of-way adjacent to the back of the property. The addition would be located 50 feet from the adjacent residential properties, which meets the intent of the setback requirement.
 - b) **CONSISTENT WITH COMPREHENSIVE PLAN:** The strategies of the comprehensive plan provide for revitalizing existing community and neighborhood commercial centers using a village concept. The strategies also include maintaining existing single-family neighborhoods by managing land use transitions and buffering. The site is located within the Minnetonka Boulevard/County Road 101 village center, and the proposed addition would provide investment into the existing business and allow for more efficient use of the building. The buffering between the building and the single-family neighborhood to the south would be maintained with the existing 50-foot buffer, as well as with additional landscaping that would be provided for the adjacent single-family homes.
 - c) **PRACTICAL DIFFICULTIES:**
 - 1) **REASONABLENESS:** The proposed addition is reasonable. It would provide an efficient design which minimizes the size and height of the addition. The requested setback is reasonable. Though just 4-feet from the rear property line, the addition would be over 50 feet from the closest residential property line and over 100 feet from the nearest home.
 - 2) **UNIQUE CIRCUMSTANCE:** The location and layout of the building are circumstances unique to the property. An addition could not be located elsewhere on the property without negatively impacting parking and site circulation. This is not common to every commercial property and was not created by the property owner.
 - 3) **CHARACTER OF LOCALITY:** The proposed addition would not adversely impact the character of the locality. The

addition would be located more than 50 feet from the adjacent residential properties and would be screened by the existing vegetation within the city right-of-way. The additional landscaping required as a condition of approval ensures that the addition would not be highly visible from surrounding properties and would not impact the neighborhood character.

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, unless modified by the conditions below:
 - Site plan date-stamped April 23, 2012
 - Floor plan date-stamped April 23, 2012
 - Building elevations date-stamped April 23, 2012
 - Drainage plan date-stamped April 23, 2012
 - Tree preservation plan date-stamped June 8, 2012
2. Prior to issuance of a building permit:
 - a) Submit the following items for staff review and approval:
 - 1) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance.
 - 2) A tree mitigation and landscape plan. The plan must meet minimum landscaping and mitigation requirements as outlined in ordinance. The landscape plan must provide evergreen trees along the residential properties at 17500 and 17424 Manor Road for screening. The plan must include a statement of maintenance responsibilities for the landscaping.
 - 3) A letter of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost of all required landscaping. The city will not fully release the letters of credit or cash escrow until required landscaping or vegetation has survived one full growing season.
 - 4) An illumination plan.

- b) A copy of this resolution must be recorded with the county and a copy of the recorded document returned to the city.
 - c) Schedule and hold a preconstruction meeting with engineering, planning, and natural resources staff as determined by city staff.
 - d) A right-of-way permit must be obtained from the city. Prior to issuance of a right-of-way permit, soil testing must be completed to determine construction access requirements around the addition. A construction limit must be established to minimize encroachment into the right-of-way and minimize tree removal, as determined by the city.
 - e) Install a temporary rock driveway, erosion control, tree protection, and construction limit fencing for staff inspection. These items must be maintained throughout the course of construction.
- 3. Permits may be required from other outside agencies including, Hennepin County, the Minnehaha Creek Watershed District, and the MPCA. It is the applicant's and/or property owner's responsibility to obtain any necessary permits.
 - 4. During construction, the streets must be kept free of debris and sediment.
 - 5. All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Equipment shall also meet city noise standards or incorporate appropriate sound attenuation techniques to meet these standards.
 - 6. The property owner is responsible for replacing any required landscaping on their property that dies.
 - 7. Construction must begin by December 31, 2013 unless the planning commission grants a time extension.

Lehman, Yetka, Daeges, Knight, and Cheleen voted yes. Magney and Thaler were absent. Motion carried.

Chair Cheleen stated that an appeal of the planning commission's decision must be made in writing to the planning director within 10 days.

9. ADJOURNMENT

***Yetka moved, second by Lehman, to adjourn the meeting at 7:48 p.m.
Motion carried unanimously.***

By: _____
Lois T. Mason
Planning Secretary

Kirk noted that the right of way would be used to buffer the setback. He did not know if the planning commission would have approved a variance from 35 feet to 4 feet next to a residential neighborhood if it was not for the right of way. Thomas explained that each application and property is unique. Staff viewed the undeveloped right of way as a unique feature. It would provide a buffer. She stated that if the city would consider improving the right of way, then staff's recommendation would have been different. Thomson added that Lakewinds did a significant amount of neighborhood outreach by holding two neighborhood meetings. The applicant worked with neighbors to create a plan agreeable to the neighbors.

Kirk asked if Lakewinds would do improvements on city right of way. Thomson explained that the right of way is owned by the private property owner. The city has an easement, but it is not the city's property. The property owner has the right to use the land for access and remove trees, plant landscaping, and remove buckthorn. The applicant was working with a neighbor to plant landscaping on the adjacent property as well.

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

- A. Extension of a previously approved rear yard setback variance for an office and storage addition at 17501 Minnetonka Boulevard**

Approve the twelve-month time extension.

Kirk, Knight, Magney, Odland, Thaler, and Lehman voted yes. Yetka was absent. Motion carried and the item on the consent agenda was approved as submitted.

8. PUBLIC HEARINGS

- A. Conditional use permit and variance for a restaurant with an outdoor dining patio at 11400 State Highway 7.**

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

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

Kirk asked if the bike path is ever considered the nearest neighbor. Thomson answered affirmatively. In this case, the setback is based on adjacent land use.

- property belonging to the Adath Jeshurun Congregation.
Denied an application for a variance to expand the capacity of a group home on Glen Avenue.

The third Glen Lake preparation meeting had good attendance. The next stage of the study will begin in February.

The visioning process for the southwest area of Ridgedale will begin January 21, 2015 to take a close look at redevelopment.

The next planning commission meeting will be held January 8, 2015.

6. Report from Planning Commission Members

Kirk commended staff for doing a great job at the December 1, 2014 city council meeting and for preparing planning commissioners to review the application regarding the telecommunications tower application.

7. Public Hearings: Consent Agenda

Item 7D, a resolution approving an amendment to the sign plan for Minnehaven Square, was removed from the consent agenda for discussion and separate action.

Odland moved, second by Magney, to approve Items A-C listed on the consent agenda as recommended in the respective staff reports as follows:

- A. Twelve month extension of previously approved expansion permit and wetland setback variance for construction of a new home at 20 Westwood Circle.**

Approve the 12-month time extension by motion.

- B. Twelve month extension of previously approved variance for construction of an addition to Lakewinds Food Cooperative at 17501 Minnetonka Boulevard.**

Approve the 12-month time extension by motion.

- C. Amendment to the sign plan for Minnetonka Corporate Center.**

Adopt the resolution on pages A20-A23 of the staff report which approves an amendment to the Minnetonka Corporate Center sign plan for wall signs at 12800 and 12900 Whitewater Drive.

Magney, Odland, Rettew, Kirk, Knight, and Lehman voted yes. O'Connell was absent. Motion carried and the items on the consent agenda were approved as submitted.

D. Resolution approving an amendment to the sign plan for Minnehaven Square.

Chair Lehman introduced the item and called for the staff report.

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

Kirk said that it appeared that the applicant's store front would be the only one that would fall under the conditions described. The other stores face Minnetonka Boulevard or County Road 101. Thomas agreed, but noted that the current configuration of tenant spaces could be changed in the future.

In regard to Kirk's question, Thomas confirmed that the sign would have to be located within the building tenant lines.

Kirk asked if the commission had any control over the hodge-podge of signs. There is no consistency. Thomas explained how the signs meet code requirements and the sign plan. The city cannot control the design of a sign if the proposal meets code requirements.

Kirk noted that there are two monument signs. The one on Minnetonka Boulevard has blank spots. Thomas noted that signage on monument signs is likely tied to a lease and tenant agreement.

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

Kirk moved, second by Odland, to adopt the amendment to the Minnehaven Square sign plan on pages A7-A10 of the staff report.

Magney, Odland, Rettew, Kirk, Knight, and Lehman voted yes. O'Connell was absent. Motion carried and the items on the consent agenda were approved as submitted.

Minnetonka Planning Commission Meeting

February 4, 2016

Agenda Item 8

Public Hearing: Non-Consent Agenda

MINNETONKA PLANNING COMMISSION
February 4, 2016

Brief Description Ordinance amending City Code 300.37, regarding lot width in the R-1A zoning district

Recommendation Recommend the city council adopt the ordinance

Background

In 2014, the city adopted the R-1A zoning ordinance. The intent of the R-1A ordinance is to provide a smaller lot single-family development option.

In 2015, the city reviewed its first R-1A development, Saville West. During that review, staff noted an oversight in the R-1A development standards. As written, the R-1A ordinance includes just one lot width standard: 75 feet. The R-1 zoning classification includes different lot width standards at setback, at right-of-way, and at cul-de-sac right-of-way. It was staff's intention that the same ratios be applied in the R-1A district, as follows:

WIDTH	R-1	R-1A
AT SETBACK	110 FT	75 FT
AT ROW	80 FT	55 FT
AT CUL-DE-SAC ROW	65 FT	45 FT

Proposed Ordinance

Staff is proposing an ordinance amendment outlining the varying lot width requirements within the R-1A district. The amendment would not impact minimum lot size or any other standard of the ordinance. (See pages A1–A2.)

Council Introduction

The ordinance was introduced at the city council's January 25, 2016 meeting. The council asked if the Saville West project met the proposed lot width minimums. Staff answered in the affirmative. There were no other comments or questions.

Staff Recommendation

Recommend the city council adopt the ordinance. (See pages A1–A2.)

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

Ordinance No. 2016-
An ordinance amending city code section 300.37,
regarding lot width in the R-1A zoning district

The City Of Minnetonka Ordains:

Section 1. Section 300.37 Subdivision 6(a) under R-1A, Residential Alternative, District is amended as follows:

- a) Lots must meet all of the following minimum standards:
- 1) Lot area: 15,000 square feet
 - 2) Lot width at front yard setback: 75 feet
 - 3) Lot width at right-of-way: 75-55 feet, except that lots abutting a cul-de-sac bulb may have a lot width at right-of-way of 45 feet.
 - 4) Lot depth: 125 feet
 - 5) Buildable area: 2,400 square feet
 - 6) Buildable area dimensions: minimum of four sides with 30 feet per side

Section 2. This ordinance is effective upon adoption.

Adopted by the city council of the City of Minnetonka, Minnesota, on February 29, 2016.

Terry Schneider, Mayor

The ~~stricken~~ language is deleted; the single-underlined language is inserted.

Attest:

David E. Maeda, City Clerk

Action on this ordinance:

Date of introduction: January 25, 2016

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 regular meeting held on February 29, 2016.

David E. Maeda, City Clerk

The ~~stricken~~ language is deleted; the single-underlined language is inserted.

MINNETONKA PLANNING COMMISSION
February 4, 2016

Brief Description Ordinance amending City Code Section 300.02, regarding zoning ordinance definitions.

Recommendation Recommend the city council adopt the ordinance

Proposed Ordinance

The definition section of the zoning ordinance was originally drafted in 1986. Over the last 30 years, definitions have been periodically added to the definition section in conjunction with other ordinance revisions. The section currently contains 168 definitions, defining everything from “lot” to “electromagnetic field.”

Staff is proposing a full scale amendment to the definition section. The amendment would:

- Establish consistency between the definitions in the zoning ordinance and those in state statute, the comprehensive guide plan, and the subdivision ordinance;
- Clarify and simplify definitions; and
- Remove words that do not exist in the remainder of the ordinance.

The ordinance amendment would not change any code requirements or standards.

Council Introduction

The ordinance was introduced at the city council’s January 25, 2016 meeting. Discussion regarding the council’s questions at this meeting may be found in the “Supporting Information” section of this report.

Staff Recommendation

Recommend the city council adopt the ordinance. (See pages A1–A23.)

Originator: Susan Thomas, AICP, Principal Planner

Through: Loren Gordon, AICP, City Planner

Council Introduction

At the introduction of the zoning definition ordinance, the council asked questions regarding two definitions: “accessory apartment” and “lot area.”

Accessory Apartment –

Under the proposed definition, an accessory apartment is “located within a principal dwelling.” The council wondered whether: (1) this was a significant change; and (2) whether *detached* accessory apartments would be allowed.

Under the existing definition, accessory apartments are “units of housing ... located within the confines of an existing single-family house.” While the wording would be changed under the proposed definition, the requirement that accessory apartments be contained in a larger dwelling would not. In the past, the city has reviewed and, under certain unique circumstances, approved variances for detached accessory apartments. In the future, the city may wish to allow smaller, detached, accessory dwelling units – in planning parlance, ADUs. However, this would require further study and changes to other sections of the zoning ordinance.

Lot Area –

Under the proposed definition, lot area excludes “any area located below the ordinary high water level of a lake or creek.” The council wondered why this area would now be excluded and how/if this would impact existing properties.

The existing definition of “lot” states that “for the purpose of determining lot area, setbacks, lot coverage, and floor area, a lot must not include any land below the high water level of a lake or creek.” Rather than having this “lot area” caveat in the “lot” definition, staff felt it more appropriately placed in the actual “lot area” definition. In other words, the proposed definition would not change how the city calculates lot area and, as such, would not impact existing properties.

	Existing	Proposed
“Lot”	A designated parcel of land established by plat or subdivision adequate for occupancy by a use permitted in this ordinance and providing sufficient area required for minimum open space and appurtenant facilities as required by this ordinance. For the purpose of determining lot area, setback, lot coverage, and floor area, a lot must not include any land below the ordinary high water level of a lake or a creek.	A measured parcel of contiguous land having fixed boundaries and recorded with the appropriate government authority or office.

“Lot Area”	Total area within the lot lines excluding dedicated public right-of-way.	Total area bounded by lot lines excluding dedicated public road right-of-way and any area located below the ordinary high water level of a lake or creek.
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The proposed ordinance also places the “excluding any area located below the ordinary high water level of a lake or creek” caveat in the definition of “lot coverage” and “floor area.”

Ordinance No. 2016-

**An ordinance amending city code section 300.02,
regarding zoning ordinance definitions**

The City Of Minnetonka Ordains:

Section 1. Section 300.02, under Zoning Regulations is amended as follows:

For the purpose of this ordinance, certain terms and words are defined as follows:

1. "Abandon" - the cessation of a specific use of a property for a period of 12 or more months.
2. "Abut" - ~~to border upon a parcel of land which shares all or part of a common property line with another parcel of land.~~ to make direct contact with or immediately border.
3. "Access aisle or aisle" - the traveled way by which vehicles enter and depart parking spaces.
4. "Accessory apartment" - ~~a self-contained unit of housing located within the confines of an existing single family house and used as a separate housekeeping unit. The term shall also include instances in which one of the units lacks complete kitchen or bathroom facilities or in which there is internal physical access between the units or in which the units share common space or facilities, unless the persons residing in both portions of the building live as a single housekeeping unit.~~ a smaller secondary dwelling unit, located within a principal dwelling unit, that includes provisions for sleeping, cooking, and sanitation independent of the principal dwelling unit. This definition includes secondary dwelling units that have exterior entrances separate from the principal dwelling unit and secondary dwelling units that are accessed only through the principal dwelling unit.

The ~~stricken~~ language is deleted; the single-underlined language is inserted.

~~5. “Accessory structure” - an uninhabited subordinate building or other subordinate structure, including garages, sheds or storage buildings over 120 square feet except as modified in section 300.24, swimming pools, spas, sport courts, and tennis courts located on the same lot as a principal building, the use of which is clearly subordinate to the use of the principal building.~~

~~6. “Accessory use” - a subordinate use which is subordinate to and associated with a principal building or use and which is located on the same lot as the principal building or use.~~

75. “Alteration, structural” - any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or rooflines, or any enlargement of a building or structure whether horizontal or vertical.

86. “Alteration, use” - ~~changing the~~ any change to the use or occupancy of a building or parcel from one type of land use to another. Changes in use or occupancy include office to retail, warehouse to assembly, retail to restaurant or similar changes which result in a different intensity of use.

97. “Apartment” - ~~one or more rooms with private bath and kitchen facilities designed, intended or used as a residence for an individual or family.~~ a dwelling unit, generally rented, located within a larger building.

108. “Basement” - an area of a building structure, having its floor or base below ground level on all four sides, regardless of the depth of excavation below ground level.

119. “Basement floor elevation (minimum)” - the lowest floor of a building.

~~1210.~~ “Berm” - a landscaped mound of earth used for aesthetic or buffer purposes.

~~1311.~~ “Bluff” - a steep slope as defined in this ordinance.

1412. “Bluff impact zone” - land within a bluff and land within 20 feet from the top of a bluff.

~~1513.~~ “Boarding or lodging house” - a dwelling unit or part of a dwelling unit in which meals, sleeping accommodations, or meals and sleeping accommodations are provided for compensation to no more than five persons who do not function as a single housekeeping unit.

~~16. “Boathouse” - an uninhabited accessory structure built and occupied solely for the storage of marine vehicles and equipment.~~

~~1714.~~ "Buffer" - the use of land, topography, open space or landscaping to visibly separate and filter a use of property from another adjacent or nearby use.

~~1815.~~ "Buildable area" - a contiguous portion of a lot that is suitable for the location of the primary structure and that excludes all existing and proposed easements, setback areas for principal structures, wetlands, floodplains, the neck portion of any neck or flag lot, steep slopes that are unbuildable under this ordinance, and other unbuildable areas. Certain easements may be included in the buildable area at the discretion of the city if their inclusion is consistent with the intent of this code.

~~1916.~~ "Building" - any structure having a roof supported by columns, walls or other means of support for the shelter or enclosure of persons or property.

~~2017.~~ "Building height" - ~~the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater building height:~~

~~a) the elevation of the highest adjoining sidewalk or ground surface within a five foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above lowest grade.~~

~~b) an elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described in item 1 above is more than 10 feet above lowest grade.~~

~~The height of a stepped or terraced building is the maximum height of any segment of the building.~~

the vertical distance between the ground elevation abutting a building and the midpoint elevation of the highest gable of a pitched or hipped roof, the deck line of a mansard roof, or the highest point of a flat roof or a parapet wall. The ground elevation used to measure building height will be selected from one of the following, whichever results in the greater height:

a) When the change in grade within the footprint of the building is equal to or less than 10 feet, the highest ground elevation abutting the building will be used.

a)b) When the change in grade within the footprint of the building is greater than 10 feet, an elevation 10 feet higher than the lowest ground elevation abutting the building will be used.

~~21. “Caliper” - the diameter of a tree trunk measured at 4.5 feet above finished grade level.~~

~~22~~18. “City” - the city of Minnetonka, a municipal corporation, along with its duly authorized boards, commissions or representatives.

~~19. “City Planner” - for purposes of this ordinance, the person holding said position or a designated representative.~~

~~23. “Commercial use” - activity carried out for financial gain.~~

~~24~~20. “Common area, residential” - land, structures, or both, that are owned and maintained by a homeowners' association or similar organization and used for the mutual benefit of ~~the~~ residents or tenants of the association or organization.

~~25~~21. “Common space, commercial” - enclosed areas located within a commercial structure that are utilized for the mutual benefit of building tenants. ~~Hallways and entrance vestibules do not constitute common space under this definition.~~

~~26~~22. “Community based residential care facility” - any facility similar to but not included within the definition of licensed residential care facility. These may include public or private facilities which provide one or more persons with up to 24 hour care, training, education, rehabilitation, treatment or other support services.

~~27~~23. “Comprehensive plan” - ~~the document entitled comprehensive guide plan for the city of Minnetonka with associated guide plan map, adopted May 10, 1999, as amended, or as hereafter revised or superseded by new comprehensive plans.~~ the comprehensive municipal plan, as defined in Minnesota Statutes section 462.352, in effect at the time of the final action on an application, except as otherwise required by Minnesota Statutes section 462.357.

~~28. “Conditional use” - a use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all standards of this ordinance for the location or operation of such use. The city may impose additional conditions in specific instances to protect the public health, safety or welfare.~~

~~29~~24. “Conditional use permit” - a permit to allow a conditional use duly authorized by the appropriate authority as described in sections 300.16 or 300.21 of this ordinance. A conditional use permit may be subject to periodic review upon determination by the city.

~~30~~25. “Conservation easement” - a recordable document ~~in recordable form acceptable to the city attorney, which that~~ prohibits construction, grading, vegetation removal, or

other alteration of property except in accordance with city-approved environmental management practices, but which does not grant the public the right to use the property.

~~34~~26. “Crawl space” - an enclosure designed to internally flood, which is completely above grade on at least one side and usable solely for building access or storage.

~~32~~27 “Cul-de-sac” - ~~a street with a single means of ingress/egress and having a turnaround at the end. A turnaround may be in the form of a circular “bubble” of pavement or an internal “looped” street.~~ a street with a single means of ingress and egress and having a turnaround at its end for safe and convenient reversal of traffic.

~~28~~. “Cul-de-sac bulb” - a turnaround at the end of a cul-de-sac.

~~33~~29. “Deck” - ~~a structure without a roof and with flooring~~ an unenclosed, platform structure composed of boards made of synthetic or natural materials. A deck is considered attached if any part of it is within ten feet of the principal structure; a deck is considered detached if no part of it is within ten feet of the principal structure. A detached deck is considered an accessory structure in the wetlands, floodplain, and shoreland districts.

~~34~~30. “Density” - the number of dwelling units per acre of land, excluding areas zoned as wetland, floodplain, or below the ordinary high water level of a public water, as regulated by the comprehensive plan. ~~All property zoned as wetlands or floodplain and all property below the ordinary high water level of a public water must be excluded from the calculations, and no density credit will be given.~~

~~35~~. ~~“Director of planning” - for the purpose of this ordinance, director of planning shall refer to the individual holding said position or a designated representative.~~

~~36~~31. “Distribution line” - an overhead or underground facility consisting of utility poles, lines, underground conduit, and related devices used to carry electricity from a substation to the ultimate user, with a nominal voltage equal to or less than 35 kilovolts, or to carry communications.

~~37~~32. “Dock” - ~~a structure that extends past the ordinary high water level of a water body and is intended to provide access to the water.~~ a platform that provides access to a water resource.

~~38~~33. “Dwelling” - a building or portion thereof designed or used exclusively for residential occupancy.

~~3934.~~ “Dwelling, attached” - a dwelling attached to one or more dwellings by common walls or floors.

~~4035.~~ “Dwelling, detached” - ~~a building designed or intended for occupancy exclusively by one family dwelling that is not attached to any other dwelling.~~

~~41.~~ “~~Dwelling, single family detached housing (within the planned unit development district)~~” - ~~housing located on individual lots, physically unconnected with any adjacent homes and built in compliance with ordinance mandated setback and lot area requirements.~~

~~42.~~ “~~Dwelling, single family detached cluster housing~~” - ~~housing located on individual lots which is designed as an element of an overall site plan and where the subdivision permits a reduction in lot area and other ordinance requirements as defined in section 300.22, subd. 4A of this ordinance.~~

36. “Dwelling, single-family” - a building designed or intended for occupancy by one family.

~~4337.~~ “~~Dwelling, two-family~~” - a building designed with two separate dwelling units or intended for occupancy by two families. ~~Each dwelling unit to be totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units. This definition includes duplex and double bungalow terms. A principal dwelling unit that contains an accessory apartment is not considered a two-family dwelling.~~

~~4438.~~ “~~Dwelling, multiple multiple-family~~” - a building designed with three or more dwelling units or intended for occupancy by three or more families.

~~45.~~ “~~Dwelling, single family detached housing (within the planned unit development district)~~” - ~~housing located on individual lots, physically unconnected with any adjacent homes and built in compliance with ordinance mandated setback and lot area requirements.~~

~~4639.~~ “~~Dwelling unit~~” - one or more rooms with facilities for sleeping, cooking, and sanitation designed or intended for residential occupancy, ~~as a single living unit, with sanitary, culinary and sleeping facilities separate from those of other living units and intended for the exclusive use of a single family.~~

~~4740.~~ “Educational institution or facility” - a public or private elementary, middle, secondary, ~~post-secondary or vocational school having that has~~ a course of instruction meeting the compulsory education requirements of the Minnesota board of education.

~~48.~~ “Electromagnetic field (EMF)” - a field with two components, one electrical and the other magnetic, arising from the conduction of electricity through a medium of transmission.

~~4941.~~ “Excavation” - the removal, relocation or recovery by any means of soil, rock, minerals, debris or organic substances other than vegetation from a parcel of land.

~~5042.~~ “Expansion” - ~~an increase in the floor or land area or volume of an existing building, any increase in dimension, size, area, volume, or height, any increase in the area of use, any placement of a structure or part thereof where none existed before, any addition of a site feature such as a deck, patio, fence, driveway, parking area, or swimming pool, any improvement that would allow the land to be more intensely developed, any move of operation to a new location on the property, or any increase in intensity of use based on a review of the original nature, function or purpose of a non-conforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the city. Expansion is synonymous with “enlargement” and “intensification.”~~

~~5143.~~ “Family” - any number of individuals living together on the premises as a single housekeeping unit as distinguished from a group occupying a boarding or lodging house, licensed residential care facility, licensed day care facility or community based residential facility.

~~5244.~~ “FEMA” - the United States federal emergency management agency or its successor.

~~5345.~~ “Filling” - sand, gravel, earth or other materials of any composition placed on a parcel of land.

~~5446.~~ “Flood” - a temporary increase in the flow or stage of a stream or in the stage of a wetland, pond, water course, or lake that results in the inundation of normally dry areas.

~~5547.~~ “Flood elevation” - the water level achieved by a 100-year flood as defined by the city water resources management plan, the federal emergency management agency, or other studies accepted by the city, whichever is more restrictive. A 100-year flood is synonymous with the terms one-percent chance flood, base flood, and regional flood.

5648. "Flood obstruction" - a dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation (except for creation of compensatory flood storage), channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

5749. "Flood proofing" - a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

5850. "Flood way" - the bed of a wetland, pond, or lake, or the channel of a watercourse, and those portions of the adjoining floodplain that are reasonably required to carry, store or discharge the 100-year flood event.

5951. "Floodplain" - the area adjoining a wetland, pond, lake or water course including the floodway, subject to periodic inundation by a 100-year flood as designated on the official city floodplain district map.

~~6052. "Floor area" - the sum of the gross horizontal areas of the several floors of a building measured from the exterior walls excluding interior parking spaces, vehicular circulation, loading areas, accessory parking decks or ramps, basements, and one-half the floor area of any partially exposed level, such as a walk-out or look-out level. However, attached garage area must be included in the floor area when used to calculate floor area ratios for lots behind lots. In any structure having a floor with a height in excess of 15 feet, an additional floor will be assumed for every full 15 feet of interior building height. for single-family and two-family dwellings, the sum of the following as measured from exterior walls: the fully exposed gross horizontal area of a building, including attached garage space and enclosed porch areas, and one-half the gross horizontal areas of any partially exposed level such as a walkout or lookout level. For multiple family dwellings and non-residential buildings, the sum of the following as measured from exterior walls: the fully exposed gross horizontal area of a building and one-half of the gross horizontal areas of any partially exposed level such as a walkout or lookout level, excluding interior parking spaces and vehicular circulation areas. For all buildings, if a floor has a height in excess of 15 feet, an additional floor will be assumed for every full 15 feet of interior building height.~~

~~6153. "Floor area ratio (FAR)" - the gross floor area of all buildings on a lot divided by the lot area. The floodplain or wetland area, or both within a lot shall be the floor area of a building as defined by this ordinance, divided by area of the lot on which the building is located. Area zoned as wetland, floodplain, or below the ordinary high water level of a public water is excluded from the lot area for purposes of the floor area ratio calculation~~

unless it can be demonstrated that there will be minimal hydrologic, aesthetic and ecological impacts to the relevant area as determined by the city.

~~6254.~~ “Garage” - a detached or attached accessory structure designed or used for the parking and storage of vehicles owned and operated by residents of a principal structure on the same lot.

~~6355.~~ “Grade” - the elevation of the ground.

~~6456.~~ “Grading” - excavating, filling or other land-disturbing activity.

~~6557.~~ “Heliport” - any area on the ground or on a structure approved by the city for the landing and takeoff of helicopters.

~~6658.~~ “Home occupation” - an occupation that is clearly secondary to the principal residential use and does not change the nature of the principal residential use.

~~6759.~~ “Housekeeping unit” - all persons residing within a dwelling unit whose relationship includes a substantial amount of social interaction, including the sharing of housekeeping responsibilities or expenses and the taking of meals together.

~~68-60.~~ “Impervious surface” - a material providing a hardsurface ~~which~~ that prevents normal ~~absorption~~ infiltration of water into the ground ~~into land~~.

~~6961.~~ “Intensity of development” - a measure of the magnitude and impact of a land use on the environment and neighboring land uses. Variables include, but are not limited to, the levels of traffic that are generated, degree of lot coverage, volume of noise or odor emitted and similar factors.

~~7062.~~ “Intensive vegetative clearing” - the complete removal of trees and shrubs, or grasses and forbs, in a contiguous patch, strip, row, or block except the removal of invasive species as approved by the city.

~~7163.~~ “Level of service” - the ~~traffic capacity of~~ level at which an intersection operates based upon criteria established by the institute of traffic engineers, as amended periodically.

~~7264.~~ “Licensed day care facility” - any facility required to be licensed by a governmental agency, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. Licensed day care facilities include, but are not limited to,

family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, developmental achievement centers, day treatment programs, adult day care centers and day services.

~~7365.~~ “Licensed residential care facility” - any facility required to be licensed by a governmental agency, public or private, which for gain or otherwise regularly provides one or more persons with a 24 hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation and treatment they need, but which for any reason cannot be furnished in the person's own home. Residential facilities include, but are not limited to, state institutions under the control of the commissioner of human services, foster homes, residential treatment centers, maternity shelters, group homes, residential programs, supportive living residences for functionally impaired adults or schools for handicapped children.

~~7466.~~ “Loading space” - that portion of a property lot or parcel of land designed to serve the purpose of loading or unloading all types of vehicles.

~~7567.~~ “Lot” - a designated parcel of land established by plat or subdivision adequate for occupancy by a use permitted in this ordinance and providing sufficient area required for minimum open space and appurtenant facilities as required by this ordinance. For the purpose of determining lot area, setbacks, lot coverage, and floor area, a lot must not include any land below the ordinary high water level of a lake or creek. a measured parcel of contiguous land having fixed boundaries and recorded with the appropriate government authority or office.

~~7668.~~ “Lot area” - the total area within the bounded by lot lines excluding dedicated public road rights-of-way and any area located below the ordinary high water level of a public water lake or creek.

~~7769.~~ “Lot-behind-a-lot”

a) a lot with substandard or no frontage on a public road right-of-way, where access to public road right-of-way is over the substandard lot frontage or by a private easement, commonly called a "flag" or "neck" lot, or

b) a lot with standard frontage on a public street, where the only buildable area is directly behind an existing or potential house pad that fronts on a public street.

~~7870.~~ “Lot, corner” - a lot abutting, and located at the intersection of, two or more public road rights-of-way.

~~7971.~~ “Lot coverage” - that portion of a lot, excluding any area located below the ordinary high water level of a lake or creek, that is covered by buildings, driveways, parking areas and any other impervious surface.

~~8072.~~ “Lot depth” - the mean-average horizontal distance between the front and rear lot lines. In order to allow flexibility in determining lot depth for parcels of unusual configuration, lot depth can be measured by averaging side property lines or by measuring a straight line extending from the front lot line to the rear lot line and passing through the building buildable area or existing principal structure, subject to determination by the director of planning.

~~8173.~~ “Lot, double frontage” - a lot having frontage on two non-intersecting streets abutting two, non-intersecting public road rights-of-way.

~~74.~~ “Lot, riparian” - a lot abutting a public water, excluding wetlands.

~~8275.~~ “Lot line” - a line that defines the legal boundary of a lot, of record bounding a lot which divides one lot from another lot, a public or private street or any other public or private space.

~~8376.~~ “Lot line, front” - a lot line abutting a dedicated public road right-of-way. In the case of a lot-behind-lot, the front lot line will be determined by the city planner based upon characteristics of the lot and the surrounding neighborhood.

~~8477.~~ “Lot line, rear” - the lot line opposite and most distant from the front lot line. In the case of a corner lots, the rear lot line shall will be determined by the director of planning city planner based upon characteristics of the surrounding neighborhood.

~~8578.~~ “Lot line, side” - any lot line other than a front or rear lot line.

~~8679.~~ “Lot of record” - a parcel of land lot whose legal description was established in the Hennepin county property records by plat, subdivision or as otherwise permitted by law prior to February 12, 1966, and which contains identical lot lines as were present on February 12, 1966.

~~8780.~~ “Lot width at right-of-way” - the width of a lot between side lot lines at the front lot line adjacent to the public street. the horizontal distance between side lot lines as measured at the public road right-of-way.

~~8881.~~ “Lot width at setback” - the width of a lot between side lot lines at the setback line, measured at right angles to lot depth the horizontal distance between side lot lines as measured at the required front yard setback established by this ordinance.

~~8982.~~ "Lowest floor" - the lowest floor of the lowest enclosed area of a building, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

~~9083.~~ "Manufactured or mobile home" - a structure, transportable in one or more sections, that is built on a permanent chassis, ~~and is designed for use with or without a permanent foundation, and may be used as a dwelling unit~~ when attached to the required utilities. The term does not include a recreational vehicle.

~~9184.~~ "Marina" - a facility for storing, servicing, fueling, berthing and securing of pleasure boats and which may include eating, sleeping and retail facilities for owners, crews, and guests.

~~9285.~~ "Master development plan" - description or illustration of development usually comprised of a series of plans that generally show: location of trees and water resources, streets, utilities, stormwater improvements, buildings, and parking areas; proposed site grading ~~and tree removal, and landscaping; and~~ building elevations and signs; ~~and landscaping.~~

~~9386.~~ "Medical clinic" - a freestanding structure or, in the case of multiple tenant buildings, a total occupied space of 2,000 square feet or greater used for patient examination and treatment by physicians, dentists, optometrists, psychologists or other health care professionals and where patients are not lodged overnight.

~~9487.~~ "Microbrewery" - a facility that manufactures and distributes malt liquor or wine in total quantity not to exceed 250,000 barrels per year, which may include space dedicated as a taproom to distribute on-sale and off-sale alcohol.

~~9588.~~ "Mixed use development" - the development of a parcel of land with two or more different uses such as residential, commercial, or manufacturing or with residential uses of different densities as permitted by this ordinance.

~~9689.~~ "Non-PUD development" - a development that is not a PUD and which complies with all applicable subdivision and zoning regulations.

~~9790.~~ "Occupancy" - the purpose for which a building or part thereof is used or intended to be used.

~~9891.~~ "Ordinary high water level or OHWL" - the boundary of public waters at an elevation delineating the highest water level as defined by the department of natural resources

which has been maintained for a sufficient period of time to leave evidence upon the landscape; commonly that point where the vegetation changes from predominantly aquatic to predominately terrestrial. For tributary ~~rivers~~ creeks, the ordinary high water level is the elevation of the top of the bank of the channel as approved by the city's engineer.

9992. "Original zoning classification" - the zoning classification a property had immediately prior to being rezoned.

40093. "Outdoor entertainment" - any type of entertainment or recreation activity that does not occur within an enclosed building.

401. ~~"Parking access" - the area of a parking lot that allows motor vehicle ingress and egress from the street.~~

40294. "Parking deck or ramp" - a structure built for the temporary storage of motor vehicles.

40395. "Parking lot" - an off-street, ground level area, without a roof, surfaced and improved for the temporary storage of motor vehicles.

40496. "Parking space" ~~- an improved temporary motor vehicle storage area of dimensions specified in the parking and loading standards contained in section 300.28 of this ordinance and directly accessible to an access aisle~~ an area within a parking deck, ramp or lot intended for the storage of an individual motor vehicle and that complies with the standards outlined in section 300.28 of this ordinance. This term is identical to the term parking stall.

40597. "Patio" - a horizontal, structure without a roof, ~~and with flooring~~ composed of any material other than boards, such as concrete, flagstones, bricks or pavers. A patio is considered attached if any part of it is within ten feet of the principal structure; a patio is considered detached if no part of it is within ten feet of the principal structure. A detached patio is considered an accessory structure in the wetlands, floodplain, and shoreland districts.

40698. "Performance standards" - specified criteria and limitations provided in section 300.28 which are intended to protect the public health, safety or welfare.

40799. "Person(s)" - an individual, firm, partnership, corporation, company, association, society, joint stock association or body politic including any trustee, receiver, assignee or other representative thereof.

~~408~~100. "Planned unit development (PUD)" - a zoning classification and development type in which the city grants flexibility from certain subdivision and zoning regulations to achieve a public benefit that would not otherwise be achieved through a non-PUD development.

~~409~~101. "Porch" - a structure that is designed for ~~home residential~~ occupancy that includes a floor and roof, and may include walls, but is not designed for winter use. A porch may be attached to, or detached from, a principal structure. A detached porch (for example, a gazebo) is classified as an accessory structure. A porch is considered attached if any part of it is within ten feet of the principal structure; a porch is considered detached if no part of it is within ten feet of the principal structure.

~~410~~102. "Premises" - a lot together with all buildings and structures located on it.

~~411~~103. "Public building" - ~~a structure sheltering or enclosing a government activity or use~~ a building owned and occupied by a municipal, school district, regional, state or other governmental unit.

~~412~~104. "Public water" - any water defined in Minnesota statutes, section 103G.005, or as amended. These waters include lakes, wetlands, and watercourses.

~~413~~105. "Recreational vehicle" - a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towed by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

~~414~~106. "Restaurant" - an establishment in which food and drink is offered or prepared and served for public consumption ~~and is served to customers at tables by employees.~~ Restaurants may include incidental take-out service.

~~415~~107. "Restaurant, fast food" - a restaurant whose business is the sale of rapidly prepared, or pre-prepared or take-out food or drink directly to customers without table service and which may include drive-up order and delivery systems. This definition does not include establishments within community or neighborhood shopping centers that do not have a customer dining area and offer food only as take-out or by delivery.

~~416~~108. "Restoration" - a reestablishment of previously existing conditions or uses or reconstruction of previously existing building features.

~~417~~109. "Retaining wall" - a wall that separates two areas of earth that have different elevations.

~~418~~110. "Right-of-way" - a strip of land intended to be used for streets, highways, crosswalks, sidewalks, trails, railroads or utility purposes.

111. "Riparian" - of, on, or relating to the banks of a natural water body excluding wetlands.

~~419~~112. "Roof" - ~~the outside top covering of a building~~ the exterior surface forming the upper covering of a building.

~~120~~. "Roof line" - ~~for buildings with a flat roof, the roof line is the horizontal plane at the top of the roof. For other buildings with any type of pitched or sloping roof, the roof line is the lowest point of the roof.~~

~~121~~. "Screen" - ~~a visual shield between uses accomplished by the use of berms, landscaping, walls or other aesthetic means.~~

~~122~~113. "Setback" - ~~the minimum distance from any lot line that an improvement may be placed, measured perpendicularly from the lot line to the closest point of the improvement~~ the minimum horizontal distance that must be maintained between a property line, delineated wetland edge, floodplain elevation, ordinary high water levels, or top of bluff and a building or structure. A setback is measured perpendicularly from the lot line, delineated wetland edge, floodplain elevation, ordinary high water level, or top of bluff and to the closest point of the building or structure, excluding building or structure eaves.

~~123~~114. "Setback line" - ~~a line which is the specified setback distance from and parallel to any lot line, or other specified line, such as the ordinary high water level, edge of wetland, floodplain, or top of bluff. a line located at the required setback from a property line, delineated wetland edge, floodplain elevation, ordinary high water level, or top of bluff.~~

115. "Shopping center" - a group of retail and other commercial establishments that is planned, developed, owned, or managed as a single property.

~~424~~116. "Shopping center, community" - ~~a business center intended to provide a wide range of goods or services primarily to residents of the city. a general merchandise and convenience-oriented shopping center, generally including a large tenant such as a discount store or supermarket, providing goods and services to residents of the larger community. Examples of community shopping centers in the city include Ridgehaven Mall and the Seven-Hi commercial area.~~

~~125117. "Shopping center, neighborhood" - a business center of limited commercial nature which provides convenience goods or services to nearby neighborhoods. a convenience-oriented shopping center primarily providing goods and services to residents of the adjacent area. Generally, the smallest type of shopping center. Examples of neighborhood shopping centers in the city include retail buildings in the Glen Lake and Cedar Lake Road areas.~~

~~126118. "Shopping center, regional" - a business center intended to provide a comprehensive array of goods or services to residents of the metropolitan area. a shopping center providing a wide range of goods and services to residents of the metropolitan region. Ridgedale Mall is the only regional shopping center in the city.~~

~~127119. "Shore impact zone" - land located between the ordinary high water level of a public water including a tributary creek, and a line parallel to it at a setback of 25 feet for general development lakes and tributary creeks, and 37.5 feet for recreational development lakes.~~

~~128120. "Shorelands" - land located within the shoreland district as defined in section 300.25.~~

~~129. "Sign" - a name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public, and which directs attention to a product, place, activity, person, institution or business.~~

~~121. "Sign" - any writing, pictorial presentation, number, illustration or decoration, flag, banner or other device that is used to announce, direct attention to, identify, advertise, or otherwise make anything known. The term "sign" does not include the terms "building" or "landscaping," or any architectural embellishment of a building not intended to communicate information.~~

~~130122. "Sign, advertising" - a sign which directs attention to a business, commodity, service, activity or entertainment not necessarily conducted, sold or offered upon the premises where such sign is located.~~

~~131123. "Sign, business" - a sign which directs attention to a business or profession or to a commodity, service or entertainment sold or offered upon the premises where such a sign is located.~~

~~132124. "Sign, flashing" - any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.~~

~~433~~125. "Sign, illuminated" - any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as part of the sign.

~~434~~126. "Sign, name plate" - any sign which states the name or address of the business or occupant of the lot where the sign is placed.

~~435~~127. "Sign, projecting" - a sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.

~~436~~128. "Sign, pylon" - a free standing sign erected upon a single pylon or post which is in excess of 10 feet in height with a sign mounted on top thereof.

~~437~~129. "Sign, rotating" - a sign which revolves or rotates on its axis by mechanical means.

~~438~~130. "Sign, surface area of" - the entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display.

~~439~~131. "Sign, wall - flat" - a sign affixed directly to an exterior wall and confined within the limits thereof of any building and which projects from that surface less than 18 inches at all points.

~~140. "Site and building plan" - a development plan for a lot or lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, floodplain, wetlands, open spaces, means of ingress/egress, parking, grading, drainage, utilities, landscaping, structures, signs, lighting, screening, building elevations and other information which reasonably may be required in order that an informed decision can be made by the city.~~

~~441~~132. "Site and building plans" - plans that specifically illustrate: location of trees and water resources, streets, utilities, stormwater improvements, buildings, and parking areas; proposed site grading, and tree removal, and landscaping; building elevations and signs; and landscaping, and other information as may be reasonably required by the city.

~~442~~133. "Slope" - the inclination of the natural surface of the land from the horizontal, commonly described as a percentage derived from the height divided by the length.

~~443~~134. "Slope, toe of" - the lower point of a 50-foot segment with an average slope of at least 20 percent.

444135. "Slope, top of" - the higher point of a 50-foot segment with an average slope of at least 20 percent.

445136. "Steep slope" - a slope that has an average grade of 20 percent or more, that covers an area at least 100 feet in width (side to side), except that the 100 feet width does not apply in the shoreland zoning district, and that rises at least 25 feet above the toe of the slope. The average grade of a steep slope will be measured between the toe and the top of the slope.

446137. "Storage" - goods, materials or equipment placed or left in a location on a premises.

447138. "Story" - ~~the portion of a building included between the upper surface of any floor and the upper surface of the next floor above, except that the topmost story shall be~~ is that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such usable or unused under-floor space shall be considered as a story. that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. It is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the top most story, from the top of the floor finish to the top of the ceiling joist or, where there is not a ceiling, to the top of the finished rafters. If the finished floor level directly above a usable or unused space is more than six feet above grade for more than 50 percent of the total perimeter or is more than 12 feet above grade at any point, such usable or unused space will be considered a story.

448139. "Street" - ~~a vehicular way further defined as local, collector, minor arterial, intermediate arterial or principal arterial in the comprehensive plan and lying within a dedicated public right-of-way or road easement.~~ a vehicular way located within right-of-way, as defined and designated in the subdivision ordinance and comprehensive guide plan.

449140. "Structure" - anything placed, poured, constructed, or erected, the use of which requires location on the ground or attachment to something having a location on the ground. Examples include, but are not limited to: buildings, parking ramps, sport courts, patios, and pools.

141. "Structure, accessory" - On non-riparian lots, an uninhabited structure over 200 square feet in area, located on the same lot, subordinate to, and associated with the principal structure. On riparian lots and lots within the shoreland, floodplain, and wetland

zoning districts, the same definition, but including structures over 120 square feet in area and as modified by sections 300.23, 300.24, and 300.25 of this ordinance.

142. "Structure, enclosed" – a structure that is surrounded by a roof and walls composed of any type of material.

143. "Structure, unenclosed" – a structure that is not surrounded by a roof and walls composed of any type of material.

~~150~~144. "Structure, principal" – the building in which is conducted the primary use of the lot on which the building is located. the structure in which the primary use of the lot occurs.

~~151~~145. "Substantial compliance" - relative to an approved master development plan, or approved final site and building plans, or approved preliminary plat:

a) streets, utilities, stormwater improvements, buildings, ~~and~~ parking areas, and landscaping are in generally the same location;

b) the number of residential units has not changed by more than 5 percent;

c) the gross floor area of non-residential buildings has not been changed by more than 5 percent or the gross floor area of any individual building has not been changed by more than 10 percent;

d) The number of stories of any building has not increased;

e) The square-footage of grading on any individual lot has not increased by more than 1,000 square feet;

f) the amount of open space has not decreased by more than 5 percent or been altered in such a way as to change its original design or intended use;

g) all special conditions attached to the approval are met.

~~152~~146. "Substantial damage" - damage of any origin sustained by a structure when the cost of restoring the structure to its undamaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

~~153~~147. "Substantial improvement" - reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, within a consecutive 365-day period, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the

improvement. This term includes an improvement to a structure that has incurred substantial damage, regardless of the actual repair work performed. The term does not include either:

a) improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or

b) an alteration of an historic structure as defined in 44 code of federal regulations, part 59.1, provided that the alteration will not preclude the structure's continued designation as an historic structure.

~~154~~148. "Transient sales" - use of a structure or lot for the temporary sale of goods, wares ~~of or~~ merchandise. Transient sales ~~shall do~~ not include the sale of food products of a farm or garden occupied and cultivated by the seller.

~~155~~149. "Transitional area" - an area in the process of changing from one use to another use or an area which functions as a buffer between land uses of different types or intensity.

~~156~~150. "Transmission line" - an overhead or underground facility consisting of utility poles, lines, underground conduit, and related devices used to carry electricity generally to a location other than the ultimate user, with a nominal voltage greater than 35 kilovolts.

~~157~~151. "Tributary creek" - a water course mapped on the public water inventory including the Minnehaha Creek, Nine Mile Creek, and Purgatory Creek (including both branches), and the public water course that flows out of Glen Lake. These waters include those defined as tributary rivers by the Minnesota department of natural resources.

~~158~~152. "Use" - the purpose or activity for which a premises is designed, arranged or intended or for which it is or may be occupied or maintained.

153. Use, Accessory - a use that is subordinate to, associated with, and located on the same property as the principal use.

154. Use, Commercial - a use that involves the sale of goods or services.

155. Use, Conditional - a use that is permitted in a particular zoning district when certain and specific standards and conditions outlined in the ordinance are met. The city may impose conditions beyond those outlined in ordinance when necessary to protect public health, safety, and welfare.

156. Use, Permitted – a use that is allowed by right when ordinance standards are met.

157. Use, Primary – a use for which a premises is designed, arranged, or intended or for which it is or may be occupied.

~~159~~158. “Utility pole” - a structure which is owned by a governmental agency or utility company and which is used to support illumination devices or lines and other equipment carrying electricity or communications.

~~160~~159. “Variance” - a modification from the literal requirements of this ordinance as specified in section 300.07 of this ordinance.

~~164~~160. “Water oriented accessory structure” - a detached, above ground small building or structure that does not exceed 120 square feet in size or 10 feet in height, exclusive of safety rails, that's use is directly related to the surface water. Examples include sheds, gazebos, screen porches and detached decks. Stairways, fences, retaining walls and docks are not considered water oriented accessory structures. Boat houses are not water oriented accessory structures.

161. Water Resource – for purposes of this ordinance, a lake, creek, wetland, stormwater pond, ditch, or other similar natural feature.

162. “Water resources management plan” - the document entitled City of Minnetonka Water Resources Management Plan dated January 25, 1999, and as amended.

163. “Wetlands” - ~~poorly drained environmentally sensitive lands classified by type in section 300.23 of this ordinance and designated on official city floodplain and wetland maps.~~ a low area where the water table is usually at or near the surface, or where the land is covered by shallow water. Wetlands must: (1) have hydric soils; (2) be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation; and (3) under normal circumstances support a prevalence of hydrophytic vegetation.

164. “Wind energy conversion system (WECS) or windmill” - an apparatus capable of converting wind energy into electricity.

~~165. “Yard” - an open space unobstructed from the ground upward with the exception of landscape materials and minor fixtures of a non-structural nature commonly found in a yard. an open space on the same lot as a principal structure, which is obstructed only accessory structures and landscape materials.~~

~~166165.~~ 167165. "Yard, front" - the area between the front lot line and the ~~front setback line~~ principal structure.

~~167166.~~ 168166. "Yard, rear" - the area between the rear lot line and the ~~rear setback line~~ principal structure.

~~168167.~~ 169167. "Yard, side" - ~~a space~~ the area between front and rear yards extending from the ~~front yard to the rear yard along a~~ side lot lines to the principal structure, measured ~~perpendicularly from the side lot line to the closest point of a structure.~~

Section 2. The city clerk is directed to revise Chapter 3 of the Minnetonka City Code by substituting the term "city planner" for "director of planning" wherever the latter term appears.

Section 3. This ordinance is effective upon adoption.

Adopted by the city council of the City of Minnetonka, Minnesota, on February 29, 2016.

Terry Schneider, Mayor
Attest:

David E. Maeda, City Clerk

Action on this ordinance:

Date of introduction: January 25, 2016

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 regular meeting held on February 29, 2016.

David E. Maeda, City Clerk