



**Agenda
Minnetonka City Council
Regular Meeting
Monday, June 28, 2021
6:30 p.m.
Council Chambers**

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Schaeppi-Coakley-Kirk-Schack-Carter-Calvert-Wiersum
4. Approval of Agenda
5. Approval of Minutes:
 - A. April 19, 2021 study session
 - B. May 3, 2021 study session
6. Special Matters: None
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases: None
10. Consent Agenda - Items Requiring a Majority Vote:
 - A. Ordinance relating to interim uses in the I-1, Industrial, and PID, Planned I-394, zoning districts

Recommendation: Adopt the ordinance (4 votes)
 - B. Resolutions approving an interim use permit for a temporary telecommunications tower at 6120 Blue Circle Drive

Recommendation: Approve the resolution (4 votes)
 - C. Resolution approving an interim use permit for a 30-day sale of food products within the Ridgedale Center parking lot at 12401 Wayzata Blvd

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Replays of this meeting can be seen during the following days and times: Mondays, 6:30 p.m., Wednesdays, 6:30 p.m., Fridays, 12 p.m., Saturdays, 12 p.m. The city's website also offers video streaming of the council meeting.
For more information, please call 952.939.8200 or visit <https://www.minnetonkamn.gov>

Recommendation: Approve the resolution (4 votes)

- D. Resolution approving a conditional use permit for a licensed daycare facility at 4420 County Road 101

Recommendation: Approve the resolution (4 votes)

- E. Resolution approving drainage, utility, and ponding easements for the property located at 14033 Oakwood Road Extension

Recommendation: Adopt the resolution (4 votes)

- 11. Consent Agenda - Items Requiring Five Votes: None

- 12. Introduction of Ordinances: None

- 13. Public Hearings:

- A. On-sale wine application for Three Rivers Park District dba Glen Lake Golf & Practice Center at 14350 County Road 62

Recommendation: Continue the public hearing from May 24, 2021, and grant the license (5 votes)

- 14. Other Business:

- A. Resolutions related to the Livable Communities Demonstration Account (LCDA) – Transit Oriented Development (TOD) funding and authorizing applications for grant funds

Recommendation: Adopt the resolutions (4 votes)

- 15. Appointments and Reappointments: None

- 16. Adjournment

**Minutes
City of Minnetonka
Special City Council Study Session
Monday, April 19, 2021**

Council Present: Deb Calvert, Susan Carter, Kissy Coakley, Brian Kirk, Rebecca Schack, Bradley Schaeppi and Mayor Brad Wiersum.

Staff: Geralyn Barone, Mike Funk, Corrine Heine, Scott Boerboom, Andy Gardner, Shelley Petersen

Wiersum called the meeting to order at 3:00 p.m.

1. Roll Call

Schaeppi, Kirk, Schack, Carter, Calvert, and Wiersum were present at the start of the meeting.

Coakley joined the meeting at 3:11 p.m.

2. Briefing from Police Chief Scott Boerboom regarding recent regional events

Wiersum commented on the recent events in the City of Brooklyn Center and on the ongoing trial of Derek Chauvin.

Barone introduced the topic of the meeting, noting that the purpose is to allow Chief Scott Boerboom to provide an update on the recent events in Brooklyn Center, and to allow councilmembers to ask their own questions and those of residents. She noted police captains Andy Gardner and Shelley Petersen were also in attendance to help answer questions.

Boerboom stated there will be a virtual community conversation event on Tuesday, April 20 at 6:30 p.m. The purpose of this meeting is to allow residents to come together to discuss the recent events in Brooklyn Center and policing in Minnetonka. Boerboom noted this event was organized in partnership with Grace Apostolic Church, the Minnetonka Collective, and the Tri-City Coalition community group.

Boerboom then gave a presentation on mutual aid between cities as it relates to policing, the mutual aid efforts in Brooklyn Center, how Minnetonka is preparing for the verdict in the trial of Derek Chauvin, and race data the city collected regarding traffic stops.

Council offered their questions and comments on these topics.

Barone thanked councilmembers for their feedback and contributions to the discussion, and Boerboom for presenting and responding to the questions presented by council.

Wiersum thanked Boerboom, Gardner, and Petersen for their attendance.

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3. Adjournment

Wiersum adjourned the meeting at 4:19 p.m.

Respectfully submitted,

Kyle Salage
Elections Specialist

**Minutes
City of Minnetonka
City Council Study Session
Monday, May 3, 2021**

Council Present: Brian Kirk, Rebecca Schack, Deb Calvert, Bradley Schaeppi, Kissy Coakley and Mayor Brad Wiersum.

Staff: Geralyn Barone, Mike Funk, McKaia Ryberg, Hanna Zinn, John Vance, Kevin Fox, Scott Boerboom, Andrew Wittenborg, Ann Davy

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

1. Reports from City Manager & Council Members

Barone reported on the upcoming council meeting schedule.

2. SAFER grant application and Fire Department staffing

Barone introduced the topic, noting fire service is currently undergoing many changes. She commended the work of Fire Chief John Vance and the rest of the city's fire department.

Vance introduced Kevin Fox as Deputy Chief of Operations, who was also in attendance to help answer questions from councilmembers. Vance then gave a presentation covering the mission and history of the city's fire department, the location of the city's fire stations, changes to fire department approaches and service delivery, current staffing levels and turnover information, background on the SAFER Grant, why the city applied for the grant, and the next steps in the grant process.

Councilmembers offered questions and comments.

3. Strategic profile quarter one report

Barone introduced the topic.

Funk stated Ryberg, Zinn, and Wittenborg all made essential contributions to the strategic profile report, and that more than fifty other staff members also helped to create the quarter one report. He then gave a presentation covering the development of the strategic plan, reporting requirements, the structure of the strategic profile, and the team leaders for each of the strategic priorities.

Ryberg gave a presentation covering the features and structure of the quarter one report.

Zinn gave a presentation covering the metrics of the strategic profile.

Wittenborg gave a presentation covering the community dashboard, transparency with the community, and how to access the quarter one report and learn more about the strategic profile.

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Funk then highlighted next steps in the strategic profile process and important deadlines for 2021. He then invited questions and comments related to either the profile update or the content of the report.

Councilmembers offered questions and comments.

4. Adjournment

Wiersum adjourned at 8:18 p.m.

Respectfully submitted,

Kyle Salage
Elections Specialist



**City Council Agenda Item 10A
Meeting of June 28, 2021**

Title: Ordinance relating to interim uses in the I-1, Industrial, and PID, Planned I-394, zoning districts

Report From: Susan Thomas, AICP, Assistant City Planner

Submitted through: Geralyn Barone, City Manager
Julie Wischnack, AICP, Community Development Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

Staff is proposing to add interim uses to the I-1, Industrial, and PID, Planned I-394, zoning districts. An interim use is a temporary use of a property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

Recommended Action

Adopt the ordinance.

Strategic Profile Relatability

- | | |
|--|--|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Resources | <input checked="" type="checkbox"/> Livable & Well-Planned Development |
| <input type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input type="checkbox"/> N/A | |

With the exception of the I-1 and PID districts, each of the city's zoning districts recognizes interim uses. The proposed ordinance would generally reflect other zoning districts.

Financial Consideration

Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: N/A

Background

During the ordinance introduction meeting, the city council asked about the term of interim use permit. The existing ordinance addresses the term – no changes are proposed:

- a) An interim use permit expires, and the interim use must terminate at the earlier of:
 - 1) the expiration date in the interim use permit;
 - 2) the occurrence of any event identified in the interim use permit for the termination of the use;
 - 3) revocation of the interim use permit; or
 - 4) an amendment of the city code that no longer allows the interim use.
- b) An interim use permit expires one year after approval if the proposed use has not commenced or a building permit for a structure to support the interim use has not been issued.
- c) An interim use permit expires if the interim use ceases operation for a continuous period of at least one year.

Planning Commission Recommendation

The planning commission considered the ordinance on June 17, 2021. The staff report from that meeting is attached. Staff recommended approval of the ordinance, noting that while the city's residential and commercial ordinances contemplate interim uses, such uses are not included in the I-1 or PID ordinances. The proposed ordinance would add an interim use section for these zoning districts. The following uses would be allowed by IUP in the I-1 and PID districts:

- Outdoor entertainment. These uses are already allowed by IUP in commercial districts.
- Temporary telecommunication towers. The zoning ordinance is currently silent on this use. The proposed ordinance would allow such towers only in the I-1 and PID districts.
- Transient sales. These uses are already allowed by IUP in commercial districts.

At the meeting, a public hearing was opened to take comments from area property owners. No comments were received.

On a 4-0 vote, the commission recommended that the city council adopt the ordinance. There have been no changes since the commission's consideration. The meeting minutes are attached.

MINNETONKA PLANNING COMMISSION
June 17, 2021

Brief Description Ordinance relating to interim uses in the I-1, Industrial, and PID, Planned I-394, zoning districts.

Recommended Action Recommend the city council adopt the ordinance.

Background

Two groups recently contacted staff regarding potential, temporary land uses.

1. AT&T. Representatives from AT&T inquired about necessary permitting for the installation of a temporary telecommunications tower. Temporary towers are generally used when permanent towers/installations cannot function for some reason, for instance, when antennas need to be removed from water towers for tower maintenance or when natural disasters impact cellular coverage. In the case of AT&T, an existing telecommunications tower is being decommissioned, and the replacement tower has not yet been approved/constructed.
2. Backyard Butchers. Backyard Butchers sells frozen meat and seafood products directly to consumers via “pop-up” events. The company is hoping to hold such an event in the Ridgedale Center parking lot.

Both of these temporary uses are examples of interim uses.

Interim Uses

By ordinance, an interim use “is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.” The purposes for allowing interim uses are:

- To allow a use for a temporary period of time until a permanent location is obtained or while the permanent location is under construction;
- To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district;
- To allow a use that is seasonal in nature; or
- To allow a use for a limited period of time that reasonably uses the property where it is not reasonable to use it in the manner otherwise provided in the zoning ordinance or comprehensive plan.

Like conditional use permits, interim use permit (IUP) applications must be reviewed by the planning commission and may only be approved by the city council.

Proposed Ordinance

While the city's residential and commercial ordinances contemplate interim uses, such uses are not included in the I-1 or PID ordinances. The proposed ordinance would add an interim use section for these ordinances. The following uses would be allowed by IUP in these districts:

- Outdoor entertainment. These uses are already allowed by IUP in commercial districts.
- Temporary telecommunication towers. The zoning ordinance is currently silent on this use. The proposed ordinance would allow such towers only in the I-1 and PID districts.
- Transient sales. These uses are already allowed by IUP in commercial districts.

Staff Recommendation

Recommend the city council adopt the ordinance relating to interim uses in the I-1, Industrial, and PID, Planned I-394, zoning districts.

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

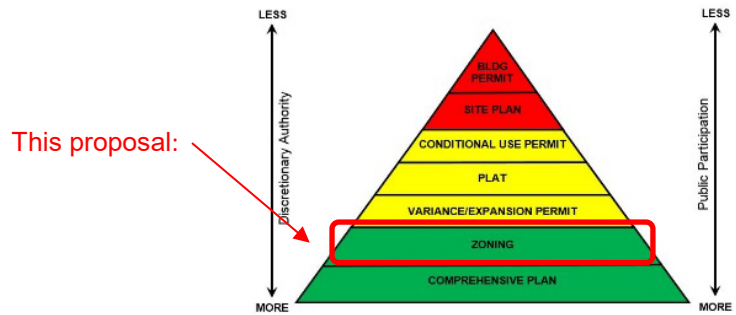
Supporting Information

Commission Action

The planning commission will make a recommendation to the city council; a recommendation requires a majority vote of the commission. The planning commission has the following options:

1. Concur with staff's recommendation. In this case, a motion should be made recommending the city council adopt the ordinance.
2. Disagree with the staff's recommendation. In this case, a motion should be made recommending the city council not adopt the ordinance.
3. Table the ordinance. In this case, a motion should be made to table the item. The motion should include direction to staff.

Pyramid of Discretion



SECTION 300.05 INTERIM USE PERMITS

1. Definition and Purpose.

a) An interim use is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

b) The purposes for allowing interim uses are:

1) To allow a use for a temporary period of time until a permanent location is obtained or while the permanent location is under construction;

2) To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district;

3) To allow a use that is seasonal in nature; or

4) To allow a use for a limited period of time that reasonably uses the property where it is not reasonable to use it in the manner otherwise provided in the zoning ordinance or comprehensive plan.

2. Permit Required.

It is unlawful to use any structure or land for any purpose requiring an interim use permit in the zoning district in which the property is located without first obtaining an interim use permit from the city. Where applicable, a building permit must also be obtained from the city.

3. Application.

An application for an interim use permit must comply with the provisions for a conditional use permit application in section 300.06, subdivision 2, and in addition, must contain the following:

- a) written documentation that includes a complete description of the use, schedule for commencement and termination of the use, hours and dates of operation and anticipated employment;
- b) site plan drawn to scale showing parcel and existing topography;
- c) location of all buildings and the size of each, including square footage;
- d) curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks;
- e) natural features such as woodlands, wetlands, shorelines, etc;
- f) landscaping and screening plans, including species and size of trees and shrubs proposed;
- g) proposed finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated;
- h) proposed floor plan and elevations of any building with use indicated;
- i) proposed outdoor storage spaces (if applicable); and
- j) any special studies requested by the city planner when there is evidence that the proposed use may negatively impact public infrastructure, the environment or adjacent land uses. These studies may examine the impacts on such things as traffic environment, wetlands, and utilities.

4. Procedure.

An interim use application will be processed in accordance with the procedure for conditional use permits in section 300.06, subd. 3 and 4. No application for an interim use permit that has been denied wholly or in part may be resubmitted for a period of one year after the date of denial, except on grounds of new evidence or proof of changes of conditions found to be valid by the city council.

5. General Standards.

No interim use permit may be granted unless the city council determines that the use will comply with the following:

- a) the general performance standards in section 300.16, subd. 2 will be met;

- b) the use will not delay anticipated development or redevelopment of the site;
- c) the use will not be in conflict with any provisions of the city code on an ongoing basis;
- d) the use will not adversely affect the adjacent property, the surrounding neighborhood, or other uses on the property where the use will be located;
- e) the property on which the use will be located is currently in compliance with all applicable city code standards;
- f) the use is allowed as an interim use in the applicable zoning district;
- g) the date or event that will terminate the use can be identified with certainty;
- h) the use will not impose additional unreasonable costs on the public; and
- i) the applicant agrees in writing to any conditions that the city council deems appropriate for the use, including a requirement for a financial security to ensure removal of all evidence of the use upon termination.

6. Effect of Permit.

- a) An interim use permit is effective only for the location specified in the application.
- b) The issuance of an interim use permit does not confer on the property any vested right.

7. Termination.

- a) An interim use permit expires and the interim use must terminate at the earlier of:
 - 1) the expiration date in the interim use permit;
 - 2) the occurrence of any event identified in the interim use permit for the termination of the use;
 - 3) revocation of the interim use permit; or
 - 4) an amendment of the city code that no longer allows the interim use.
- b) An interim use permit expires one year after approval if the proposed use has not commenced or a building permit for a structure to support the interim use has not been issued.
- c) An interim use permit expires if the interim use ceases operation for a continuous period of at least one year.

8. Revocation or Modification.

The city council may review an interim use permit periodically and may revoke a permit upon violation of any condition of the permit, any law of the United States or the state of Minnesota, or any city ordinance. If it is discovered after approval of the interim use permit that the city's decision was based at least in part on false, misleading, or fraudulent information, the city council may revoke the permit, modify the conditions or impose additional conditions to ensure compliance with this section. The procedure for revocation will be the same as that for licenses specified in section 700.035 of the city code.

(New section 300.05 added by Ord. 2011-19, adopted August 22, 2011; former section 300.05 repealed by Ord. 92-621, adopted April 16, 1992)

There is a presentation commissioners are invited to attend by the Urban Land Institute scheduled for July 19, 2021.

There is a boards and commissions dinner scheduled to be held on July 21, 2021.

The next planning commission meeting is scheduled to be held on July 1, 2021.

6. Report from Planning Commission Members: None

7. Public Hearings: Consent Agenda

No item was removed from the consent agenda for discussion.

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

A. Resolution approving a conditional use permit for a preschool at 4420 County Road 101.

Recommend that the city council adopt the resolution approving a conditional use permit for a licensed-daycare facility at 4420 County Road 101.

Erica Austin, 17720 Southridge Court, stated that the site's parking lot currently has commercial trucks parked in it. She requested that the property owner remember that the site is surrounded by residential homes. The facility itself and the daycare seem like a fine idea.

Chair Sewall confirmed with Gordon that staff will discuss the comment with the applicant.

Waterman, Banks, Hanson and Sewall voted yes. Henry, Maxwell and Powers were absent. Motion carried and the item on the consent agenda was approved as submitted.

8. Public Hearings

A. Ordinance relating to interim uses in the Industrial, I-1, and Planned I-394, PID, zoning districts.

Chair Sewall 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.

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

Waterman moved, second by Banks, to recommend that the city council adopt the ordinance relating to interim uses in the Industrial, I-1, and Planned I-394, PID, zoning districts.

Waterman, Banks, Hanson and Sewall voted yes. Henry, Maxwell and Powers were absent. Motion carried.

B. Resolution approving an interim use permit for a temporary telecommunication tower within the parking lot of the property at 6120 Blue Circle Drive.

Chair Sewall 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.

Banks confirmed with Thomas that the proposal would take up two parking stalls.

Hanson asked if this tower would be removed when a more permanent tower would be installed. Thomas answered affirmatively. A condition of approval requires the proposed tower to be removed by March 31, 2022. The applicant could request an extension if the new tower would not yet be operational.

Jason Hall, representing AT&T Mobility, the applicant, stated that the staff report is great. The applicant agrees to the conditions. The tower would have similar coverage to the existing tower and fill the gap in coverage between the existing tower being removed and the new tower being installed. He was available for questions.

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

Hanson suggested notifying residents that the proposed tower would be temporary.

Waterman noted that the location would not be near any residences. He supports the application.

Banks concurred. He appreciated the gap in service being covered during the transition to a new tower.

Chair Sewall confirmed with Mr. Hall that the site where the current tower is located could not accommodate the current tower to remain while the new one would be completed.

Hanson moved, second by Waterman, to recommend that the city council adopt the resolution approving an interim use permit for a temporary telecommunication tower at 6120 Blue Circle Drive.

Ordinance No. 2021-

An ordinance amending city code sections 300.20 and 300.31 regarding interim uses

The City Of Minnetonka Ordains:

Section 1. Section 300.20 of the Minnetonka City Code, regarding the I-1, Industrial District is amended as follow:

7. Interim Uses.

The following uses are allowed in the I-1 district only pursuant to an approved interim use permit and in conformance with the standards specified in section 300.05 of this ordinance and the additional standards specified below:

a) Outdoor entertainment;

1) Must be located:

a. at least 100 feet from any residential property as measured from the closest property lines of the properties. The city may modify this distance based on physical characteristics of the commercial and residential properties such as existing sightlines, existing or proposed physical barriers, existing natural resources, and proposed landscaping;

b. in proximity to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

c. in a controlled or cordoned area; and

d. to not interfere with pedestrian or vehicular circulation;

2) Must not use public address systems, speakers, or other audio equipment which is audible anywhere on a residential lot that is within 400 feet, and must not create noise that is unreasonably disturbing to a reasonable person of ordinary sensitivity anywhere on a residential lot that is within 400 feet. The distance will be measured from the property lines of the source

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

and receiving properties that are closest to each other. Whether the sound is unreasonably disturbing to a reasonable person will be determined under section 850.005;

3) Must not occur between the hours of 10:00 p.m. and 7:00 a.m.; and

4) Must be in compliance with applicable health, public safety, and building code regulations as imposed by the city or other pertinent agency.

b) Temporary telecommunications towers;

1) May not be located adjacent to any low or medium-density residential property;

2) Maximum tower height, excluding lightning rods, is 150 feet;

3) Accessory equipment must meet minimum setback requirements established for accessory structures; and

4) Tower, antennas, and support structures must be painted a non-contrasting color consistent with the surrounding area, such as gray, brown, or silver, or have a galvanized finish to reduced visual impact. Metal towers must be constructed of, or treated with, corrosion-resistant material.

c) Transient sales;

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

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

3) Must have written authorization from the property owner;

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

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

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

7) Signs are subject to the following:

a. no more than four signs are allowed, which do not exceed 32 square feet in aggregate;

b. incidental product or pricing signs must be placed directly next to the appropriate product;

c. product advertising is permitted but must be included in the maximum allowed sign area;

d. the signs must have a professional appearance and must be securely mounted or erected in a safe location; and

e. e. these limitations apply to all signs associated with the use, including those affixed to vehicles;

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

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

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

Section 2. Section 300.31, subdivision 4, of the Minnetonka City Code, regarding the PID, Planned I-394 District, is amended as follow:

4. Uses

c) Interim Uses: The following uses are allowed in the PID district only pursuant to an approved interim use permit and in conformance with the standards specified in section 300.05 of this ordinance and the additional standards specified below:

1) Outdoor entertainment;

a. Must be located:

1. at least 100 feet from any residential property as measured from the closest property lines of the properties. The city may modify this distance based on physical characteristics of the commercial and residential properties, such as existing sightlines, existing or proposed physical barriers, existing natural resources, and proposed landscaping;

2. in proximity to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

3. in a controlled or cordoned area; and

4. to not interfere with pedestrian or vehicular circulation;

b. Must not use public address systems, speakers, or other audio equipment which is audible anywhere on a residential lot that is within 400 feet, and must not create noise that is unreasonably disturbing to a reasonable person of ordinary sensitivity anywhere on a residential lot that is within 400 feet. The distance will be measured from the property lines of the source and receiving properties that are closest to each other. Whether the sound is unreasonably disturbing to a reasonable person will be determined under section 850.005;

c. Must not occur between the hours of 10:00 p.m. and 7:00 a.m.;
and

d. Must be in compliance with applicable health, public safety, and building code regulations as imposed by the city or other pertinent agency.

2) Temporary telecommunications towers;

a. May not be located adjacent to any low or medium-density residential property;

b. Maximum tower height, excluding lightning rods, is 150 feet;

c. Accessory equipment must meet minimum setback requirements established for accessory structures; and

d. Tower, antennas, and support structures must be painted a non-contrasting color consistent with the surrounding area such as: gray, brown, or silver, or have a galvanized finish to reduced visual impact. Metal towers must be constructed of, or treated with, corrosion-resistant material.

3) Transient sales;

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

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

a.c. Must have written authorization from the property owner;

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

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

~~e.f.~~ _____ No portion of the use may take place within 100 feet of any developed property zoned for residential use;

e.g. _____ Signs are subject to the following:

1. No more than four signs are allowed, which do not exceed 32 square feet in aggregate;

2. Incidental product or pricing signs must be placed directly next to the appropriate product;

3. _____ Product advertising is permitted but must be included in the maximum allowed sign area;

4. _____ The signs must have a professional appearance and must be securely mounted or erected in a safe location; and

5. _____ These limitations apply to all signs associated with the use, including those affixed to vehicles;

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

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

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

Section 4. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on June 28, 2021.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this ordinance:

Date of introduction: June 14, 2021

Date of adoption: June 28, 2021

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 June 28, 2021.

Becky Koosman, City Clerk



**City Council Agenda Item 10B
Meeting of June 28, 2021**

Title: Resolution approving an interim use permit for a temporary telecommunications tower at 6120 Blue Circle Drive

Report From: Susan Thomas, AICP, Assistant City Planner

Submitted through: Geralyn Barone, City Manager
Julie Wischnack, AICP, Community Development Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

AT&T is requesting an interim use permit to install a temporary telecommunications tower within the existing parking lot at 6120 Blue Circle Drive. The temporary tower would ensure no “gap” in coverage between the decommissioning of an existing tower in Sept. 2021 and a new fully operational permanent tower in 2022.

Recommended Action

Adopt the resolution approving the permit.

Strategic Profile Relatability

- | | |
|--|---|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Resources | <input type="checkbox"/> Livable & Well-Planned Development |
| <input type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input checked="" type="checkbox"/> N/A | |

Statement: N/A

Financial Consideration

Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: N/A

Planning Commission Recommendation

The planning commission considered the resolution on June 17, 2021. Staff recommended approval of the request, noting:

- The tower would meet the IUP standards suggested in the draft IUP ordinance.
- The tower would ensure coverage for AT&T customers following decommissioning of the existing, permanent tower.
- Though the proposed tower would occupy two parking spaces, the property is slightly over-parked by city code requirements. As such, the tower would not result in a parking supply/demand issue.

At the meeting, a public hearing was opened to take comments from area property owners. No comments were received.

On a 4-0 vote, the commission recommended that the city council adopt the resolution. There have been no changes since the commission's consideration. The planning commission meeting staff report and meeting minutes are attached.

Additional Consideration

Adoption of the resolution is contingent upon city council approval of an ordinance relating to interim uses in the I-1, Industrial, and PID, Planned I-394 zoning districts under consideration by the city council on June 28, 2021.

MINNETONKA PLANNING COMMISSION
June 17, 2021

Brief Description Resolutions approving an interim use permit for a temporary telecommunications tower at 6120 Blue Circle Drive.

Recommended Action Recommend the city council adopt the resolution approving the permit.

Proposal

An existing telecommunication tower located at Highway 169/County Road 62 interchange is being decommissioned and will be removed in Sept. 2021. A new replacement tower has been proposed; the planning commission will review this tower at a future meeting. However, even if approved, this permanent replacement tower would not be operational until 2022. To ensure no “gap” in coverage between September 2021 and the construction of the new tower, AT&T is proposing to locate a temporary telecommunications tower on the property at 6120 Blue Circle Drive.

Temporary towers are generally used when permanent towers/installations cannot function for some reason, for instance, when antennas need to be removed from water towers for water tower maintenance or when natural disasters impact cellular coverage in an area. Depending on their height, temporary towers mounted on trailers or directly on existing surfaces with temporary, ballast foundations.

AT&T’s proposed temporary tower would be 100 feet in height. It would be located on a temporary, ballast foundation occupying two parking stalls within the 6120 Blue Circle Drive parking lot.



Trailer-mounted



Ballast foundation

Staff Analysis

Staff supports the IUP, as:

- The tower would meet the IUP standards suggested in the draft IUP ordinance. These standards are outlined in the “Supporting Information” section of this report.
- The tower would ensure coverage for AT&T customers following decommissioning of the existing, permanent tower.

- Though the proposed tower would occupy two parking spaces, the property is slightly over-parked by city code requirements. As such, the tower would not result in a parking supply/demand issue.

Staff Recommendation

Recommend the city council adopt the resolution approving an interim use permit for a temporary telecommunication tower at 6120 Blue Circle Drive.¹

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

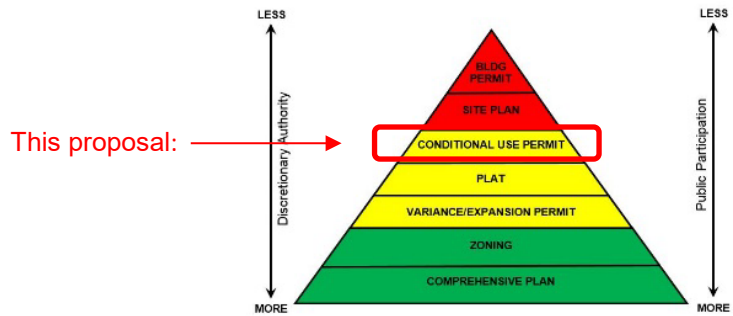
¹ City staff presented a draft IUP ordinance as a previous item on June 17, 2021 agenda. Under the ordinance, temporary telecommunication towers would be allowed in the industrial district by IUP. If this ordinance is not adopted, the applicant's request should be denied, as temporary telecommunication towers would not be an allowed use in the city.

Supporting Information

Subject Property	The subject property is zoned I-1, industrial, and has a mixed-use land use designation in the Comprehensive Guide Plan. It is surrounded by other offices and industrial sites.
Parking	The subject property is owned by Zurah Temple Trustees; it is primarily used as a gathering space for Zurah Shriners meetings and special event gatherings. By city code, 47 parking stalls are required for the existing uses. There are currently 50 parking stalls on site.
CUP Standards	<p>Under the proposed IUP ordinance, temporary telecommunication towers would be subject to the following standards. The proposal would meet these standards:</p> <ol style="list-style-type: none">1. May not be located adjacent to any low or medium-density residential property; Finding: The subject property is surrounded by office and industrial sites.2. Maximum tower height, excluding lightning rods, is 150 feet; Finding: The proposed tower would be 100 feet in height.3. Accessory equipment must meet minimum setback requirements established for accessory structures; and Finding: Accessory equipment would be located at the base of the tower and surrounded by a fenced enclosure. The required setback is 10 feet; the area would be set back 15 feet from the closest property line.4. Tower, antennas, and support structures must be painted a non-contrasting color consistent with the surrounding area, such as gray, brown, or silver, or have a galvanized finish to reduced visual impact. Metal towers must be constructed of, or treated with, corrosion-resistant material. Finding: The proposed temporary tower would have a silver appearance.
Neighborhood Comments	The city sent notices to 17 area property owners and received no written comments to date.
Commission Action	The planning commission will make a recommendation to the city council; a recommendation requires a majority vote of the commission. The planning commission has the following options:

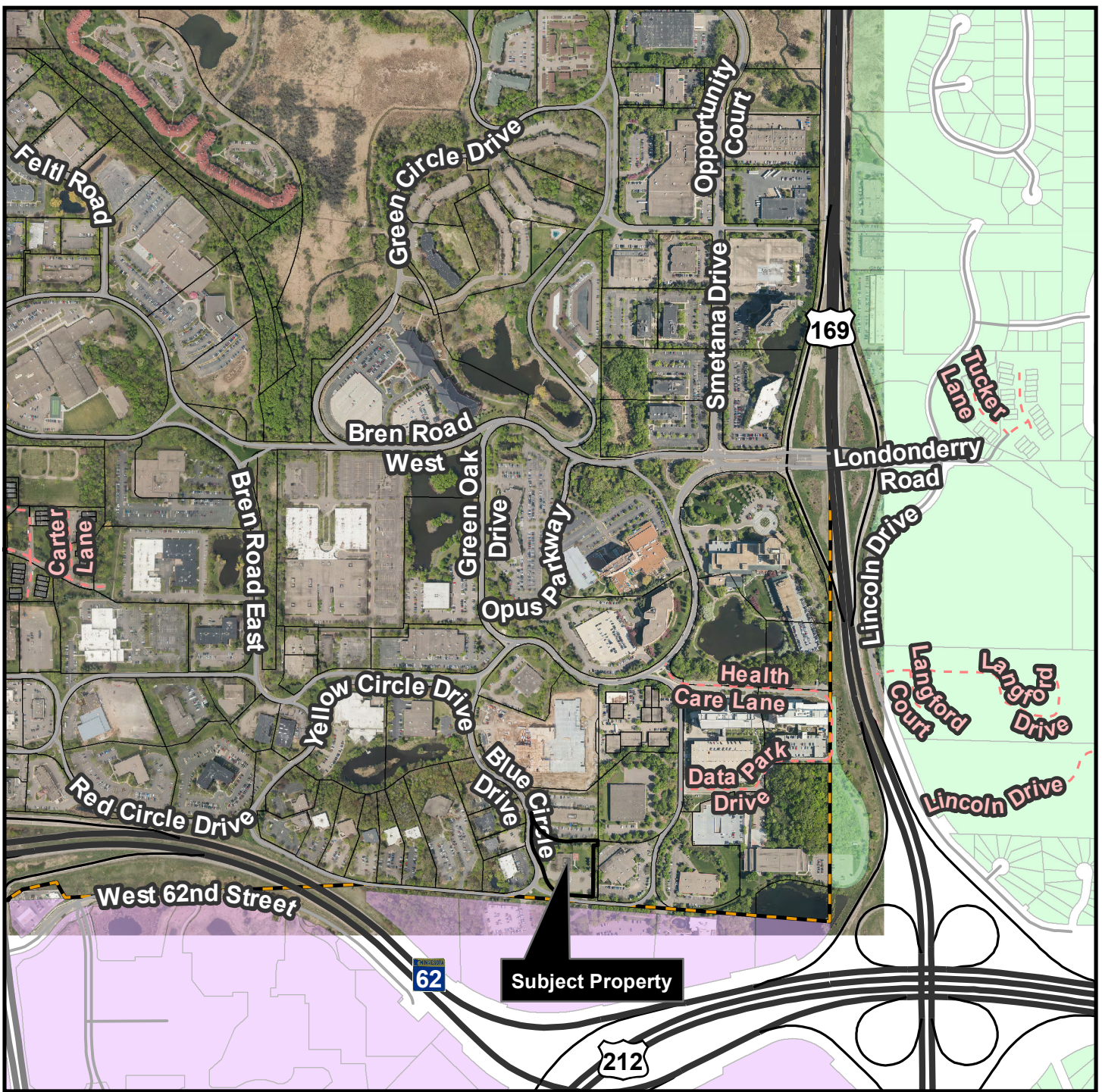
1. Concur with staff's recommendation. In this case, a motion should be made recommending the city council adopt the resolution approving the request.
2. Disagree with the staff's recommendation. In this case, a motion should be made recommending the city council deny the request. The motion should include findings for denial.
3. Table the request. In this case, a motion should be made to table the item. The motion should include a statement as to why the request is being tabled with direction to staff, the applicant, or both.

Pyramid of Discretion



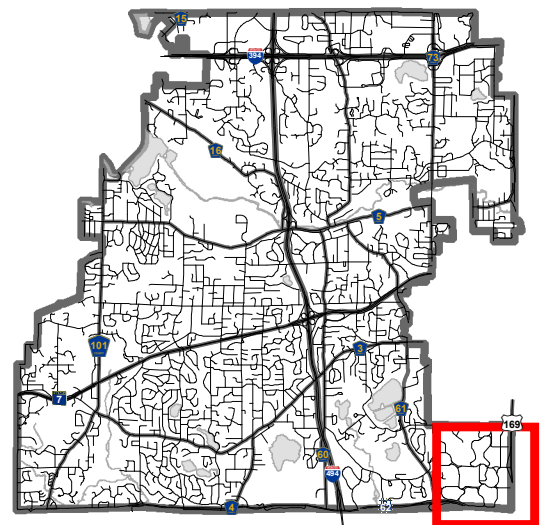
Deadline for Action

Aug. 23, 2021



Location Map

Project: AT&T
 Address: 6120 Blue Cir Dr



Written Statement

The proposed 100' Temp Ballast Pole is being proposed in the far NE corner of the existing parking lot at 6120 Blue Circle Drive. It will only take up 2 parking stalls. The Pole is Ballast, so there is no ground disturbance required. Takes less than 24hrs to set up. These types of Poles are used often by AT&T Mobility (AT&T) for temporary sites. Some examples are:

- Cell site emergencies
- Cell site relocations, to bridge the gap between when the old/existing tower is taken down and when the new/permanent tower gets built
- Special events/festivals, when large crowds are expected and temp sites are needed to increase coverage or capacity, i.e., state fair, marathons, 3m open, etc...
- FirstNet Deployment for First Responders or certain Local/State/Federal Government needs
- When collocated on water tanks and need to come off for 3-6mo while the water tank is being repainted
- When collocated on building rooftops and need to come off for 3-6mo while roof is being re-roofed

In this case here, the Temp Ballast Pole is required because of a *cell site relocation*. AT&T's existing cell site on the United Health Property, NW corner of Hwy 169/62, is coming down in Sept 2021. AT&T has found a permanent relocation for that site, but it will not be built until early 2022, thus requiring this temporary site to fill that 6mo gap. Once the permanent relocation tower site is built, this temporary site will be taken down shortly after.

This cell site is very critical to the area. Not only does it provide standard voice/text/data coverage, but it also serves the area for Hennepin County/FirstNet, meaning 911, first responders and emergency services.

5. General Standards.

No interim use permit may be granted unless the city council determines that the use will comply with the following:

- a) the general performance standards in section 300.16, subd. 2 will be met; **N/A**
- b) the use will not delay anticipated development or redevelopment of the site; **Correct. The use is just temporary, until the permanent relocation site gets approved/built on the parcel directly to North. Background.... ATT's tower lease is expiring on its existing tower site at United Health, it must be removed no later than Sept 30, 2021. So, this temporary site will bridge the gap (interim use) between when the existing site is taken down (Sept 2021) and until the permanent site gets built (early 2022)**
- c) the use will not be in conflict with any provisions of the city code on an ongoing basis; **Correct**
- d) the use will not adversely affect the adjacent property, the surrounding neighborhood, or other uses on the property where the use will be located; **Correct, the use is just temporary**
- e) the property on which the use will be located is currently in compliance with all applicable city code standards; **Correct**
- f) the use is allowed as an interim use in the applicable zoning district; **Correct (once ordinance is revised at May 2021 meeting)**
- g) the date or event that will terminate the use can be identified with certainty; **Correct. Once the permanent tower is built, the temporary will be removed within 45days**
- h) the use will not impose additional unreasonable costs on the public; and **Correct. Will assist the public and public safety/emergency agencies so calls/texts/data will operate like normal. The entire business park, offices, apartments, residences, roads, etc are served by this ATT Cell Site, thus why the temporary is critical**
- i) the applicant agrees in writing to any conditions that the city council deems appropriate for the use, including a requirement for a financial security to ensure removal of all evidence of the use upon termination. **Correct**

SITE PHOTO



PROJECT INFORMATION

SITE ADDRESS: 6120 BLUE CIRCLE DR
MINNETONKA, MN 55343

COUNTY: HENNEPIN

SITE NAME: OPUS RELO TEMP

AT&T SITE ID: MNL03065

FA NUMBER: 10081778

LATITUDE (NAD 83): 44° 53' 32.72" N
44.8924222°

LONGITUDE (NAD 83): 93° 24' 24.62" W
-93.4068389°

GROUND ELEVATION: 958" A.M.S.L.

ZONING DISTRICT: INDUSTRIAL

LANDLORD CONTACT: JON PAVOLA
(651) 485-4923

GROUND OWNER: ZUHRAH TEMPLE TRUSTEES INC

OCCUPANCY GROUP: U

CONSTRUCTION TYPE: I-B

AT&T PROJECT MANAGER: MAIT KRENN
(605) 361-1010
MKR20T@ATT.COM

AT&T

MOBILITY

PROJECT: NSB - TEMP POLE

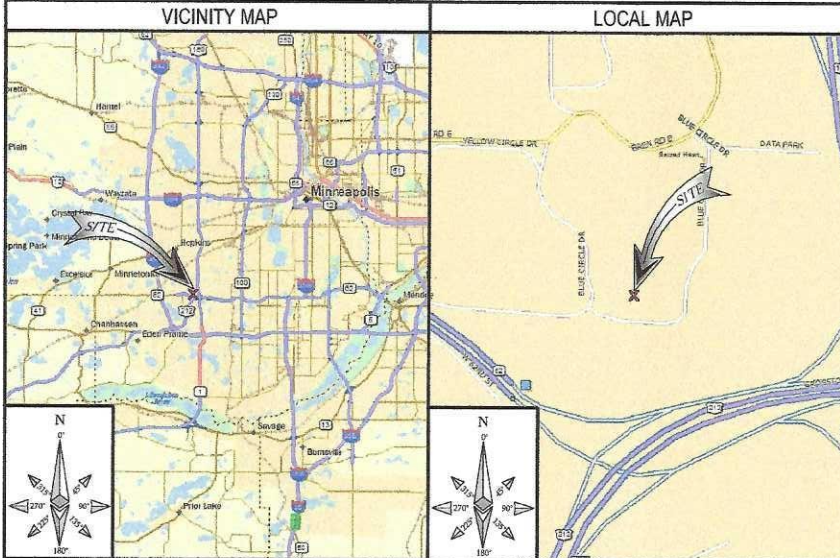
AT&T SITE ID: MNL03065

FA#: 10081778

OPUS RELO TEMP

MINNETONKA, MN 55343

AREA MAP



DRIVING DIRECTIONS

DIRECTIONS FROM AT&T OFFICE: GO STRAIGHT (SOUTH SOUTHWEST) ON SOUTHTOWN DR TURN RIGHT (WEST SOUTHWEST) ONTO W BOTH ST TURN RIGHT ONTO (NORTH) OR 17. KEEP RIGHT WEST ONTO I-494 RAMP, TAKE EXIT 10A, KEEP RIGHT (WEST) ONTO US 169 RAMP, KEEP LEFT (WEST NORTHWEST) ON US 169 RAMP, TURN RIGHT (NORTH) ONTO US 169. KEEP LEFT (NORTH) ONTO US 169 RAMP, KEEP RIGHT (NORTH) ONTO LONDONDERRY RD RAMP, TURN LEFT (WEST) ONTO LONDONDERRY RD. GO STRAIGHT (WEST) ONTO BREN RD W. KEEP LEFT (SOUTH SOUTHWEST) ONTO OPUS PKWY. GO STRAIGHT (SOUTH EAST) ONTO GREEN OAK DR. GO STRAIGHT (EAST) ONTO BREN RD E. TURN RIGHT (SOUTH SOUTHWEST) ONTO BLUE CIRCLE DR. ARRIVE AT 6120 BLUE CIRCLE DR, MINNETONKA, MN 55343. (TEMP LOCATION IS IN 2 PARKING STALLS IN NE CORNER OF PARKING LOT)

ENGINEERING

2012 INTERNATIONAL BUILDING CODE
2017 NATIONAL ELECTRIC CODE
2020 MINNESOTA BUILDING CODE
TIA/EIA-222-H OR LATEST EDITION

AT&T
MOBILITY

7900 XERXES AVE S
3RD FLOOR
BLOOMINGTON MN 55431



BLACK & VEATCH

BLACK & VEATCH CORPORATION
7760 FRANCE AVENUE SOUTH
SUITE 1200
BLOOMINGTON, MN 55435

REFERENCE MATERIALS

DRAWING INDEX

SHEET NO:	SHEET TITLE
Z-1	TITLE SHEET
Z-2	ELEVATION

PROJECT NO: 1882621093
DRAWN BY: JKR
CHECKED BY: JAT

REV	DATE	DESCRIPTION
0	04/09/21	ISSUED FOR CONSTRUCTION

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

PRINT NAME: ROBLEY A. EVANS
SIGNATURE: *[Signature]*
DATE: 4/29/2021 LICENSE# 43119
EXP. 6/20

IT IS A VIOLATION OF LAW FOR ANY PERSON, UNLESS THEY ARE ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER, TO ALTER THIS DOCUMENT.

OPUS RELO TEMP
MNL03065
6120 BLUE CIRCLE DR
MINNETONKA, MN 55343
NSB - TEMP POLE

SHEET TITLE

TITLE SHEET

SHEET NUMBER

COVER

11"x17" PLOT WILL BE HALF SCALE UNLESS OTHERWISE NOTED

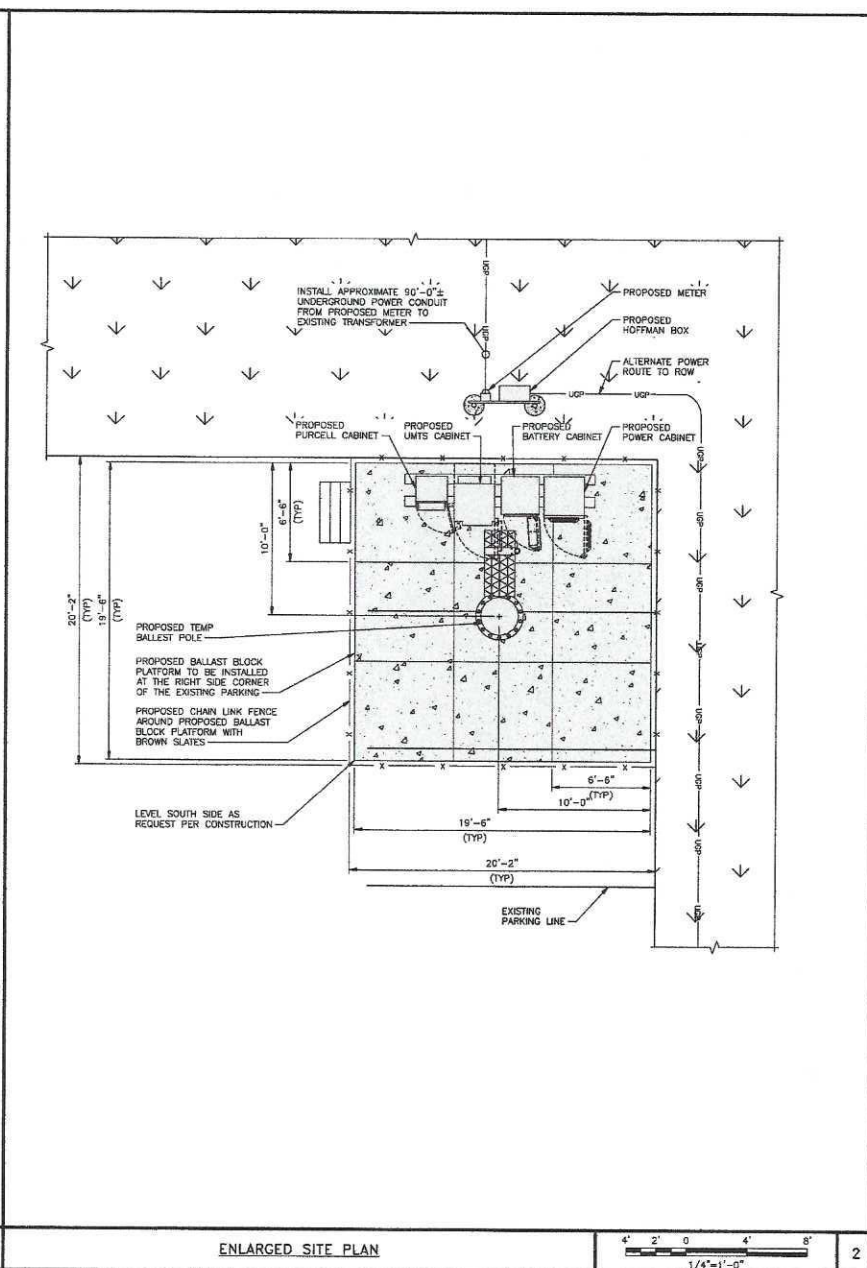
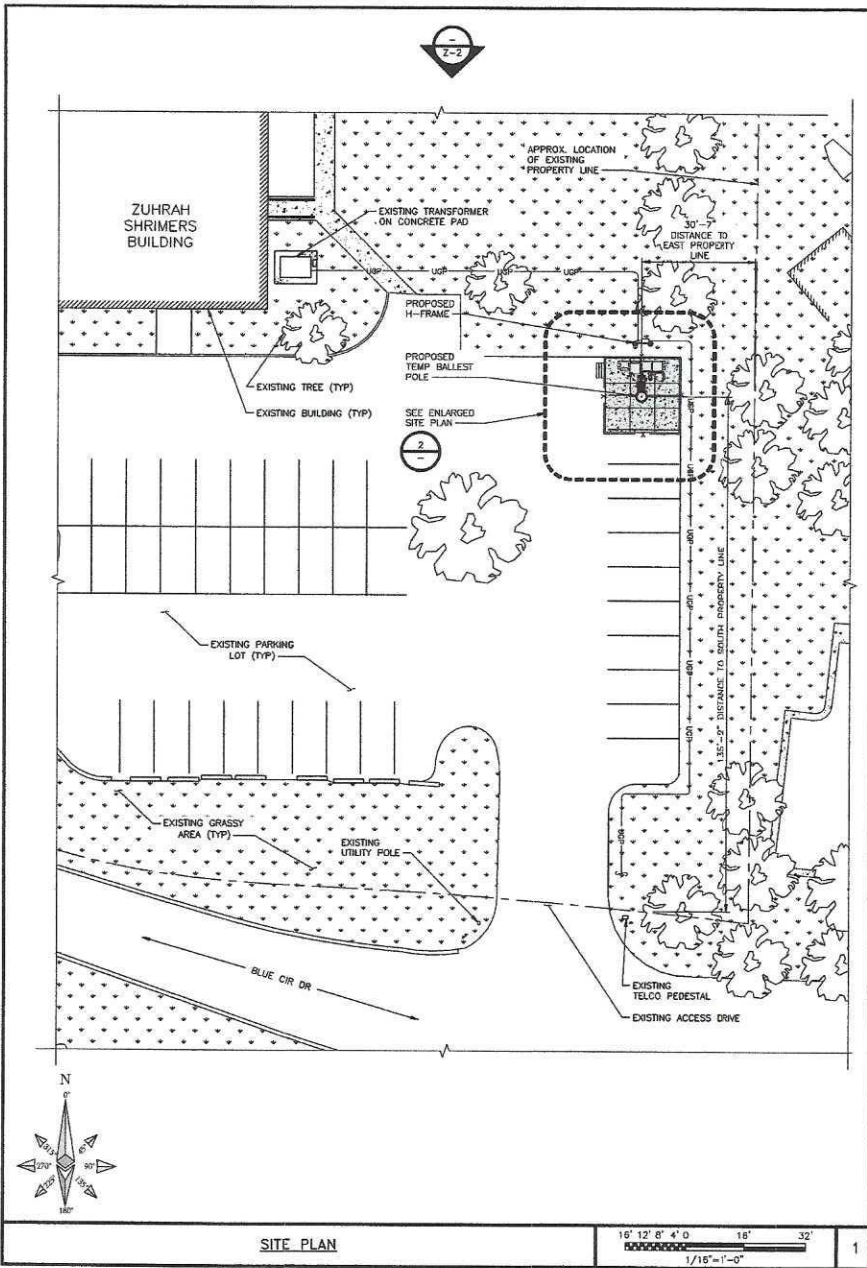


TO OBTAIN LOCATION OF PARTICIPANTS UNDERGROUND FACILITIES BEFORE YOU DIG IN MINNESOTA, CALL GOPHER STATE ONE CALL
TOLL FREE: 1-800-252-1168 OR
FAX A LOCATE: 1-800-236-4967



MIN STATUTE REQUIRES MIN OF 48 HOURS NOTICE BEFORE YOU EXCAVATE

-THESE PLANS CONFORM TO ALL OF THE REQUIREMENTS CALLED OUT IN THE JURISDICTION PLANNING AND ZONING FOR ANTENNAS AND SUPPORT STRUCTURES WHERE SITE IS LOCATED.
-SUBCONTRACTOR SHALL VERIFY ALL PLANS AND EXISTING CONDITIONS ON SITE, IMMEDIATELY NOTIFY ENGINEER OF ANY DISCREPANCIES PRIOR TO PERFORMING ANY WORK OR BE RESPONSIBLE FOR THE SAME.



AT&T MOBILITY

7900 XERKES AVE S
3RD FLOOR
BLOOMINGTON MN 55431

BLACK & VEATCH

BLACK & VEATCH CORPORATION
7760 FRANCE AVENUE SOUTH
SUITE 1200
BLOOMINGTON, MN 55435

PROJECT NO: 1882621093
DRAWN BY: JKR
CHECKED BY: JAT

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0	04/09/21	ISSUED FOR CONSTRUCTION

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PRINT NAME: ROBLEY A. EVANS
SIGNATURE: *[Signature]*
DATE: 4/29/2021 LICENSE# 43119 EXP. 6/20

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OPUS RELO TEMP
MNL03065
6120 BLUE CIRCLE DR
MINNETONKA, MN 55343
NSB - TEMP POLE

SHEET TITLE
SITE PLAN

SHEET NUMBER
Z-1

SITE PLAN

ENLARGED SITE PLAN

AT&T
MOBILITY
7900 XERXES AVE S
3RD FLOOR
BLOOMINGTON MN 55431



BLACK & VEATCH

BLACK & VEATCH CORPORATION
7760 FRANCE AVENUE SOUTH
SUITE 1200
BLOOMINGTON, MN 55435

PROJECT NO: 188262:1093

DRAWN BY: JKR

CHECKED BY: JAT

REV	DATE	DESCRIPTION
0	04/09/21	ISSUED FOR CONSTRUCTION

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PRINT NAME: ROBLEY A. EVANS

SIGNATURE: *[Signature]*

DATE: 4/29/2021 LICENSE# 43119
EXP. 6/20

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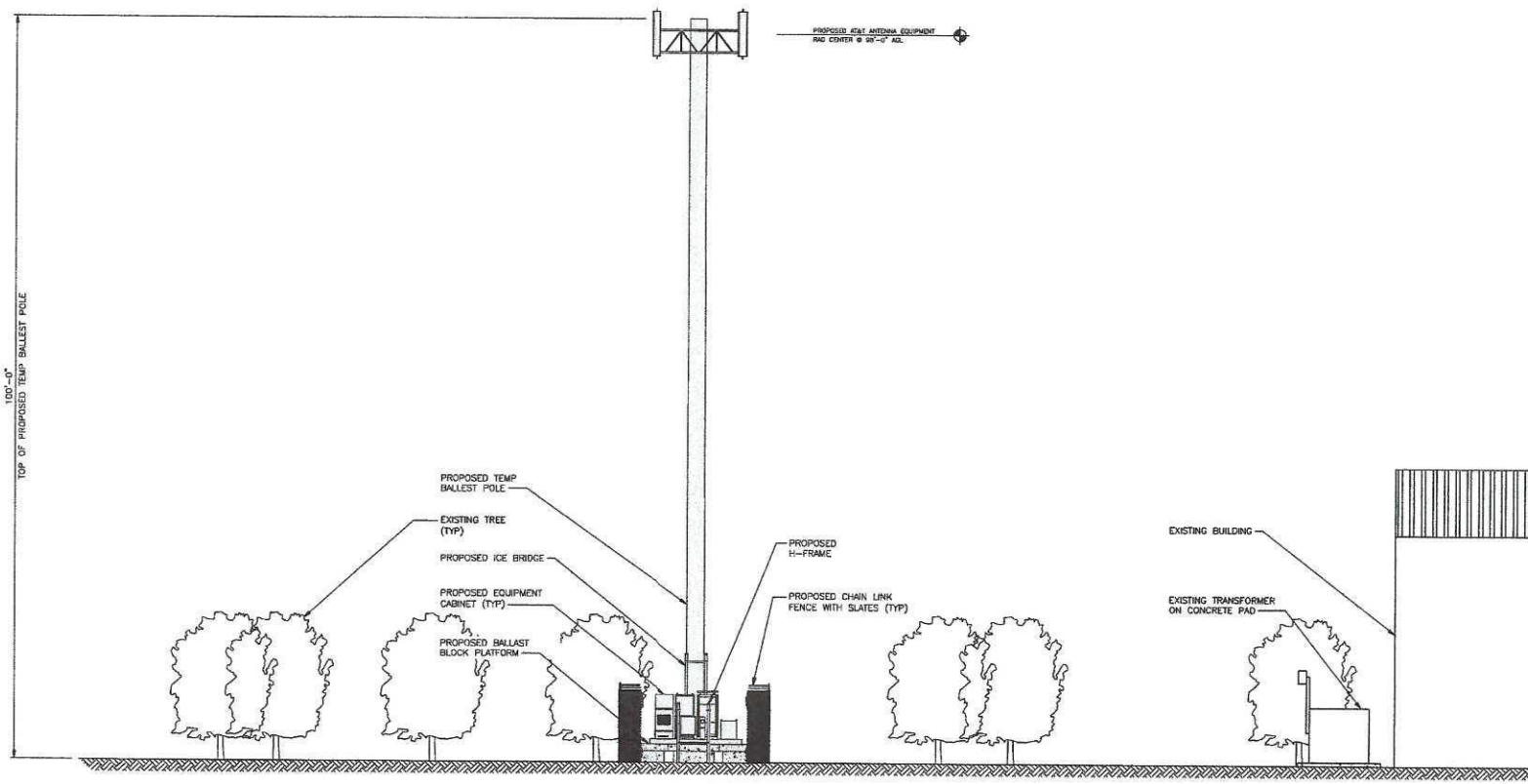
OPUS RELO TEMP
MNL03065
6120 BLUE CIRCLE DR
MINNETONKA, MN 55343
NSB - TEMP POLE

SHEET TITLE

ELEVATION

SHEET NUMBER

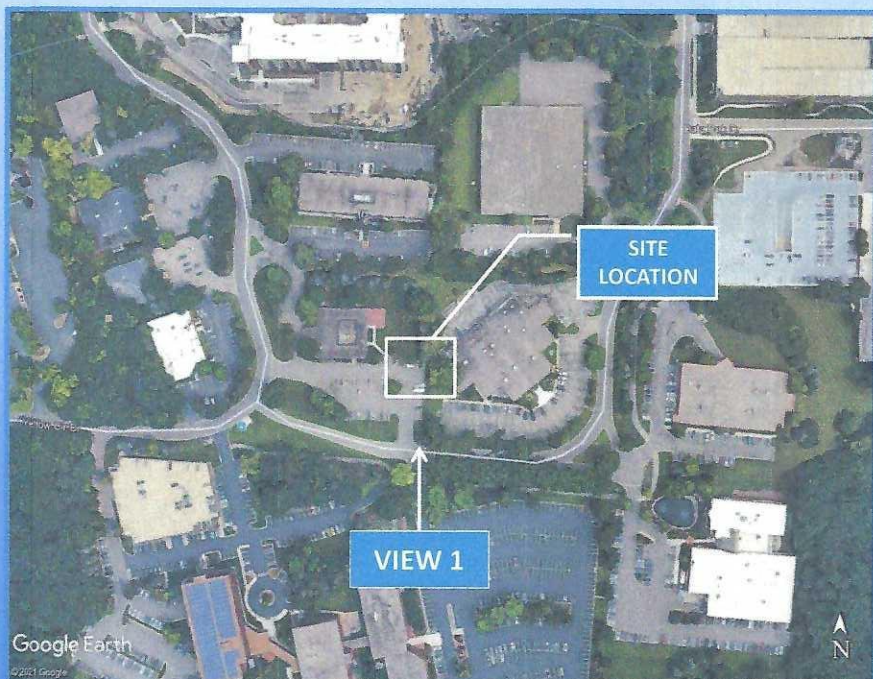
Z-2





PHOTOGRAPHIC SIMULATION

PROPOSED MODIFICATION OF WIRELESS COMMUNICATIONS FACILITY



The included Photographic Simulation(s) are intended as visual representations only and should not be used for construction purposes. The materials represented within the included Photographic Simulation(s) are subject to change.

SITE NUMBER: MNLO3065
SITE NAME: OPUS RELO TEMP
SITE ADDRESS: 6120 BLUE CIRCLE DRIVE
MINNETONKA, MN 55343
DATE: 04/21/21
APPLICANT: AT&T MOBILITY
CONTACT: JASON HALL
BLACK & VEATCH
(612) 670-0101



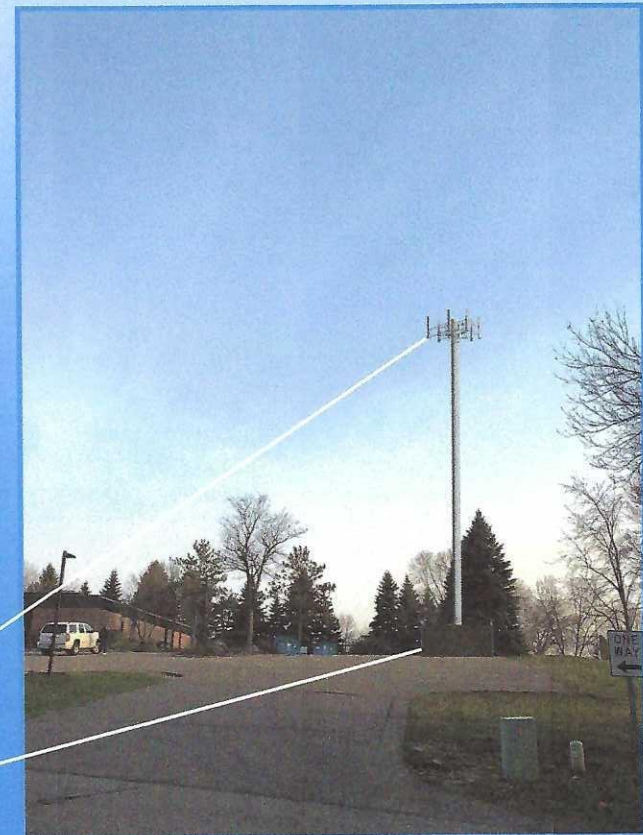
VIEW 1



EXISTING CONDITIONS

PROPOSED TEMP BALLEST
POLE TOTAL HEIGHT
100'-0" +/-

PROPOSED EQUIPMENT
AREA



PHOTOGRAPHIC SIMULATION

Waterman moved, second by Banks, to recommend that the city council adopt the ordinance relating to interim uses in the Industrial, I-1, and Planned I-394, PID, zoning districts.

Waterman, Banks, Hanson and Sewall voted yes. Henry, Maxwell and Powers were absent. Motion carried.

B. Resolution approving an interim use permit for a temporary telecommunication tower within the parking lot of the property at 6120 Blue Circle Drive.

Chair Sewall 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.

Banks confirmed with Thomas that the proposal would take up two parking stalls.

Hanson asked if this tower would be removed when a more permanent tower would be installed. Thomas answered affirmatively. A condition of approval requires the proposed tower to be removed by March 31, 2022. The applicant could request an extension if the new tower would not yet be operational.

Jason Hall, representing AT&T Mobility, the applicant, stated that the staff report is great. The applicant agrees to the conditions. The tower would have similar coverage to the existing tower and fill the gap in coverage between the existing tower being removed and the new tower being installed. He was available for questions.

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

Hanson suggested notifying residents that the proposed tower would be temporary.

Waterman noted that the location would not be near any residences. He supports the application.

Banks concurred. He appreciated the gap in service being covered during the transition to a new tower.

Chair Sewall confirmed with Mr. Hall that the site where the current tower is located could not accommodate the current tower to remain while the new one would be completed.

Hanson moved, second by Waterman, to recommend that the city council adopt the resolution approving an interim use permit for a temporary telecommunication tower at 6120 Blue Circle Drive.

Waterman, Banks, Hanson and Sewall voted yes. Henry, Maxwell and Powers were absent. Motion carried.

C. Resolution approving an interim use permit for a 30-day sale of food products within the Ridgedale Center parking lot at 12401 Wayzata Blvd.

Chair Sewall 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.

Ivan Quinones, applicant, stated that Thomas did a great job with the presentation. He plans to donate to the local foodbank at the end of the event.

Waterman asked if the event would be a sales event or donation event. Mr. Quinones clarified that frozen-meat products would be sold and food donations would be accepted that would be given to the local food shelf at the end of the 30-day event.

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

Banks confirmed with Thomas that the applicant would have to receive a license for the sale of food.

Waterman supports the proposal.

Chair Sewall agreed that there is ample parking in the area and the parking lot is currently underutilized. He was glad to see that the parking area would be used. He appreciates the support of the food shelf.

Banks moved, second by Waterman, to recommend that the city council adopt the resolution approving an interim use permit for a 30-day sale of food products within the Ridgedale Center parking lot at 12401 Wayzata Blvd.

Waterman, Banks, Hanson and Sewall voted yes. Henry, Maxwell and Powers were absent. Motion carried.

D. Items concerning a two-phase, multi-family apartment project at 10901 Red Circle Drive.

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

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

Resolution No. 2021-

Resolution approving an interim use permit for a temporary telecommunications tower at 6120 Blue Circle Drive

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

Section 1. Background.

- 1.01 The subject property is located at 6120 Blue Circle Drive. It is legally described on Exhibit A of this resolution.
- 1.02 Hall Institute, Inc., on behalf of AT&T, is proposing to locate a temporary telecommunication tower on the property at 6120 Blue Circle Drive.
- 1.03 On June 17, 2021, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. Standards.

- 2.01 City Code §300.05 outlines the following general interim use permit standards.
1. The general performance standards in Section 300.16, subd. 2 will be met;
 2. The use will not delay anticipated development or redevelopment of the site;
 3. The use will not conflict with any provisions of the city code on an ongoing basis;
 4. The use will not adversely affect the adjacent property, the surrounding neighborhood, or other uses on the property where the use will be located;
 5. The property on which the use will be located is currently in compliance with all applicable city code standards;

6. The use is allowed as an interim use in the applicable zoning district;
7. The date or event that will terminate the use can be identified with certainty;
8. The use will not impose additional unreasonable costs on the public; and
9. The applicant agrees in writing to any conditions that the city council deems appropriate for the use, including a requirement for financial security to ensure the removal of all evidence of the use upon termination.

2.02 City Code §300.20 Subd.7(b) outlines the specific interim use permit standards for a temporary telecommunication tower in the I-1, Industrial district.

1. May not be located adjacent to any low or medium-density residential property;
2. Maximum tower height, excluding lightning rods, is 150 feet;
3. Accessory equipment must meet minimum setback requirements established for accessory structures; and
4. Tower, antennas, and support structures must be painted a non-contrasting color consistent with the surrounding area, such as gray, brown, or silver, or have a galvanized finish to reduced visual impact. Metal towers must be constructed of, or treated with, corrosion-resistant material.

Section 3. Findings.

3.01 The proposal would meet the general interim use standards as outlined in City Code §300.05.

3.02 The proposal would meet the interim use standards as outlined in City Code §300.20 Subd.7(b):

1. The subject property is surrounded by office and industrial sites.
2. The proposed tower would be 100 feet in height.
3. Accessory equipment would be located at the base of the tower and surrounded by a fenced enclosure. The required setback is 10 feet; the area would be set back 15 feet from the closes property line.
4. The proposed temporary tower would have a silver appearance.

Section 4. City Council Action.

- 4.01 The above-described conditional use permit is approved, subject to the following conditions:
1. This resolution must be recorded with Hennepin County.
 2. The temporary tower must be installed in substantial compliance with the plans attached to Planning Commission Staff report, dated June 17, 2021
 3. The temporary telecommunication tower must be fully removed from the subject property by March 31, 2022.
 4. The applicant must agree to these conditions in writing.

Adopted by the City Council of the City of Minnetonka, Minnesota, on June 28, 2021.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on June 28, 2021.

Becky Koosman, City Clerk

EXHIBIT A

Lot 1, Block 11, Opus II 1st Addition, except that part of said Lot 1 lying Easterly of a line drawn parallel with and 25 feet Westerly of the East line of said Lot 1 (measured at right angles to said East line), according to the recorded plat of said Opus II 1st Addition, Hennepin County, Minnesota.

And also, including all of vacated Blue Circle Drive lying North of Lot 1, Block 11, Opus II 1st Addition and South of Lot 5, Block 10, opus II 1st Addition lying West of the West line of Lot 1, Block 2, Data 100 2nd Addition, and East of the following described line:

Beginning at the most Northerly corner of Lot 1, Block 11, Opus II 1st Addition; thence Northerly to the point of reverse curve on the Westerly line of Lot 5, Block 10, Opus II 1st Addition and there terminating; being all that part of Blue Circle Drive as dedicated within the plat of Opus II 1st Addition, according to the recorded plat thereof, Hennepin County, Minnesota, vacated by the Minnetonka City Council on July 10, 1978, by Resolution No. 78-5624.

Hennepin County, Minnesota
Abstract Property



**City Council Agenda Item 10C
Meeting of June 28, 2021**

Title: Resolution approving an interim use permit for a 30-day sale of food products within the Ridgedale Center parking lot at 12401 Wayzata Blvd

Report From: Susan Thomas, AICP, Assistant City Planner

Submitted through: Geralyn Barone, City Manager
Julie Wischnack, AICP, Community Development Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

Backyard Butchers is requesting an interim use permit to sell frozen meat products in the Ridgedale Center parking lot. The sales area, located near the Plymouth Road entrance to the mall, would comprise of a six-wheel freezer truck and a small canopied area. Customers at the 30-day event would be encouraged to bring non-perishable items for donation to a local food shelf. After the sale, these items and all non-sold products would be donated.

Recommended Action

Adopt the resolution approving the permit.

Strategic Profile Relatability

- | | |
|--|---|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Resources | <input type="checkbox"/> Livable & Well-Planned Development |
| <input type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input checked="" type="checkbox"/> N/A | |

Statement: N/A

Financial Consideration

- Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
- Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: N/A

Planning Commission Recommendation

The planning commission considered the request on June 17, 2021. Staff recommended approval of the request, noting:

- The event would meet IUP standards for transient sales suggested in the draft IUP ordinance.
- The proposed sales event would be 30 days in duration.
- The sales area would be located in a visible yet underutilized parking area of the mall.

At the meeting, a public hearing was opened to take comments from area property owners. No comments were received.

On a 4-0 vote, the commission recommended that the city council adopt the resolution. There have been no changes since the commission's consideration. The planning commission meeting staff report and meeting minutes are attached.

Additional Consideration

Adoption of the resolution is contingent upon city council approval of an ordinance relating to interim uses in the I-1, Industrial, and PID, Planned I-394 zoning districts under consideration by the city council on June 28, 2021.

MINNETONKA PLANNING COMMISSION
June 17, 2021

Brief Description	Resolution approving an interim use permit for a 30-day sale of food products within the Ridgedale Center parking lot at 12401 Wayzata Blvd.
Recommended Action	Recommend the city council adopt the resolution approving the permit.

Proposal

Backyard Butchers is requesting an interim use permit to sell frozen meat products in the Ridgedale Center parking lot. The sales area, located near the Plymouth Road entrance to the mall, would comprised of a six-wheel freezer truck and a small canopied area. Customers at the 30-day event would be encouraged to bring non-perishable items for donation to a local food shelf. After the sale, these items and all non-sold products would be donated.

Backyard Butchers indicates the sale will help the company determine whether Minnetonka is an appropriate location for a brick and mortar store. For more information about the company and other similar sales events, please see the [Backyard Butchers](#) website.

Staff Analysis

Staff supports the requested IUP, as:

- The event would meet IUP standards for transient sales suggested in the draft IUP ordinance. These standards are outlined in the “Supporting Information” section of this report.
- The proposed sales event would be just 30 days in duration.
- The sales area would be located in a visible yet underutilized parking area of the mall.

Staff Recommendation

Recommend the city council adopt the resolution approving an interim use permit for a 30-day sale of food products within the Ridgedale Center parking lot at 12401 Wayzata Blvd.¹

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

¹ City staff presented a draft IUP ordinance as a previous item on June 17, 2021 agenda. Under the ordinance, transient sales would be allowed in the Planned I-394 zoning district by IUP. If this ordinance is not adopted, the applicant's request should be denied, as transient sales would not be an allowed use on the site.

Supporting Information

Subject Property

The subject property is zoned PID, Planned I-394 Development, and has a mixed-use land use designation in the Comprehensive Guide Plan. It is surrounded by other similarly zoned and guided properties.

IUP Standards

Under the proposed IUP ordinance, transient sales would be subject to the following standards. The proposal would meet these standards:

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

Finding: The sales event would be located in a visible but underutilized parking area at Ridgedale Center.

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

Finding: The sales event would not interrupt vehicular circulation or occupy parking spaces necessary at this time of the year.

3. Must have written authorization from the property owner;

Finding: Brookfield Properties, the owner of Ridgedale Center, has authorized the sale.

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

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

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

Finding: The city engineer has reviewed the proposal. It is not anticipated to negatively impact site visibility clearances.

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

Finding: The sales area would be over 450 feet from the Avidor apartment building to the south, which is the closest residential property.

7. Signs are subject to the following:

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

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

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

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

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

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

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

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

**Neighborhood
Comments**

The city sent notices to 141 area property owners and received no written comments to date.

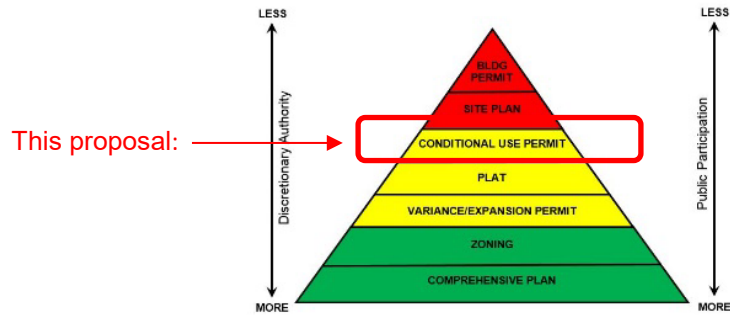
Commission Action

The planning commission will make a recommendation to the city council; a recommendation requires a majority vote of the commission. The planning commission has the following options:

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

2. Disagree with the staff's recommendation. In this case, a motion should be made recommending the city council deny the request. The motion should include findings for denial.
3. Table the request. In this case, a motion should be made to table the item. The motion should include a statement as to why the request is being tabled with direction to staff, the applicant, or both.

Pyramid of Discretion



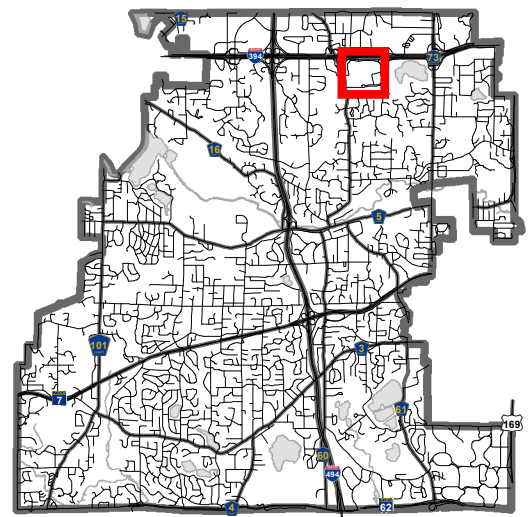
Deadline for Action

Sept. 13, 2021

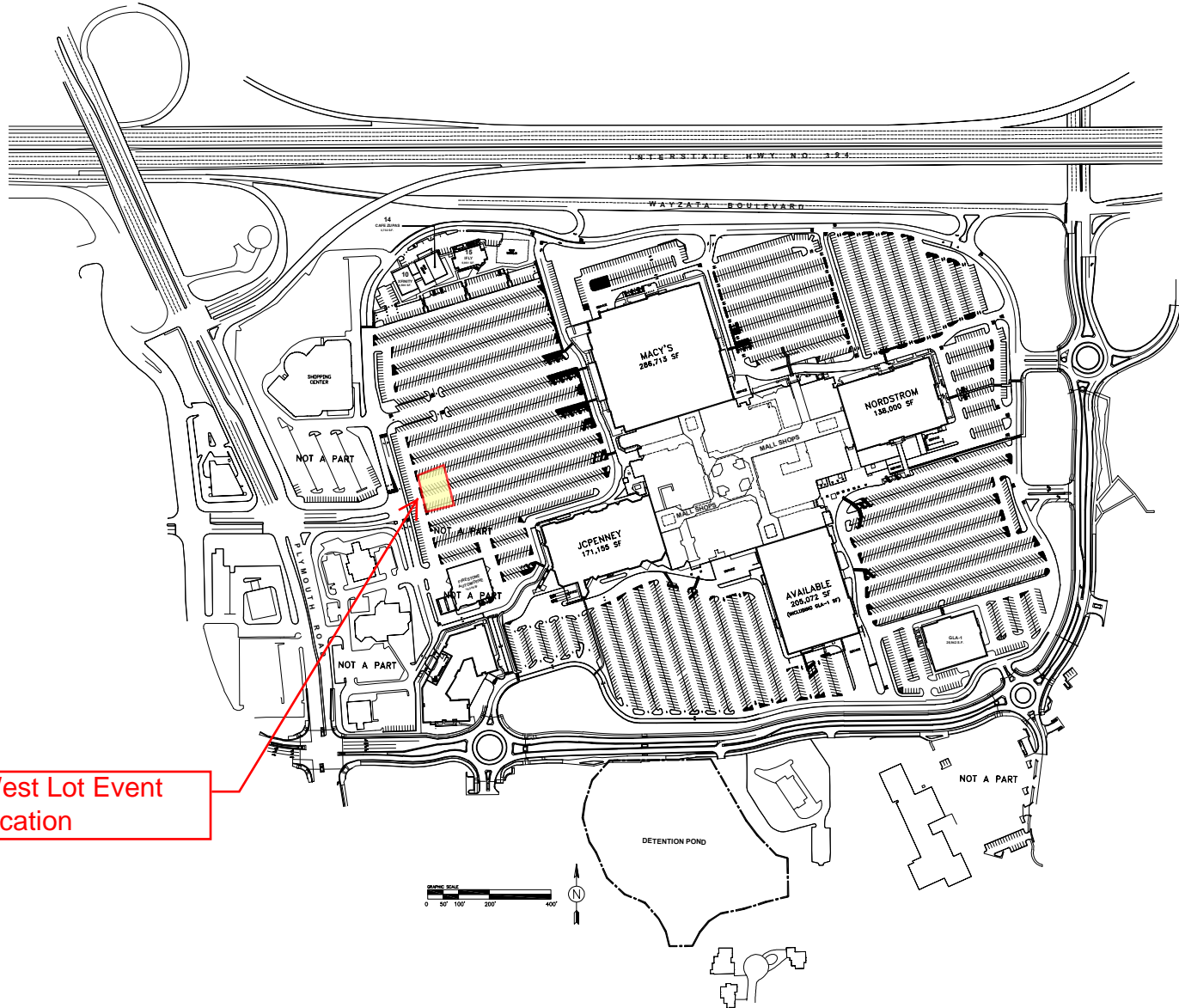


Location Map

Project: Backyard Butcher
Address: 12683 Wayzata Blvd



RIDGEDALE CENTER
12401 WAYZATA BOULEVARD, 2ND FLOOR
MINNETONKA, MINNESOTA 55305-5804



**West Lot Event
Location**

TENANT NAMES SHOWN ON THIS PLAN REPRESENT LOCATIONS WHICH ARE EXISTING, BUT NOT NECESSARILY OCCUPYING SPACE AS OF A RECORDED DATE. THIS SITE PLAN IS A PRELIMINARY PLAN FOR INFORMATION AND NOT A CONTRACT. ANY CHANGES, OMISSIONS OR ADDITIONS ARE SUBJECT TO CHANGE, MODIFICATION AND REVISION BY ARCHITECT OR OTHER PARTIES, AND ARE A REPRESENTATION OF THE INFORMATION AS OF THE DATE OF COMPLETION OF ANY TYPED REVISED OR CORRECTED OF THIS PLAN.

UNDEVELOPED AND UNOCCUPIED AREAS OF THE ELEMENTS INCLUDED BUT NOT SHOWN ON THIS PLAN ARE NOT SHOWN ON THIS PLAN. THEY MAY BE ACQUIRED AS FUTURE OR PROPOSED DEVELOPMENT AND ARE NOT REPRESENTING THE FUTURE DEVELOPMENT WILL OCCUR AS SHOWN.

ALL TENANT USE AREAS ARE MEASURED FROM THE CENTERLINE OF INTERIOR PARTIALS, FROM THE OUTSIDE FACE OF EXTERIOR WALL, FROM THE FULL THICKNESS OF CORNER AND SHIRT WALLS AND FROM THE EDGE OF SUE AT ARCHITECT SCALE WALLS.

PROJECT NO. 4288
DRAWN BY: TUC
© Brookfield Property REIT Inc.

DESCRIPTION
SITE PLAN

SHEET NO.
SP1

DATE: November 2020

Ridgedale Center and Backyard Butchers Event

Brookfield Properties has invited Backyard Butchers to host a drive thru donation event in conjunction with a small sale of their frozen grocery products. The event will be advertised via Facebook and Radio ads. The community will have an opportunity to donate canned goods and purchase frozen and prepackaged meat for their own consumption. At the conclusion of the event unsold product and all gifts will be donated to a local food bank. This event will help Backyard Butchers determine if Minnetonka is a viable option for a brick and mortar storefront we are looking to open in Minnesota. We will be able to gage customer feedback and give back to the community as a thank you for allowing us to visit.

Backyard Butchers is a growing brand and we have partnered with major retail spaces including Simon Properties, CBL, Spinoso Real Estate Group and others across the nation to host similar events. Please visit our website at www.backyardbutchers.com to view other current locations.

- The Ridgedale Center event is located in the on the north side of the parking lot (see images below)
- Exact site can be adjusted per city and mall needs

As follows is the current plan but this can adjusted based off of city needs.

- This location is bordered by curbs that will ensure the event only has 1 entrance and one exit. If the city permits we will also have cones to help guide customers thru the drive thru.
- Please note this does not interfere with any other entrances/exits to the property which means there will be no interruption to regular traffic flow.
- The event will only need 10 parking spaces.
- We will have a 6 wheel Freezer Truck for the products and a 100sqft canopy for protection from the elements.
- The event will typically have 1 employee working on site and at times we may send a second employee to assist.
- Dates: June 18 2021 – July 18 , 2021 (30 days but can adjust as needed)
- Hours: 9:00am-6:00pm
- We will have one employee on site. There are rare instances when a second employee is needed and we will notify the city if this change is needed.
- Products being sold include, frozen and prepackaged steaks, chicken, seafood and pork.
- No food will be consumed on site as the product remains frozen and prepackaged through the point of sale.
- No services will be offered. The only interaction between employee and customer will be the sale of product or donation of canned goods.
- This event is a drive thru so this aids in keeping the area very clean. If there is any random trash we will negotiate in our lease that we can dispose of the trash in the mall dumpsters.
- No restrooms will be needed for the community as this is a drive thru event.
- The event will not disturb any flow of traffic
- The event is temporary in nature so there is no need for modifications to any property.
- The event is completely outdoors so there will be no structural changes needed.

Waterman, Banks, Hanson and Sewall voted yes. Henry, Maxwell and Powers were absent. Motion carried.

C. Resolution approving an interim use permit for a 30-day sale of food products within the Ridgedale Center parking lot at 12401 Wayzata Blvd.

Chair Sewall 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.

Ivan Quinones, applicant, stated that Thomas did a great job with the presentation. He plans to donate to the local foodbank at the end of the event.

Waterman asked if the event would be a sales event or donation event. Mr. Quinones clarified that frozen-meat products would be sold and food donations would be accepted that would be given to the local food shelf at the end of the 30-day event.

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

Banks confirmed with Thomas that the applicant would have to receive a license for the sale of food.

Waterman supports the proposal.

Chair Sewall agreed that there is ample parking in the area and the parking lot is currently underutilized. He was glad to see that the parking area would be used. He appreciates the support of the food shelf.

Banks moved, second by Waterman, to recommend that the city council adopt the resolution approving an interim use permit for a 30-day sale of food products within the Ridgedale Center parking lot at 12401 Wayzata Blvd.

Waterman, Banks, Hanson and Sewall voted yes. Henry, Maxwell and Powers were absent. Motion carried.

D. Items concerning a two-phase, multi-family apartment project at 10901 Red Circle Drive.

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

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

Resolution No. 2021-

Resolution approving an interim use permit for a 30-day sale of food products within the Ridgedale Center parking lot at 12401 Wayzata Blvd

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

Section 1. Background.

1.01 The subject property is located at 12401 Wayzata Blvd. It is legally described as:

TRACT E, REGISTERED LAND SURVEY NO. 1826

1.02 Backyard Butchers has requested an interim use permit to conduct a 30-day sale of frozen meat products within the parking lot of the subject property. The sales area, located near the Plymouth Road entrance to the mall, would comprise a six-wheel freezer truck and a small canopied area.

1.03 On June 17, 2021, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. Standards.

2.01 City Code §300.05 outlines the following general interim use permit standards.

1. The general performance standards in Section 300.16, subd. 2 will be met;
2. The use will not delay anticipated development or redevelopment of the site;
3. The use will not conflict with any provisions of the city code on an ongoing basis;
4. The use will not adversely affect the adjacent property, the surrounding neighborhood, or other uses on the property where the use will be located;

5. The property on which the use will be located is currently in compliance with all applicable city code standards;
6. The use is allowed as an interim use in the applicable zoning district;
7. The date or event that will terminate the use can be identified with certainty;
8. The use will not impose additional unreasonable costs on the public; and
9. The applicant agrees in writing to any conditions that the city council deems appropriate for the use, including a requirement for financial security to ensure the removal of all evidence of the use upon termination.

2.02

City Code §300.31 Subd. 4(c)(3) outlines the specific interim use permit standards for transient sales in the Planned I-394 District.

1. Must be located in a suitable off-street location and shall not extend into adjacent right-of-way or other public property;
2. Must not interrupt vehicular circulation on the site or obstruct parking spaces needed by a permanent business established on the site;
3. Must have written authorization from the property owner;
4. The business operator must secure all applicable licenses and approvals from the city, Hennepin county, or other appropriate jurisdictions;
5. Sight visibility clearances at street intersections and access points must be provided in accordance with Section 300.15, subd. 9(e) of this ordinance or as determined by the city to protect public safety;
6. No portion of the use may take place within 100 feet of any developed property zoned for residential use;
7. Signs are subject to the following:
 - no more than four signs are allowed, which do not exceed 32 square feet in aggregate;
 - incidental product or pricing signs must be placed directly next to the appropriate product;
 - product advertising is permitted but must be included in the maximum allowed sign area;
 - the signs must have a professional appearance and must be securely mounted or erected in a safe location; and

- these limitations apply to all signs associated with the use, including those affixed to vehicles;
8. Any display of items must be limited to representative samples and be arranged in as compact a manner as reasonably practicable;
 9. The interim use permit will be issued in the name of the person requesting the permit and will be for the purpose of selling a particular item or range of items at a specific location. Any change in the person, location, or items sold will render the permit invalid; and
 10. Violation of the above standards or other conditions placed upon the interim use permit will result in the immediate revocation of the interim use permit;

Section 3. Findings.

3.01 The proposal would meet the general interim use standards as outlined in City Code §300.05.

3.02 The proposal would meet the interim use standards as outlined in City Code §300.31 Subd. 4(c)(3):

1. The sales event would be located in a visible but underutilized parking area at Ridgedale Center.
2. The sales event would not interrupt vehicular circulation or occupy parking spaces necessary at this time of the year.
3. Brookfield Properties, the owner of Ridgedale Center, has authorized the sale.
4. The city engineer has reviewed the proposal. It is not anticipated to negatively impact site visibility clearances.
5. The sales area would be over 450 feet from the Avidor apartment building to the south.
6. As conditions of this resolution:
 - a) The business operator must secure all applicable licenses and approvals from the city, Hennepin county or other appropriate jurisdictions;
 - b) Any display of items must be limited to representative samples and be arranged in as compact a manner as reasonably practicable;

- c) Signs are subject to the restrictions listed in City Code 300.31 Subd. 4(c)(3)
- d) The interim use permit will be issued in the name of the person requesting the permit and will be for the purpose of selling a particular item or range of items at a specific location. Any change in the person, location, or items sold will render the permit invalid; and
- e) Violation of the above standards or other conditions placed upon the interim use permit will result in the immediate revocation of the interim use permit;

Section 4. City Council Action.

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

1. This resolution must be recorded with Hennepin County.
2. This interim use permit is issued in the name of Backyard Butcher for the purpose of a 30-day sale of frozen meat products – beginning on or about July 2, 2021, and ending on or about August 2, 2021 – within the parking lot of the subject property.
3. Backyard Butcher must secure all applicable licenses and approvals from the city, Hennepin County, or other appropriate jurisdictions.
4. Any display of items must be limited to representative samples and be arranged in as compact a manner as reasonably practicable.
5. Signs are subject to the restrictions listed in City Code 300.31 Subd. 4(c)(3).
6. Violation of the above standards or other conditions placed upon the interim use permit will result in the immediate revocation of the interim use permit.
7. The applicant must agree to these conditions in writing.

Adopted by the City Council of the City of Minnetonka, Minnesota, on June 28, 2021.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on June 28, 2021.

Becky Koosman, City Clerk



**City Council Agenda Item 10D
Meeting of June 28, 2021**

Title: Resolution approving a conditional use permit for a licensed daycare facility at 4420 County Road 101

Report From: Ashley Cauley, Senior Planner

Submitted through: Geralyn Barone, City Manager
Julie Wischnack, AICP, Community Development Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

Walt Pitman and Stephen Oliver, AIA, NCARB, on behalf of Ridgewood Church, are requesting a conditional use permit to operate a preschool with a maximum capacity of 144 children. No changes are proposed to the church building itself to accommodate the preschool. However, a roughly 6,500 square foot outdoor play area would be constructed west of the existing church building.

Recommended Action

Adopt the resolution approving the conditional use permit.

Strategic Profile Relatability

- | | |
|--|---|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Resources | <input type="checkbox"/> Livable & Well-Planned Development |
| <input type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input checked="" type="checkbox"/> N/A | |

Statement: n/a

Financial Consideration

Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: n/a

Planning Commission Hearing

The planning commission considered the request on June 17, 2021. The commission report, associated plans, and meeting minutes are attached.

Staff recommended approval, finding:

- City code does not specifically provide specific standards for daycares located within religious institutions within residential districts. The operation of smaller daycares is generally considered part of a religious institution's mission and, therefore, "accessory uses" within religious structures. However, in this case, staff believed that the proposed capacity exceeded what is generally considered accessory and finds that the proposed use would operate *more* similarly to a public building. The proposed daycare would meet all specific standards outlined for such a use.
- Parking for the daycare and existing uses can be accommodated within the existing parking lot.
- Pick-up and drop-off areas would be located adjacent to the existing building's entrances.
- The outdoor play area would be on the west side of the building and roughly 330 feet from the nearest residential structure.

At the meeting, a public hearing was opened to take comments from area property owners. One property owner addressed the commission stating that she had no issues with the daycare use but noted that there were commercial vehicles parked in the site's parking lot. Staff indicated they would contact the church about this parking.

On a 4-0 vote, the commission recommended that the city council approve the conditional use permit. There have been no changes since the commission's consideration. The staff report and meeting minutes are attached.

MINNETONKA PLANNING COMMISSION
June 17, 2021

Brief Description	Conditional use permit for a licensed daycare facility at Ridgewood Church at 4420 County Road 101.
Recommendation	Recommend the city council approve the request.

Background

In 1979, the city approved Conditional Use Permit No. 240 to allow the construction of the religious institution on the 8.2-acre site in the southwest corner of the Ridgewood Road and County Road 101 intersection. A revised conditional use permit was approved in 1996 to allow a large addition, which included classrooms and a multi-purpose/indoor activity room. The classrooms were recently remodeled in 2019.

Walt Pittman and Stephen Oliver, AIA, NCARB, on behalf of the church, are requesting a conditional use permit to operate a preschool within the recently remodeled classroom space. The preschool would also utilize the existing kitchen and multi-use/gymnasium space. A roughly 6,500 square foot outdoor play area would be constructed west of the existing church building. No additional exterior or interior improvements are proposed at this time.

It is anticipated that the preschool would begin operating in the fall of 2022 with up to 72 children. The preschool could ultimately accommodate up to 144 children and utilize six classrooms (two half-day programs) at full capacity.

Primary Questions and Analysis

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

- **Is the proposed use appropriate?**

Yes. The city code does not provide specific standards for daycares located within religious institutions within residential districts. Additionally, staff has considered a smaller daycare as part of the religious institution's mission, therefore operating as an "accessory use" within the structure.¹ Staff believed that the proposed capacity exceeded what is generally considered an accessory and finds that the proposed use would operate *more* similarly to a public building where people would gather for a specific purpose at a specific time. As such, staff reviewed the proposal under the "*other uses similar to those permitted by this section*" provision. Staff found that the daycare would meet all the specific standards outlined for the use and have included those standards and findings in the "Supporting Information" section of this report.

¹ City code Section 300.02: An accessory use is a use that is subordinate to, associated with, and located on the same property as the principal use.

- **Can the parking demand be accommodated on-site?**

Yes. The daycare use would require 24 parking stalls.² Currently, the site requires 139 parking stalls. Both proposed and existing uses can be accommodated within the existing parking lot.

- **Would the proposed use have a negative impact on the surrounding neighborhood?**

No. Staff closely evaluated how the following parts of the proposal could impact the surrounding neighborhood:

Pick-up and drop-off areas: The applicant's narrative indicates that the pick-up and drop-off areas would be located adjacent to the existing building's entrances, utilizing the existing parking lot for temporary parking during these times. Staff does not anticipate any impacts on adjacent properties but has included a condition of approval requesting the areas be identified on a site plan.

Outdoor play area: The outdoor play area would be constructed on the west side of the building. The play area would be roughly 330 feet from the closest residential structure and would be screened by a fence, landscaping, and the existing parking lot.

Staff Recommendation

Recommend the city council adopt the resolution approving a conditional use permit for a licensed daycare facility at 4420 County Road 101.

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

² City Code Sec. 300.28, Subd. 12: parking requirements for licensed daycare facilities: one parking space for every six children based on the licensed capacity of the facility.

Supporting Information

Surrounding Land Uses

Northerly: Single-family residential homes, zoned R-1, guided for low density residential.
Easterly: County Road 101 and single-family and twin homes beyond, zoned R-2, and guided for low density residential.
Southerly: Southridge Townhomes, zoned PUD, guided for low density residential.
Westerly: Single-family home, zoned R-1, guided for low density residential.

Planning

Guide plan designation: Institutional
Zoning: R-1, low density residential

Exterior lighting

Staff has included a condition of approval requiring an exterior lighting plan to ensure that any added lighting would not exceed city code maximums.

CUP Standards

The proposal would meet the general conditional use permit standards as outlined in City Code §300.16 Subd.2:

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

The proposal would meet the general conditional use permit standards as outlined in City Code §300.16 Subd. 4(l) for uses similar to public facilities in residential districts:

1. Site and building plans subject to review pursuant to section 300.27 of this ordinance.

Finding: The outdoor play area is the only exterior modification to the site. It would meet all site and building plan review standards, as it has been reviewed by city departments to be consistent with ordinances and policies. It has been intuitively designed to ensure proper circulation patterns and relationships between open spaces and the built structures.

2. Direct access limited to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can

be provided without conducting significant traffic on local residential streets;

Finding: The site has direct access onto both Ridgewood Road, a major collector, and County Road 101, an arterial expander.

3. Buildings set back 50 feet from all property lines;

Finding: The building is set back more than 50 feet from all property lines.

4. Parking spaces and parking setbacks subject to section 300.28 of this ordinance; and

Finding: The daycare would require 24 stalls at full capacity. The existing church, office, and classroom spaces would require 139 stalls. A total of 163 stalls could be accommodated in the existing 224 stall parking lot.

5. No more than 70 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped; and

Finding: The site's impervious surface coverage would be 46 percent.

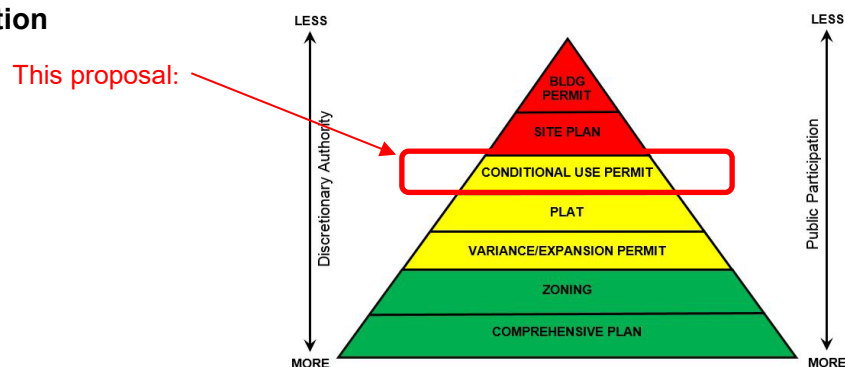
6. Stand-alone utility buildings, such as lift stations are only subject to site and building plan review.

Finding: The proposal does not include utility buildings.

Natural Resources

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

Pyramid of Discretion



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

Motion Options The planning commission has three options:

1. Concur with the staff recommendation. In this case, a motion should be made recommending the city council adopt the resolution approving the request.
2. Disagree with staff's recommendation. In this case, a motion should be made recommending the city council deny the request. This motion must include a statement as to why denial is recommended.
3. Table the requests. In this case, a motion should be made to table the item. The motion should include a statement as to why the request is being tabled with direction to staff, the applicant, or both.

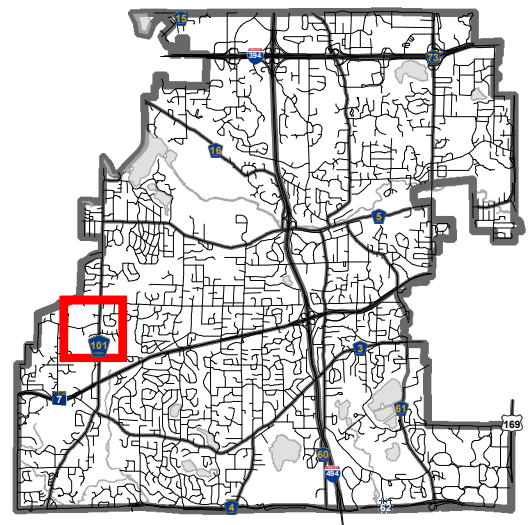
Neighborhood Comments The city sent notices to 57 area property owners and received no comments.

Deadline for Decision Aug. 23, 2021.



Location Map

Project: Ridgewood Church
Address: 4420 County Road 101



Ridgewood Church: CUP Application to allow a Preschool to operate in an R-1 Zoning District

Project Narrative

4-28-2021

Ridgewood Church is located at 4420 County Road 101, at the southwest quadrant of the intersection of 101 and Ridgewood Road. The church, which has been an active member of the Minnetonka community since late in the eighteen-hundreds, has been operating at its current location since 1981. In 1996, then Minnetonka Baptist, added a gymnasium and several classrooms onto the building, increasing their ability to meet the needs of a growing congregation. Besides its role in the faith life of Minnetonka, Ridgewood Church has, for decades, been a community resource, open to use by the Minnetonka school district, community organizations, AA, Boy Scouts of America, and athletic groups. Now having recently renovated the building, the next season of ministry and service to the community will include the incorporation of a preschool.

The intent is to open a preschool in the fall of 2022 with registrations beginning in January of 2022. The plan is to operate with three classrooms initially, with the ability to operate up to six, each with two half-day sessions. Enrollment could vary between 36 to 72 children initially, with capacity for a range of 72 to 144 children when all 6 rooms are utilized. To be properly credentialed by the state in time for that registration time frame, the operation must have several items in place, including the following facility components:

- Classrooms outfitted with bathrooms, lockers, sinks, and other school-oriented elements
- Dedicated office and resource space
- Commercial kitchen and kitchen equipment for limited food service activities
- A playground designed for accessibility, safety, and security.

During the recent renovation, the classrooms were completely redesigned to be equipped for preschool operation and office and resource space was also developed, knowing there was a desire to go that way in the future. The commercial kitchen that was constructed with the original building in 1981 continues to operate in compliance with Minnesota Department of Health standards, requiring no upgrades at this time. A plan has been developed for a playground which is being vetted by a civil engineer for final grading and drainage design. The southwest yard will be used for the playground, which will include a pervious rubber play surface, a five-foot tall decorative metal fence, play structures with accessible features, and a small pavilion with picnic tables. New sidewalks and security lighting will be added as well.

The CUP application is specifically requesting approval to operate a preschool in an R-1 residential zoning district per 300.16.3.a. The church itself is operating under a CUP as well, per 300.16.3.b. This application satisfies the general CUP standards as follows:

- a) The use is consistent with the ordinance in that it introduces a use in a manner that does not violate the rights of adjacent property owners or create undue burden on the city or regional infrastructure.
- b) The use is consistent with the 2040 Comprehensive Plan which maintains this site as an institutional use (church).

- c) The use is consistent with the ordinance in that it does not create undue burden on the city or regional infrastructure.
- d) The use does not alter the existing impact the property has on public health, safety, or welfare.

Additionally, this application satisfies the specific CUP standards for an Educational institution as follows:

- 1) Direct access is provided off County Road 101, classified as A-minor Arterial Roadway, and the site has additional access points off Ridgewood Road that allow direct access to the controlled intersection of Ridgewood and 101, minimizing the need to for traffic to proceed into the neighborhood to the west.
- 2) The existing building, which will not be modified, is more than 50' set back from all property lines as is apparent on the survey.
- 3) Pick-up and drop-off areas are located adjacent to the existing building and well outside of the public right-of-way. Bus traffic is not expected.
- 4) Outdoor activities, such as the playground, are set back more than 25' from the residential property to the west and even further from residential uses to the south and north. The existing building screens the playground from County Road 101 and the residential area on the east side of that road. Use of the outdoor play areas by the preschool will be during normal school hours, having no impact on adjacent properties. Refer to the survey included with the application.
- 5) The impervious percentage of the site will be increased only marginally for the installation of accessible sidewalks around the playground. As of the 2018-2020 renovation, the existing impervious area was under the allowed percentage.
- 6) Site and building plans are included in this application for review pursuant to section 300.27 of the ordinance.
- 7) The preschool is not connected in any way to any residential dwelling.

Ridgewood believes the addition of the preschool to its programming will help meet needs for families in our community as they are looking for more resources and options for childcare and early education in their neighborhood.

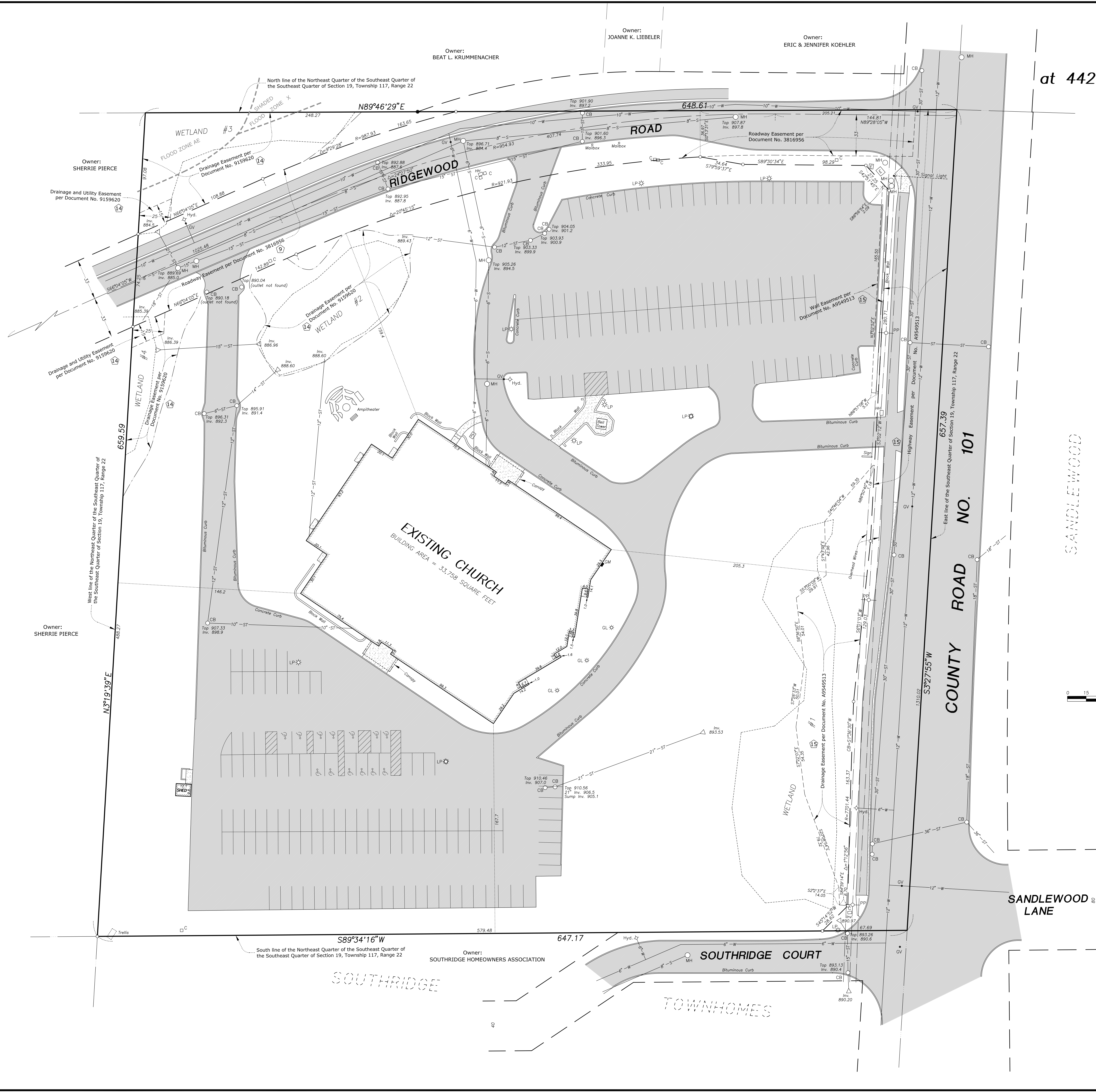
As proposed, the development of the preschool requires no modifications to the existing building and only modest site improvements by way of the installation of a playground. Ridgewood's intent is to allow after-hours access to the playground for the church community as well as nearby residents. While the playground will not specifically be advertised as being open to the public, the church will not prohibit use by its neighbors.

We trust that the city will find this application to be acceptable and that the development of the preschool will be seen as an asset to the community and a continuation of Ridgewood's commitment to the city of Minnetonka and its residents and families.

Thanks for your careful consideration.

ALTA/NSPS Land Title Survey for: RIDGEWOOD CHURCH

at 4420 County Road No. 101 – Minnetonka, Minnesota



NOTES

- * Bearings shown are based on the Hennepin County Coordinate System.
- * Utilities shown are from information furnished by the City of Minnetonka and respective utility companies in response to Gopher State One Call Ticket No. 182603871 and are verified where possible.
- * Contact Gopher State One Call for utility locations before any construction shall begin. Phone 651-454-0002.
- * Areas: 425,725 square feet (9.77 acres) including roads, 359,035 square feet (8.22 acres) excluding roads.
- * Number of striped parking stalls: 204 regular and 13 handicap.
- * This property is located in Flood Zone X (area outside 0.2% annual chance floodplain); shaded Flood Zone X (areas of 0.2% annual chance flood, areas of 1% annual chance flood with average depths of less than 1 foot with drainage areas less than 1 square mile, and areas protected by levees from 1% annual chance flood); and Flood Zone AE (base flood elevations determined) per Flood Insurance Rate Map Number 27053C0317F dated November 4, 2016.
- Note: All of the subject property lies within Flood Zone X except that portion lying northerly of Ridgewood Road being within Flood Zones AE and Shaded Flood Zone X.
- * Wetlands shown delineated by Kjolhaug Environmental Service, Inc. in October, 2018.

NOTES CORRESPONDING TO SCHEDULE B, PART II, COMMERCIAL PARTNERS TITLE INSURANCE COMPANY COMMITMENT NUMBER 56078

Item 9 - Easement for roadway purposes, in favor of the Village of Minnetonka, contained in Quit Claim Deed dated December 15, 1969, filed January 29, 1970, as Document No. 3816956, and as depicted on the Plat of Ridgewood Road Village of Minnetonka Hennepin County, Minn. filed May 7, 1968, as Document No. 3713208 affects the property and is shown on the survey.

Item 10 - Easement for right of way and drainage and utility purposes, in favor of the City of Minnetonka, Minnesota, a Minnesota municipal corporation, contained in Easement dated December 12, 1986, filed December 22, 1986, as Document No. 5201592 does not affect the property and is not shown on the survey.

Item 13 - Subject to easement, in favor of Northwestern Bell Telephone Company, as indicated as affecting subject property, evidenced as part of Parcel 130 in Notice of Lis Pendens filed September 22, 2004, as Document No. 8440317.

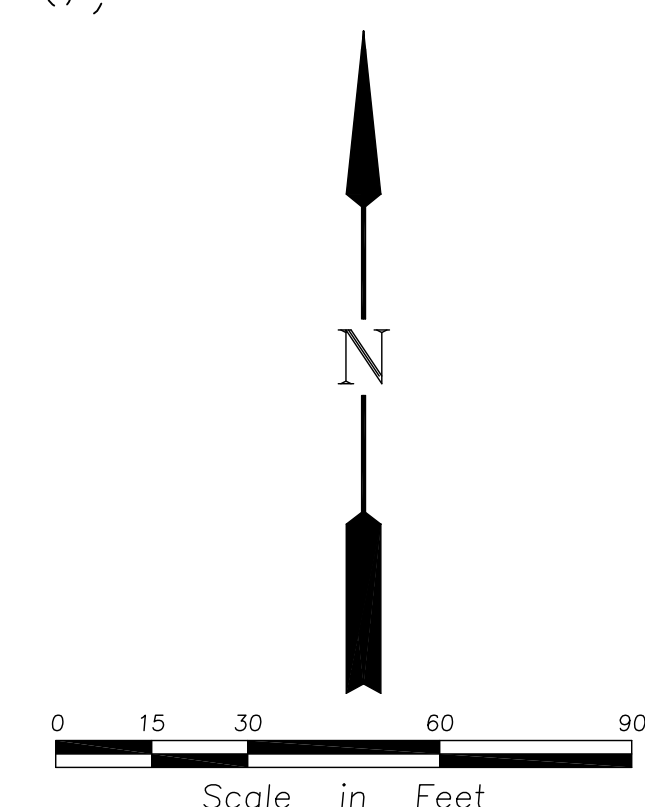
NOTE: Easement in favor of Northwestern Bell Telephone Company does not appear of record and is not shown on the survey.

Item 14 - Terms and conditions of and easements, in favor of the City of Minnetonka, a Minnesota municipal corporation, contained in Easement Agreement dated June 11, 2008, filed July 16, 2008, as Document No. 9159620 affect the property and are shown on the survey.

Item 15 - Terms and conditions of and easements for highway purposes, wall purposes and drainage purposes being described as Parcel No. 130 in that certain Final Certificate dated August 19, 2010, filed August 19, 2010, as Document No. A9549513 affect the property and are shown on the survey.

LEGEND

- Iron Monument Found
- Iron Monument Set
- S Sanitary Sewer
- ST Storm Sewer
- W Watermain
- Hyd. ◊ Hydrant
- GV Gate Valve
- MH Manhole
- CB Catch Basin
- ▽ Flared End
- Inv. Invert Elevation
- Guard Post
- PP Power Pole
- LP Light Pole
- GL Ground Light
- Electrical Transformer
- CD Communications Pedestal
- HH Handhole
- Concrete Surface
- Bituminous Surface
- GM Gas Meter
- Handicap Parking Stall



UTILITY STATEMENT

The underground utilities shown have been located from field survey information and existing drawings. The surveyor makes no guarantee that the underground utilities shown comprise all such utilities in the area, either in service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated, although he does certify that they are shown as accurately as possible from information available. The surveyor has not physically located the underground utilities.

PROPERTY DESCRIPTION

The Northeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 19, Township 117 North, Range 22 West of the 5th Principal Meridian, according to the United States Government Survey thereof.

Hennepin County Abstract Property

CERTIFICATION

To Ridgewood Church, Thrivent Financial for Lutherans, Commercial Partners Title, LLC and Old Republic National Title Insurance Company.

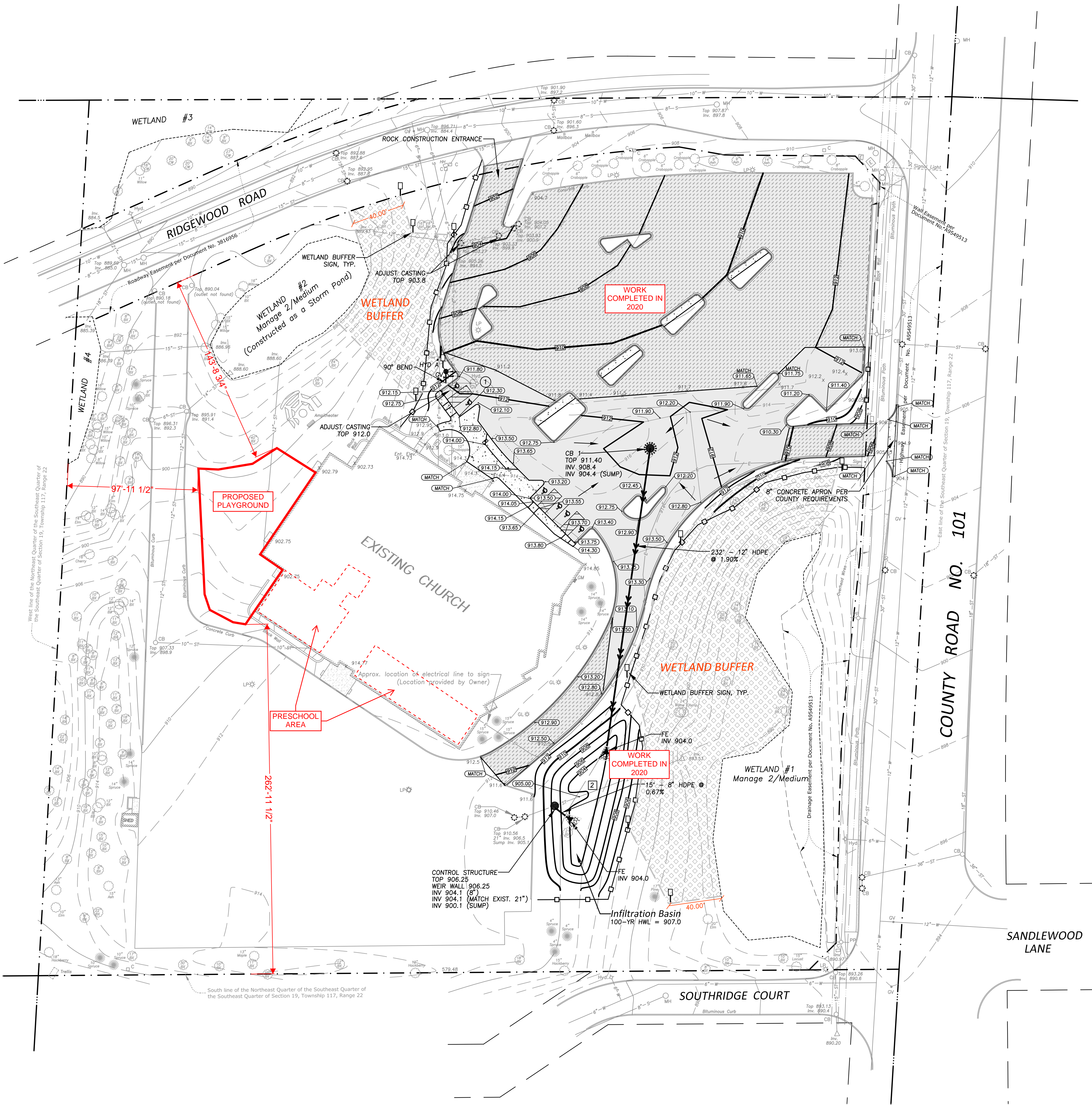
This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 7(a), 7(b)(1), 8, 9, 11, 13 and 18 of Table A thereof. The fieldwork was completed on April 26, 2019.

Dated this 16th day of July, 2019
 REHDER & ASSOCIATES, INC.

 Gary C. Huber, Land Surveyor
 Minnesota License No. 22036
 Revised certification October 28, 2019

SURVEY WAS PREPARED FOR THE 2018 RENOVATION OF THE BUILDING AND NORTH PARKING LOT AND IS BEING SUBMITTED FOR REFERENCE ONLY.

Rehder and Associates, Inc.
 CIVIL ENGINEERS AND LAND SURVEYORS
 3440 Federal Drive • Suite 110 • Eagan, Minnesota • Phone (651) 452-5051



GRADING & WETLAND BUFFER NOTES

- 1 - All elevations shown are to final surfaces.
- 2 - Seed proposed infiltration basin with MN State Seed Mix No. 33-261 @ 35 lbs/acre and mulch with MnDOT Type 3 @ 2 tons/acre.
- 3 - No fill, debris, or other material shall be placed within a wetland buffer.
- 4 - In establishing a wetland buffer, the potential transfer of aquatic invasive species must be minimized to the maximum extent possible.
- 5 - Buffer signs to be installed prior to construction. Signs can be purchased from the Riley Purgatory Bluff Creek Watershed District.

EROSION CONTROL NOTES

- 1 - All erosion control measures shown shall be installed prior to grading operations and maintained until all areas disturbed have been restored.
- 2 - Sweep paved public streets as necessary where construction sediment has been deposited.
- 3 - Each area disturbed by construction shall be restored per the specifications within 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.
- 4 - Temporary soil stockpiles must have silt fence around them and cannot be placed in surface waters, including storm water conveyances such as curb and gutter systems, or conduits and ditches.
- 5 - All pipe outlets must be provided with temporary or permanent energy dissipation within 24 hours of connection to a surface water.
- 6 - Excess concrete/water from concrete trucks shall be disposed of in portable washout concrete basin or disposed of in a contained area.
- 7 - Spring/summer temporary turf establishment: seed shall be MNDOT Mixture 21-111 @ 100 lbs/acre and mulch shall be MNDOT Type 1. Winter temporary turf establishment: seed shall be MNDOT Mixture 21-112 @ 100 lbs/acre and mulch shall be MNDOT Type 1.
- 8 - Natural topography and soil conditions must be protected, including retention onsite of native topsoil to the greatest extent possible.
- 9 - All temporary erosion and sediment control BMPs must be maintained until completion of construction and vegetation is established sufficiently to ensure stability of the site, as determined by the District.
- 10 - All temporary erosion and sediment control BMPs must be removed upon final stabilization.
- 11 - Soil surfaces compacted during construction and remaining pervious upon completion of construction must be decompacted to achieve a soil compaction testing pressure of less than 1,400 kilopascals or 200 pounds per square inch in the upper 12 inches of soil.
- 12 - Utilities, tree roots, and other existing vegetation must be protected until final revegetation or other stabilization of the site.
- 13 - The permittee must, at a minimum, inspect, maintain and repair all disturbed surfaces and all erosion and sediment control facilities and soil stabilization measures every day work is performed on the site and at least weekly until land-disturbing activity has ceased. Thereafter, the permittee must perform these responsibilities at least weekly until vegetative cover is established. The permittee will maintain a log of activities under this section for inspection by the District on request.
- 14 - Final site stabilization measures must specify that at least 6" of topsoil or organic matter be spread and incorporated into the underlying soil during final site treatment wherever topsoil has been removed.

EROSION PREVENTION & SEDIMENT CONTROL BMP'S

ITEM	QUANTITY
SILT FENCE	775 FEET
ROCK CONSTRUCTION ENTRANCE	50 TONS 1"-2" WASHED ROCK
INLET PROTECTION (PRE-CASTING)	1 DEVICES
INLET PROTECTION (POST-CASTING)	17 DEVICES

CONSTRUCTION SEQUENCE SCHEDULE

1. Install temporary rock construction entrance and continuously inspect.
2. Install silt fence as shown on the plans.
3. Remove topsoil from the site and place in temporary stockpile location.
4. Rough grade the site.
5. Seed and mulch disturbed areas on site.
6. Construct parking addition.
7. Final grade the site.
8. Stabilize site with sod or seed.
9. Remove silt fence and rock construction entrance.

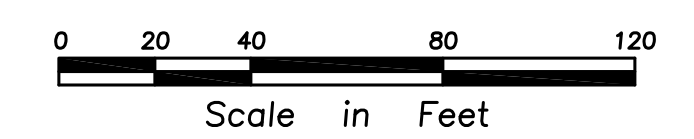
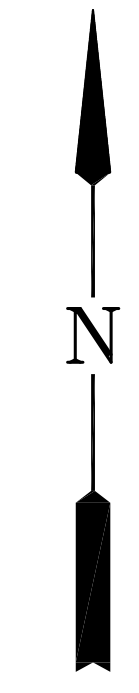
UTILITY NOTES

- 1 - Relocate existing hydrant and gate valve.
- 2 - All watermain to have a minimum of 7.5' of cover.

PARTY RESPONSIBLE FOR MAINTENANCE OF ALL EROSION AND SEDIMENT CONTROL MEASURES
XXXX
XXXX
XXXX

LEGEND

- PROPOSED MANHOLE
- PROPOSED CATCH BASIN
- ◆ PROPOSED HYDRANT
- ◆ PROPOSED GATE VALVE
- ▲ PROPOSED FLARED END
- PROPOSED STORM SEWER
- PROPOSED WATERMAIN
- PROPOSED CONTOUR
- PROPOSED ELEVATION
- SILT FENCE
- INLET PROTECTION DEVICE
- PROPOSED BUFFER SIGN
- SOIL BORING
- ▭ FULL REPLACEMENT PAVEMENT SECTION (SEE DETAIL 10/C4)
- ▨ PARTIAL REPLACEMENT PAVEMENT SECTION (SEE DETAIL 9/C4)
- ▭ PROPOSED CONCRETE
- ▨ PROPOSED WETLAND BUFFER AREA
- BOUNDARY/ROW/BLOCK LINE
- - - EASEMENT
- - - BUILDING/PARKING SETBACK LINE
- w- EXISTING WATERMAIN
- s- EXISTING SANITARY SEWER
- st- EXISTING STORM SEWER
- 980- EXISTING CONTOUR
- x 995.50 EXISTING ELEVATION



PLAN WAS PREPARED FOR THE 2018 RENOVATION OF THE BUILDING AND NORTH PARKING LOT AND IS BEING SUBMITTED FOR REFERENCE ONLY.

GRADING, DRAINAGE, EROSION CONTROL & UTILITY PLAN
RIDGEWOOD CHURCH
CITY OF MINNETONKA

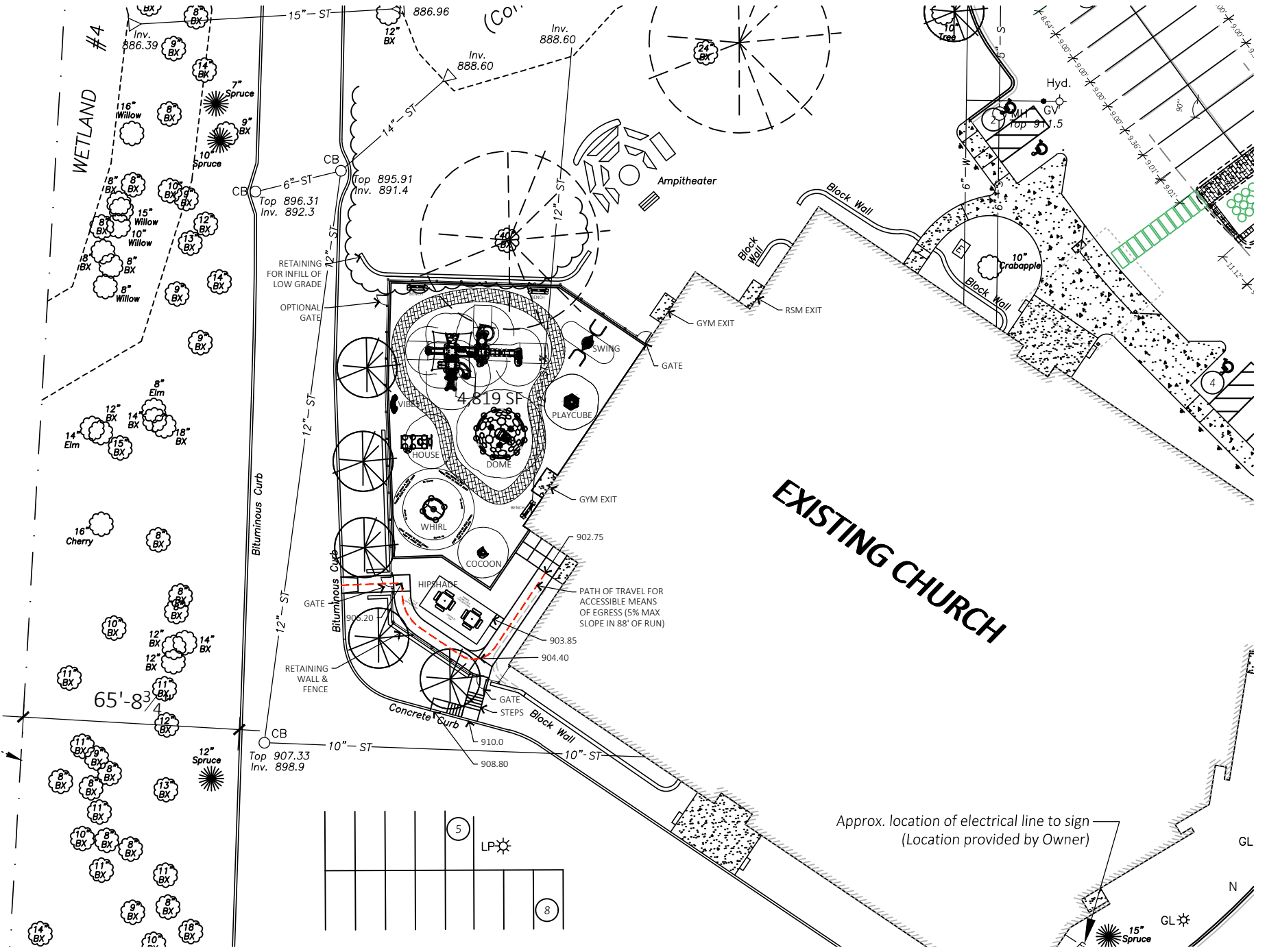
SHEET NUMBER

C3

I hereby certify that this plan was prepared by me or a duly Licensed Professional Engineer under the laws of the State of Minnesota.
Name: Benton G. Ford Reg. No. 24392 Date: 7-24-19

Rehder & Associates, Inc.
Civil Engineers, Planners and Land Surveyors
3440 Federal Drive, Suite 110 • Eagan, Minnesota 55122
651-492-0051 • Fax: 651-492-9797 • email: info@rehder.com
PROJECT NO.: 191-2393.038 DRAWING FILE: 2393038.DWG

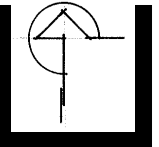
West line of the Northeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 19, Township 117, Range 22



PLAYGROUND LAYOUT 3

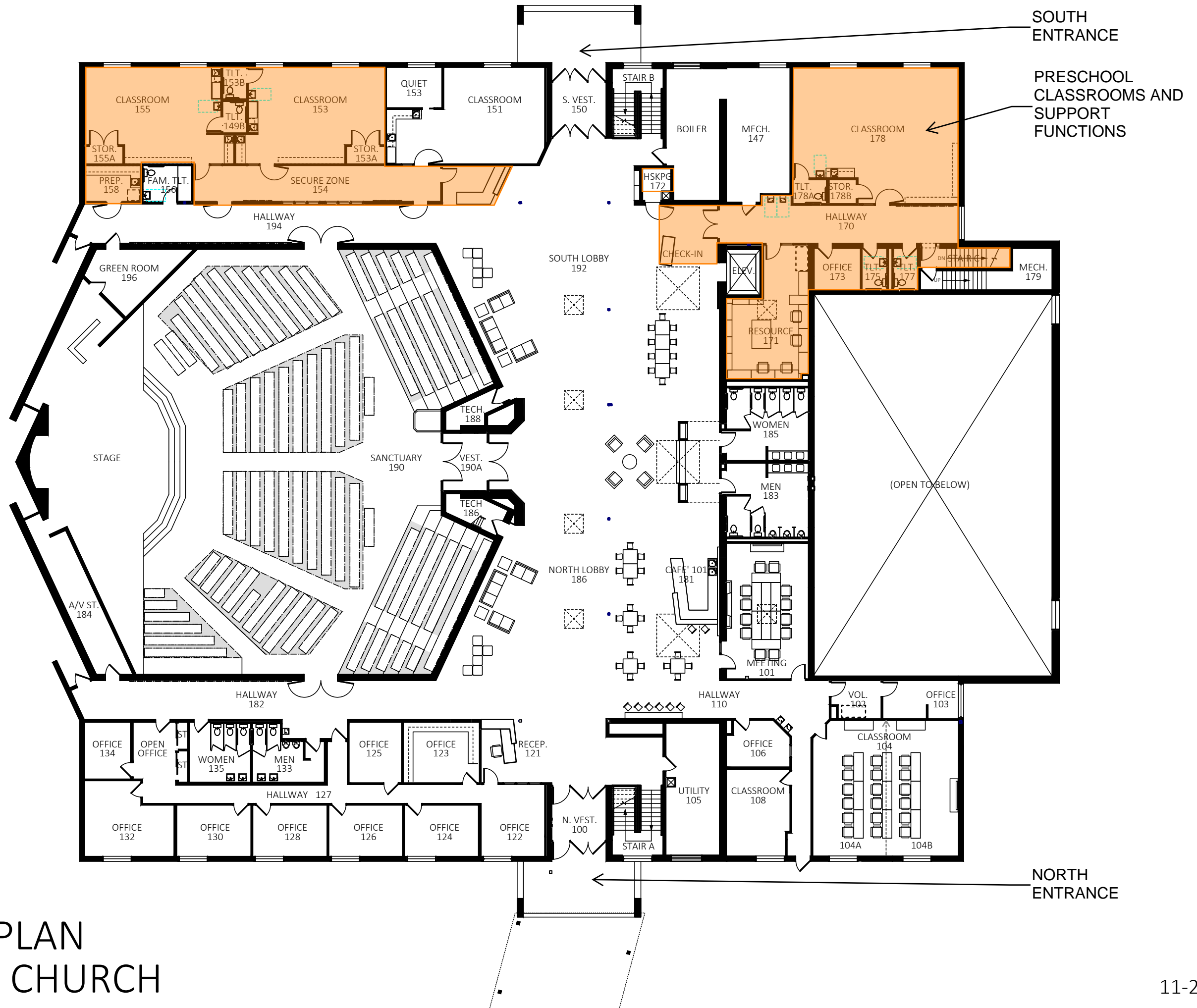
MINNETONKA, MN
April 8, 2021

RIDGEWOOD CHURCH





LOWER LEVEL PLAN
RIDGEWOOD CHURCH



MAIN LEVEL PLAN RIDGEWOOD CHURCH

7. **Public Hearings: Consent Agenda**

No item was removed from the consent agenda for discussion.

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

A. Resolution approving a conditional use permit for a preschool at 4420 County Road 101.

Recommend that the city council adopt the resolution approving a conditional use permit for a licensed-daycare facility at 4420 County Road 101.

Erica Austin, 17720 Southridge Court, stated that the site's parking lot currently has commercial trucks parked in it. She requested that the property owner remember that the site is surrounded by residential homes. The facility itself and the daycare seem like a fine idea.

Chair Sewall confirmed with Gordon that staff will discuss the comment with the applicant.

Waterman, Banks, Hanson and Sewall voted yes. Henry, Maxwell and Powers were absent. Motion carried and the item on the consent agenda was approved as submitted.

Resolution No. 2021-

**Resolution approving a conditional use permit for a licensed daycare facility at
Ridgewood Church at 4420 County Road 101**

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

Section 1. Background.

1.01 Walt Pittman and Stephen Oliver, on behalf of Ridgewood Church, have requested a conditional use permit for a preschool/licensed daycare facility for up to 144 children within the religious facility.

1.02 The property is located at 4420 County Road 101. It is legally described as:

The Northeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 19, Township 117 North, Range 22 West of the 5th Principal Meridan, according to the United States Government Survey thereof.

Hennepin County.
Abstract Property.

1.03 City Code §300.10 Subd. 4(l) allows public buildings, except for recreational buildings and utility cabinets larger than 150 cubic feet, as conditionally-permitted uses.

1.04 City Code §300.10 Subd. 4(r) allows “other uses similar to those permitted in this section, as determined by the city” as conditional uses within the R-1 zoning district.

1.05 On June 17, 2021, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. Standards.

2.01 City Code §300.16 Subd. 2 outlines the general standards that must be met for granting a conditional use permit. These standards are incorporated into this resolution by reference.

- 2.02 City Code §300.16 Subd. 3(l) outlines the following specific standards that must be met for granting a conditional use permit for public buildings:
1. Site and building plans subject to review pursuant to section 300.27 of this ordinance.
 2. Direct access limited to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;
 3. Buildings set back 50 feet from all property lines;
 4. Parking spaces and parking setbacks subject to section 300.28 of this ordinance;
 5. No more than 70 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped; and
 6. Stand-alone utility buildings, such as lift stations, are only subject to site and building plan review.

Section 3. Findings.

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

3.02 The proposal would meet the specific conditional use permit standards outlined in City Code 300.16 Subd.3(l).

1. The outdoor play area is the only exterior modification to the site. It would meet all site and building plan review standards, as it has been reviewed by city departments to be consistent with ordinances and policies. It has been intuitively designed to ensure proper circulation patterns and relationships between open spaces and the built structures.
2. The site has direct access to both Ridgewood Road, a major collector, and County Road 101, an arterial expander.
3. The building is set back more than 50 feet from all property lines.
4. The daycare would require 24 stalls at full capacity. The existing church, office, and classroom spaces would require 139 stalls. A total of 163 stalls could be accommodated in the existing 224 stall parking lot.
5. The site's impervious surface coverage would be 46 percent.
6. The proposal does not include utility buildings.

Section 4. City Council Action.

- 4.01 The above-described conditional use permit is approved, subject to the following conditions:
1. This resolution must be recorded with Hennepin County.
 2. The facility is allowed to serve up to 144 children. An increase in licensed capacity would require an amended conditional use permit.
 3. If the disturbance for the play area exceeds 5,000 square feet or 50 cubic yards, a grading permit is required.
 4. Prior to operation of the daycare, submit the following for staff review and approval:
 - a) Site plan identifying the location of the pickup and drop-off areas.
 - b) An illumination plan.
 5. The city council may reasonably add or revise conditions to address any future unforeseen problems.
 6. Any change to the approved use that results in a significant increase in a significant change in character would require a revised conditional use permit.

Adopted by the City Council of the City of Minnetonka, Minnesota, on June 28, 2021.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on June 28, 2021.

Becky Koosman, City Clerk



**City Council Agenda Item 10E
Meeting of June 28, 2021**

Title: Resolution approving drainage, utility, and ponding easements for the property located at 14033 Oakwood Road Extension

Report From: Loren Gordon, AICP, City Planner

Submitted through: Geralyn Barone, City Manager
Corrine Heine, City Attorney
Julie Wischnack, AICP, Community Development Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

On June 8, 1998, the city council approved a lot division of the 14025 Oakwood Road Extension property creating the new lot addressed as 14033 Oakwood Road Extension. The Torberg Family Trust is seeking to sell the lot to a buyer who has been working with city staff over the past few months on plans to develop the property with a single-family home.

Recommended Action

Staff recommends the city council adopt the resolution approving the easements.

Strategic Profile Relatability

- | | |
|--|--|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Resources | <input checked="" type="checkbox"/> Livable & Well-Planned Development |
| <input type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input type="checkbox"/> N/A | |

Statement: N/A

Financial Consideration

Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other

Statement: N/A

Background

In 1998, the property owner of 14025 Oakwood Road Extension, Ralph Torberg, requested a lot division to create a new conforming single-family lot. On June 8, 1998, the city council approved a lot division of the 14025 Oakwood Road Extension property creating the new lot addressed as 14033 Oakwood Road Extension. The Torberg family Trust has continued to own the lot, which has remained undeveloped since the division.

The Torberg Family Trust is seeking to sell the lot to a buyer who has been working with city staff over the past few months on plans to develop the property with a single-family home. One of the conditions of the 1998 approval is to expand the cul-de-sac to a diameter of 80 feet. The city engineer has determined that at this time, the cul-de-sac is sufficient in size. However, the grading plans allow for the cul-de-sac to be widened in the future if needed.

Stormwater modeling completed with this application shows the need for drainage and utility easements in the rear of the property. However, easement dedication is not required with this type of application. Staff felt that a reasonable solution would be for the property owner to dedicate the needed ponding easements in exchange for removing the 1998 condition to widen the cul-de-sac. The prospective buyer is in agreement and has provided the necessary easements to accommodate the ponding needs. The easement dedication requires action by the city council.



LOCATION MAP

Location: 14033 Oakwood Rd. Ext.



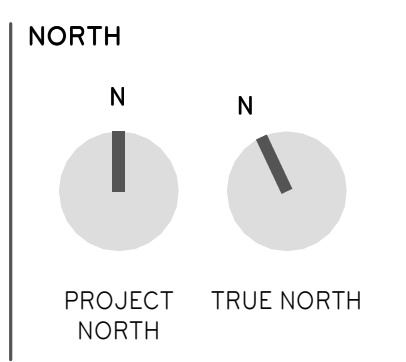


SHELTER ARCHITECTURE
 MN 612.870.4081
 WI 715.495.0623
 shelterarchitecture.com

project no.0000

Rosdahl
 Keith & Kim Rosdahl
 14033 Oakwood Rd Ext
 Minnetonka, MN 55345

ISSUES
 NO. DESCRIPTION DATE



DRAWN BY BH
 CHECKED BY KG
 DATE 04/28/21

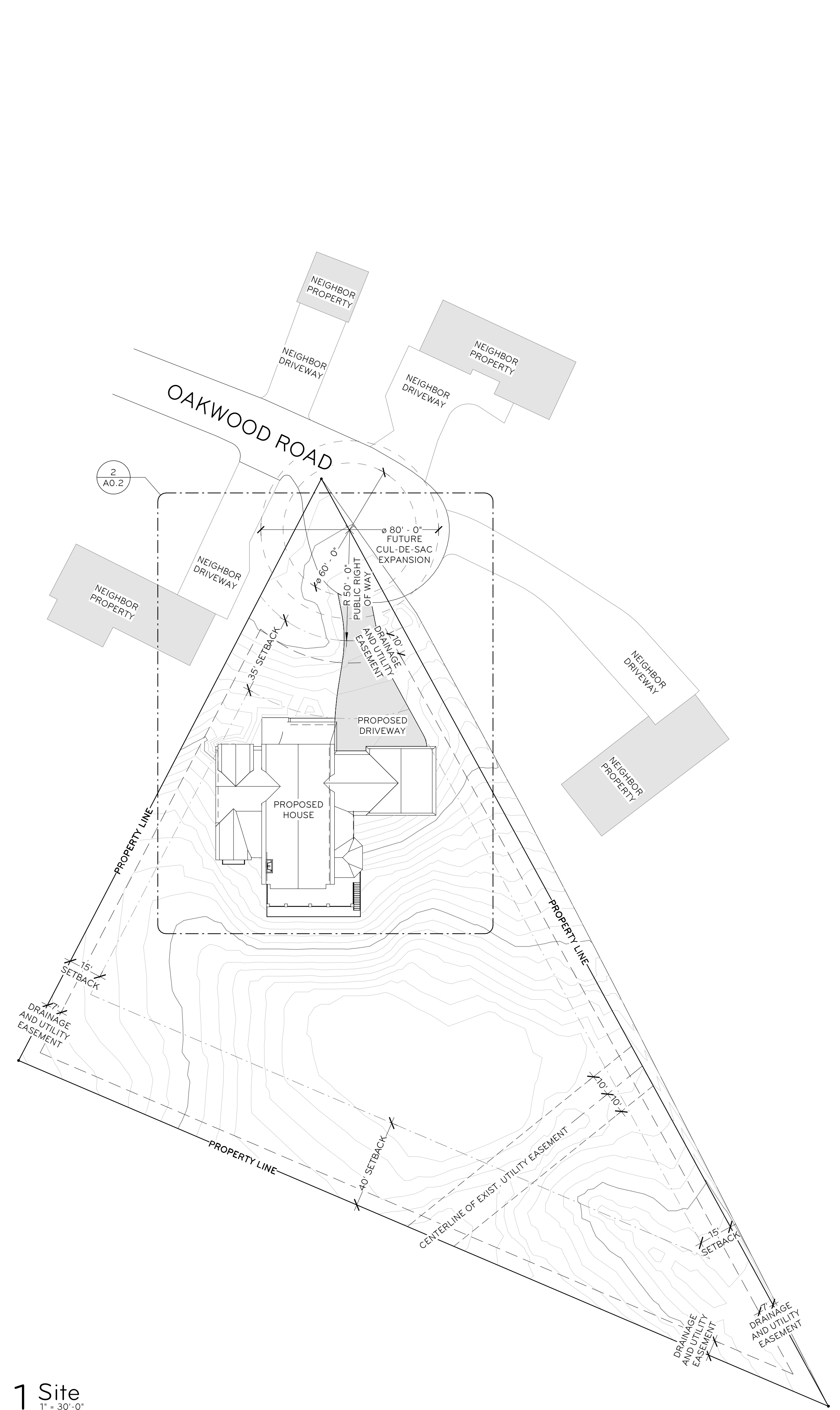
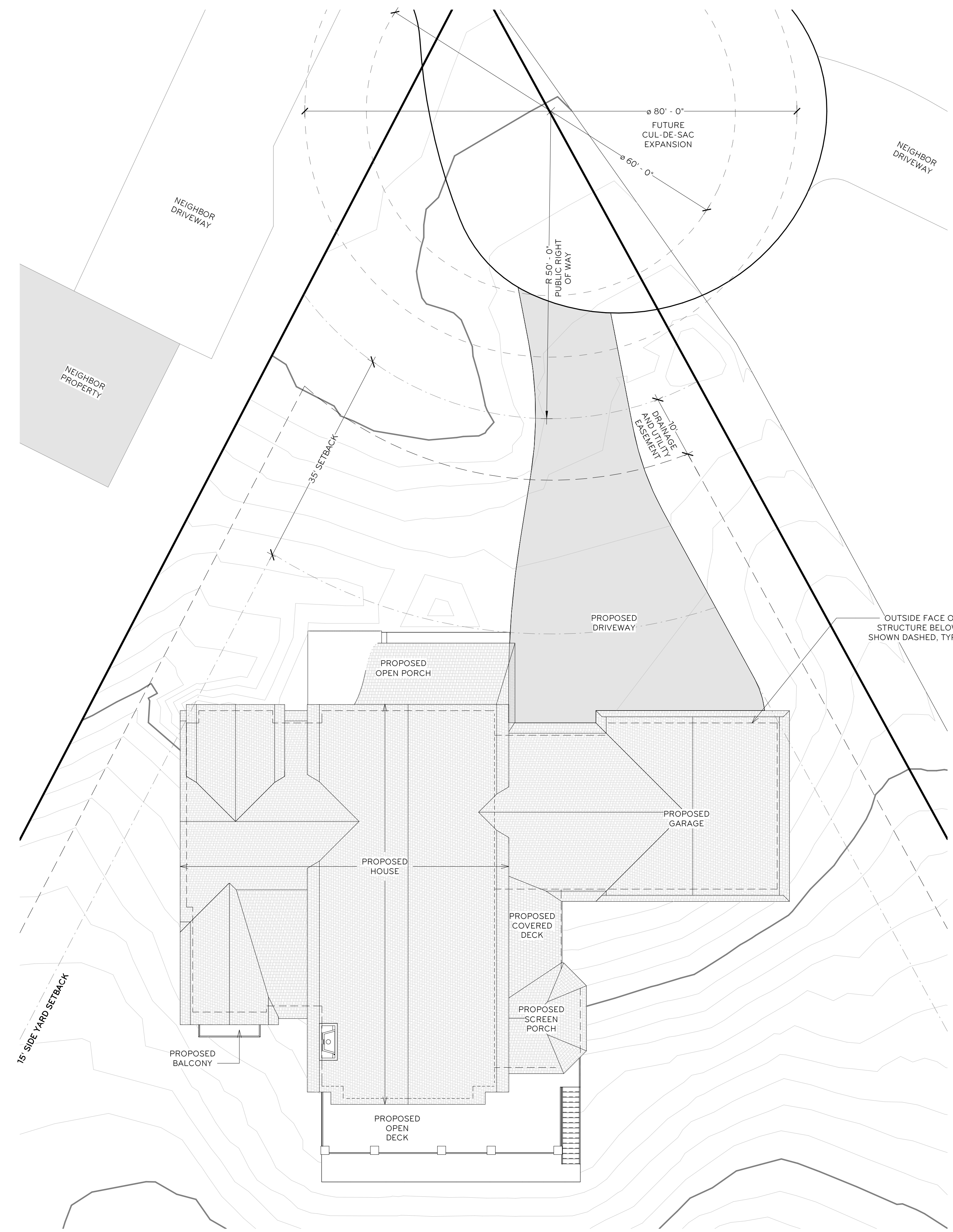
These documents are instruments of service and as such remain the property of SHELTER ARCHITECTURE. Use or publication requires written approval from SHELTER ARCHITECTURE.

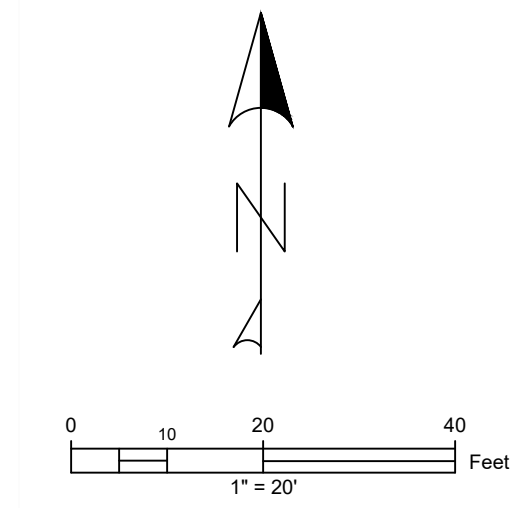
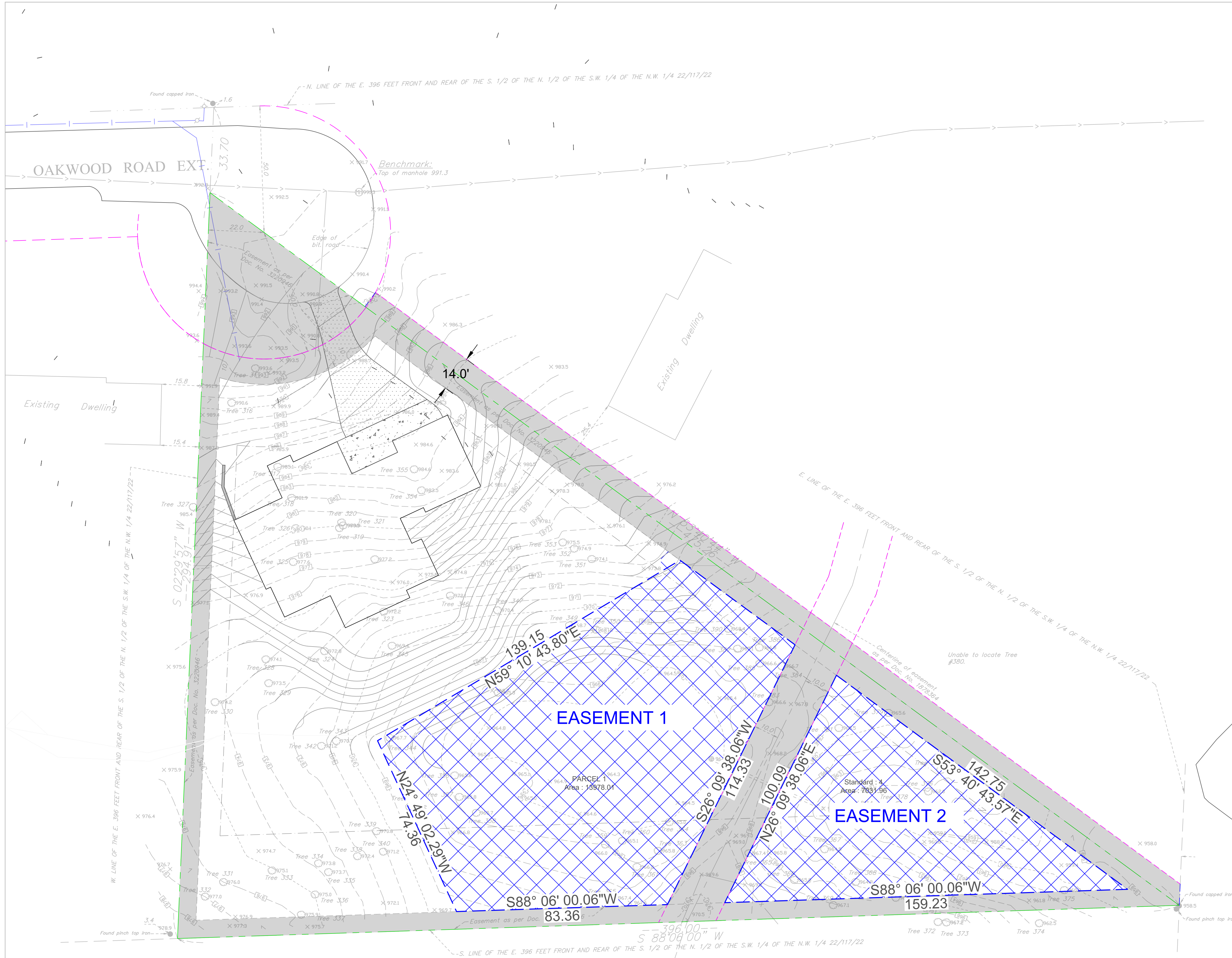
Site Plan

A0.2

NOT FOR CONSTRUCTION

4/30/2021 9:14:29 AM





- PROPERTY LINE
- PROPOSED DRAINAGE EASEMENT
- EXISTING EASEMENT LINES
- SETBACK LINE
- PROPOSED EASEMENT AREAS
- EXISTING EASEMENT AREAS

LEGAL PROPERTY DESCRIPTION:

That part of the East 396 feet, front and rear, of the South Half of the North Half of the Southwest Quarter of Section 22, Township 117, Range 22, Hennepin County, Minnesota which lies southwesterly of a straight line from the southeast corner of said East 396 feet to a point on the west line of said East 396 feet which lies 33.7 feet south of the northwest corner thereof, (PID: 2211722230063) described as follows, to wit:

Easement 1

Beginning at a point a distance .30 feet N 00° 00.00"E thence, 202.22 feet N 90° 00.00" W from the SE real property corner; Thence, S 88° 06' 00.1" W a distance of 83.3607 feet to a point on a line. Thence, N 24° 49' 02.3" W for a distance of 74.3603 feet to a point on a line. Thence, N 59° 10' 43.8" E for a distance of 139.1491 feet to a point on a line. Thence, S 53° 40' 43.6" E for a distance of 56.3936 feet to a point on a line. Thence, S 26° 09' 38.1" W for a distance of 114.3333 feet there terminating.

Easement 2

Beginning at a point a distance 6.31 feet N 00° 00.00"E thence, 20.42 feet N 90° 00.00" W from the SE real property corner; Thence, S 88° 06' 00.1" W a distance of 159.2339 feet to a point on a line. Thence, N 26° 09' 38.1" E for a distance of 100.0876 feet to a point on a line. Thence, S 53° 40' 43.6" E for a distance of 142.7549 feet there terminating.

RESOLUTION NO. 98-074

**RESOLUTION APPROVING A LOT DIVISION AT 14025 DAKWOOD ROAD
EXTENSION**

BE IT RESOLVED by the City Council of the City of Minnetonka, Minnesota,
as follows:

Section 1. BACKGROUND.

- 1.01 Ralph H. Torberg is applying for a lot division at 14025 Oakwood Road Extension.
- 1.02 Section 420.30, Subdivision 2 of the City Code does not allow the conveyance of this land by metes and bounds description. The ordinance allows the City Council to waive this requirement. The City Council, therefore, waives the foregoing restriction. The Council finds that compliance will create an unnecessary hardship and failure to comply will not interfere with the purpose of the City's subdivision regulations.

Section 2. APPROVAL.

- 2.01 The division of the following described parcels is approved:

NORTHEASTERLY PARCEL

That part of the East 396 feet, front and rear, of the South Half of the North Half of the Southwest Quarter of the Northwest Quarter of Section 22, Township 117, Range 22, Hennepin County, Minnesota, which lies northeasterly of a straight line from the southeast corner of said East 396 feet to a point on the west line of said East 396 feet which lies 33.7 feet south of the northwest corner thereof.

SOUTHWESTERLY PARCEL

That part of the East 396 feet, front and rear, of the South Half of the North Half of the Southwest Quarter of the Northwest Quarter of Section 22, Township 117, Range 22, Hennepin County, Minnesota, which lies southwesterly of a straight line from the southeast corner of said East 396 feet to a point on the west line of said East 396 feet which lies 33.7 feet south of the northwest corner thereof.


2.02 Approval is subject to the following conditions:

1. The following items must be submitted to the City before the City releases this resolution:
 - a. The following easements for the City Attorney's approval:
 - (1) Ten-foot-wide drainage and utility easements next to any public street right-of-way and seven-foot-wide drainage and utility easements along all other lot lines
 - (2) A drainage easement over that portion of the northeasterly parcel below the 959-foot contour.
 - (3) A 100-foot diameter easement over the Oakwood Road Extension cul-de-sac.

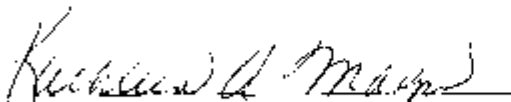
These easements shall be recorded with the lot split resolution, and a drawing of the easements shall be attached to the easement deed.
 - b. A park dedication fee of \$550 and delinquent utility bills. The current amount is \$84.50.
 - c. Title evidence that is acceptable to the City Attorney. Title evidence must be current within thirty days before final City Council approval.
 - d. Restrictive covenants to be recorded against the individual lots with the lot split resolution. The covenants shall include the conditions below that have not been met as of the release of the plat. These covenants shall first be submitted for the approval of the City Attorney.

2. The following must be completed before the City issues a building permit:
 - a. A grading and tree preservation plan must be submitted to the City for the southwesterly lot. This plan shall be subject to the planning director's approval.
 - b. A copy of the recorded resolution and a copy of any easements or restrictive covenants required to be recorded must be submitted to the City.
 - c. The Oakwood Road Extension cul-de-sac shall be improved to meet the City standard of a 80-foot-diameter paved turn-around. The improvement of the cul-de-sac shall be subject to the approval of the city engineer.
 - d. A hook-up fee for sanitary sewer and water. The estimated fee at the current time is \$1,470.
 - e. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
 - f. Building plans that show a minimum basement elevation of 976.
3. This resolution must be recorded by the county within one year, unless the City Council approves a time extension. If the council does not approve the extension, the lot division approval shall be void.

Adopted by the Minnetonka City Council on June 8, 1998.


Karen J. Anderson, Mayor

ATTEST:


Kathleen A. Magrew, City Clerk

ACTION ON THIS RESOLUTION:

Motion for adoption: Tauer

Seconded by: Callison

Voted in favor of: Koblick, Thomas, Tauer, Allendorf, Callison, Schneider

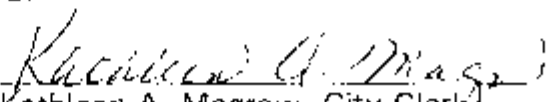
Voted against: Anderson

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on this 8th day of June, 1998.


Kathleen A. Magrew, City Clerk

Calendar, setting the date of the Primary Election as September 15, 1998. Koblick, Thomas, Tauer, Allendorf, Callison, Schneider and Anderson voted "aye." Motion carried.

E. APPROVAL OF THE BURYING OF OVERHEAD UTILITY LINES AT THE INTERSECTION OF SHADY OAK ROAD AND EXCELSIOR BOULEVARD.

Callison pulled this item from the consent agenda to inquire about the status of placing utility lines underground and the possibility of a City policy on underground service. Childs said that staff is working on a new franchise agreement with Northern States Power. The old 20 year franchise has expired. Staff plans to bring the new franchise ordinance to the Council for consideration on July 13, 1998. There will be a public hearing and the ordinance will need to be on two agendas. Childs said that the Council will need to adopt the new ordinance as a first step. If there is Council support, a policy regarding burying utility lines could be discussed as a second step. There needs to be Council discussion about franchise fees as a funding source.

Callison moved, Allendorf seconded a motion to approve the execution of an Underground Power Agreement with Northern States Power for burying the utility lines at the intersection of Shady Oak Road and Excelsior Boulevard. Koblick, Thomas, Tauer, Allendorf, Callison, Schneider and Anderson voted "aye." Motion carried.

F. APPROVAL OF LICENSE AGREEMENT FOR THE COREL WORDPERFECT SUITE.

Koblick moved, Allendorf seconded a motion to authorize the Mayor and City Manager to sign the corporate site license agreement for Corel WordPerfect Suite. Koblick, Thomas, Tauer, Allendorf, Callison, Schneider and Anderson voted "aye." Motion carried.

G. RESOLUTION APPROVING A LOT DIVISION AT 14025 OAKWOOD ROAD EXTENSION FOR RALPH H. TORBORG.

This item was pulled from the consent agenda by Anderson who raised concerns about future subdivision options for these lots due to their large size. Curt Gutoske, Principal Planner, said that the wetland area does not restrict the future subdivision options. However, any additional divisions would require lot width variances. Anderson said that she would like to see drawings of what future subdivisions would look like so that the Council could avoid future problems, such as were experienced with the recent Cherry Lane subdivision. Callison noted that a variance would be required to add additional homes to the cul-de-sac in the future.

Anderson noted that the steep slope ordinance would not apply in this circumstance. She inquired about the possibility of using a conservation easement over the heavily wooded area. Schneider said that he would not support a conservation easement. Anderson said that she hoped that the Open Space Preservation Task Force could create conservation easement options which would not be so onerous. Tauer said that future lots divisions would be somewhat limited by the siting of the homes on the lots.

Tauer moved, Callison seconded a motion to adopt Resolution No. 98-074. This resolution approves a lot division at 14025 Oakwood Road Extension. Approval is based on the finding that the plat meets the required standards and ordinances. Approval is subject to the following conditions:

1. The following items must be submitted to the City before the City releases this resolution:
 - a. The following easements for the City Attorney's approval:
 - (1) Ten-foot-wide drainage and utility easements next to any public street right-of-way and seven-foot-wide drainage and utility easements along all other lot lines.
 - (2) A drainage easement over that portion of the northeasterly parcel below the 959-foot contour.
 - (3) A 100-foot diameter road easement over the Oakwood Road Extension cul-de-sac area.

These easements shall be recorded with the lot split resolution, and a drawing of the easements shall be attached to the easement deed.
 - b. A park dedication fee of \$550.
 - c. Title evidence that is acceptable to the City Attorney. Title evidence must be current within thirty days before final City Council approval.
 - d. Restrictive covenants to be recorded against the individual lots with the lot split resolution. The covenants shall include the conditions below that have not been met as of the release of the plat. These covenants shall first be submitted for the approval of the City Attorney.

- e. Pay the delinquent utility bills. The current amount is \$81.40.
2. The following must be completed before the City issues a building permit:
 - a. A grading and tree preservation plan must be submitted to the City for the southwesterly lot. This plan shall be subject to the planning director's approval.
 - b. A copy of the recorded resolution and a copy of any easements or restrictive covenants required to be recorded must be submitted to the City.
 - c. The Oakwood Road Extension cul-de-sac shall be improved to meet the City standards of an 80-foot diameter paved turn-around. The improvement of the cul-de-sac shall be subject to the approval of the City Engineer.
 - d. A hook-up fee for sanitary sewer and water. The estimated fee at the current time is \$1,470.00.
 - e. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
 3. This resolution must be recorded by the County within one year, unless the City Council approves a time extension. If the Council does not approve the extension, the lot division approval shall be void.

Koblick, Thomas, Tauer, Allendorf, Callison, and Schneider voted "aye." Anderson voted "no." Motion carried.

H. REQUEST FOR OTTING MOVERS TO MOVE A HOUSE FROM 807 BURCHLANE DRIVE S. TO A LOCATION OUT OF THE CITY.

Koblick moved, Allendorf seconded a motion to approve a request for a permit to move a house from 807 Burchlane Drive S. to a location out of the City, subject to the following stipulation:

1. That any tree-trimming proposed to occur in connection with the house move be approved in advance by City staff.
2. That the move be directly monitored by appropriate City staff.

Koblick, Thomas, Tauer, Allendorf, Callison, Schneider and Anderson voted "aye." Motion carried.

Resolution No. 2021-

**Resolution approving drainage, utility and ponding easements for the property located at
14033 Oakwood Road Extension**

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

Section 1. Background.

1.01 In 1998, the property owner of 14025 Oakwood Road Extension, Ralph Torberg, requested a lot division to create a new conforming single-family lot.

1.02 On June 8, 1998, the city council approved a lot division of the 14025 Oakwood Road Extension property creating the new lot addressed as 14033 Oakwood Road Extension (Resolution 98-074).

1.03 It is legally described as:

That part of the East 396 feet, front and rear, of the South Half of the North Half of the Southwest Quarter of the Northwest Quarter of Section 22, Township 117, Range 22, Hennepin County, Minnesota which lies southwesterly of a straight line from the southeast corner of said East 396 feet to a point on the west line of said East 396 feet which lies 33.7 feet south of the northwest corner thereof.

1.04 The Torberg's are now seeking to sell the lot for development.

1.05 An approval condition of Resolution No. 98-074 is to expand the cul-de-sac to a diameter of 80 feet. The city engineer has determined that the cul-de-sac is sufficient in size. However, the grading plans allow for the cul-de-sac to be widened in the future if needed.

1.06 Since the lot division approval, the city's stormwater modeling shows the need for drainage, utility, and ponding easements in the rear of the property. The prospective buyer has provided easements to accommodate this area. The easements are depicted in Exhibit A.

Section 2. Standards.

2.01 City Code §400.030 Subd. 5 lists the following easement standards:

1. Drainage and utility easements must be provided, at least 14 feet wide,

centered on rear and side lot lines, and at least 10 feet wide adjacent to public rights-of-way. The easements must have continuity of alignment from block to block and lot to lot and at deflection points.

- 2. Drainage and utility easements must be provided over designated floodplain and wetland areas.
- 3. Drainage and utility easements must be provided over existing or proposed infrastructure for storm sewer, sanitary sewer, and watermain facilities. Such easements must be at least 20 feet in width or twice the depth of the infrastructure, whichever is greater.
- 4. Where a plat is traversed by a water course, drainage and utility easements must be provided over the water course and such additional area as will be adequate for the drainage of the area.

Section 3. Findings.

3.01 The proposal meets the easement standards contained in City Code §400.030 Subd. 5.

Section 4. City Council Action.

4.01 The mayor and city manager are authorized to execute an easement agreement with the property owners for the easement areas depicted in Exhibit A, in a form as approved by the city engineer and city attorney.

4.02 Resolution No. 98-074 is modified by removing the requirement to construct the cul-de-sac prior to the issuance of a building permit for 14033 Oakwood Road Extension.

Adopted by the City Council of the City of Minnetonka, Minnesota, on June 28, 2021.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on June 28, 2021.

Becky Koosman, City Clerk

EXHIBIT A





**City Council Agenda Item 13A
Meeting of June 28, 2021**

Title: On-sale wine liquor license for Three Rivers Park District dba Glen Lake Golf & Practice Center at 14350 County Road 62

Report From: Fiona Golden, Community Development Coordinator

Submitted through: Geralyn Barone, City Manager
Julie Wischnack, AICP, Community Development Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

Glen Lake Golf & Practice Center has submitted an application to change their current 3.2 percent malt beverage liquor license to include wine, with the option of strong beer, liquor license.

Recommended Action

Continue the public hearing from May 24, 2021, and grant the license.

Strategic Profile Relatability

- | | |
|--|---|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Resources | <input type="checkbox"/> Livable & Well-Planned Development |
| <input type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input checked="" type="checkbox"/> N/A | |

Statement: N/A

Financial Consideration

Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: N/A

Background

Three Rivers Park District (doing business as) Glen Lake Golf & Practice Center is a 9-hole golf course, driving range, and clubhouse. It has been operating at the former Glen Lake Sanatorium site since 1997. The city approved its 3.2 percent malt beverage liquor license in May 1997. As of 2019, only Utah and Minnesota have laws that require general establishments such as supermarkets, gas stations, and restaurants that don't have a full-intoxicating or a wine license that want to sell beer, to have a 3.2 percent malt beverage license. Because of this, local liquor distributors have a difficult time obtaining this low-alcohol product to sell.

Glen Lake Golf's request to change their current liquor license to offer wine and strong beer necessitates a new application to the state along with two public hearings. All other operational aspects of the existing establishment will remain the same.

The establishment meets §600.035 (2) that says "on-sale wine" licenses may be issued to a restaurant for the sale of wine not exceeding 14 percent alcohol by volume and the consumption on the licensed premises only in conjunction with the sale of food. An on-sale wine license may only be issued to a restaurant that has seating for at least 25 guests at one time. Glen Lake Golf is projecting a 65/35 food to liquor ratio based on their sales at Baker National Golf Course, which has both wine and 3.2 percent malt beverage licenses.

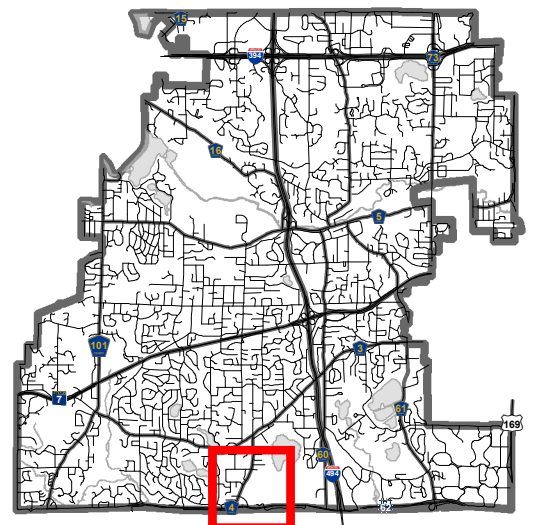
Mark Hill has been the Operations Supervisor at Glen Lake since June 2001 and is committed to preventing youth access to alcohol by requiring identification of all people who appear to be under 35 years old. All staff members who serve alcohol must complete an online course with Serving Alcohol Inc. and follow company policy to ensure compliance.

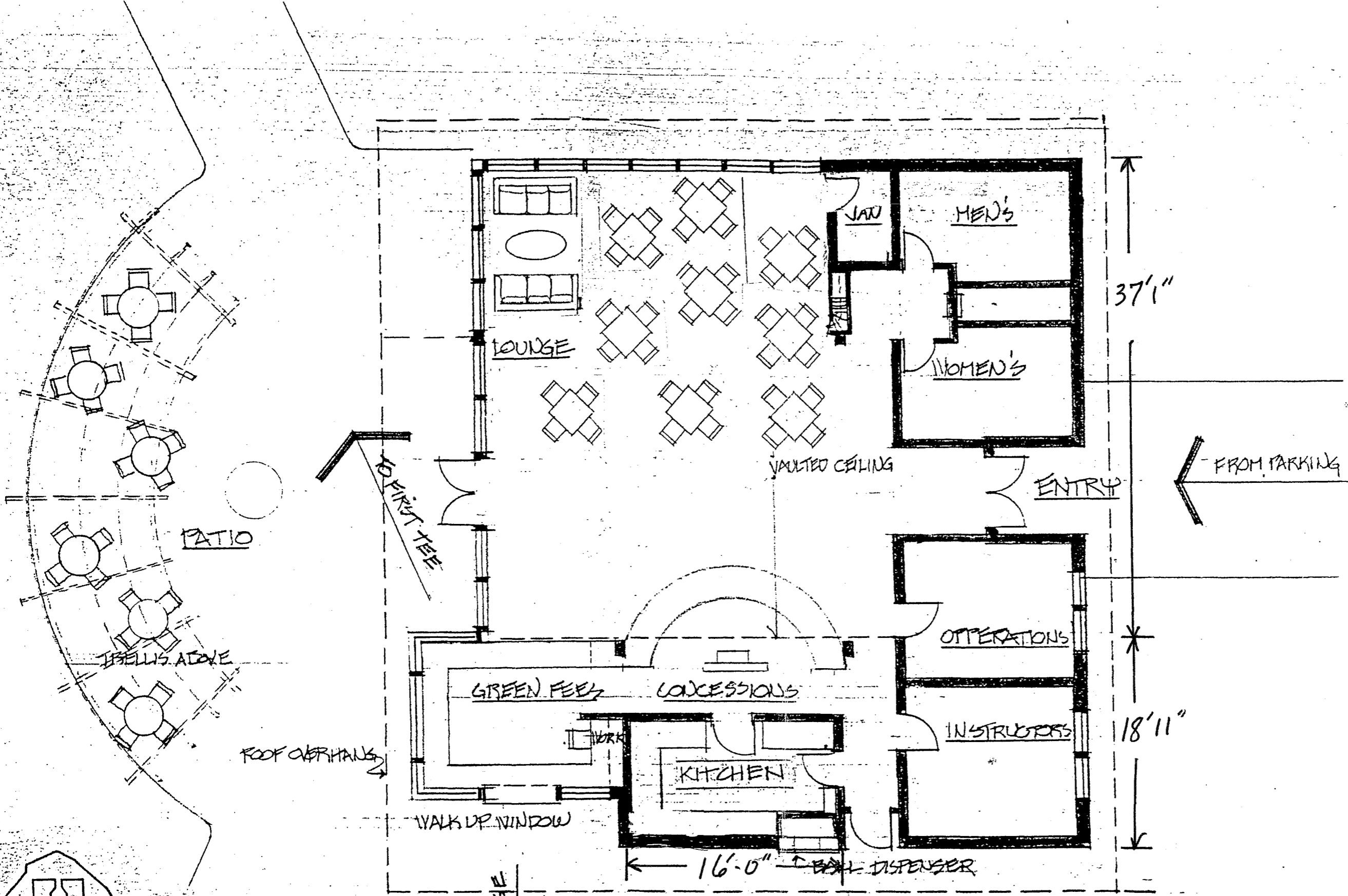
Application information and license fees have been submitted. Staff recommends that the city council continue the public hearing from May 24, 2021, and grant the license.



Location Map

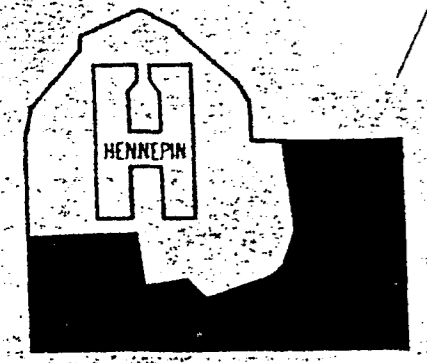
Project:Glen Lake Golf & Practice C
Address:14350 Co Rd 62





Main Floor Plan

Scale 1/8" = 1'-0"



**HENNEPIN
PARKS**
Years to Enjoy. Naturally!

Glen Lake Go
Clubhouse



May 14, 2021

**Three Rivers
Park District
Board of
Commissioners**

Glen Golf Course
14350 County Rd 62
Minnetonka, MN 55345
763-694-7826

Marge Beard
District 1

City of Minnetonka
Attn: City Council
14600 Minnetonka Blvd.
Minnetonka, MN 55345

Jennifer DeJournett
District 2

Dear Council,

Daniel Freeman
Vice Chair
District 3

I am the Operations Supervisor at Glen Lake Golf and Practice Center. I am writing this letter in the hopes of upgrading our current liquor license to a wine and strong beer license from our current 3.2% license.

John Gunyou
Chair
District 4

Being one of the few or if not the last state to offer 3.2% malt beverages has caused a few challenges. Our distributors have had problems with selections and just delivering product that we have ordered. The reasoning they give is they are just not making much of it anymore since so few places currently offer it. All too often we are only able to offer one or two types of malt beverage at a time. With an upgraded license we would have the opportunity to broaden our selections as well as receive all of our orders.

John Gibbs
District 5

To ensure our efforts with underage consumption, we currently have our staff certify as alcohol servers thru an online course with Serving Alcohol Inc. Upon completion of the course our staff are certified for three years and must execute certain policies to the best of their abilities. These include carding all people who appear 35 years or less, observation of possible impaired behavior, determining all people who order alcohol are of legal age and record them if there are any question about their age, and making sure a person matches their valid legal identification. Another benefit we have is employee retention. We currently retain around 80% of our staff, which ensures they are recertifying when required and improving their performance at recognizing possible issues.

Gene Kay
Appointed
At Large

Jesse Winkler
Appointed
At Large

I urge you to support our effort to upgrade our current license to a strong beer and wine.

Boe Carlson
Superintendent

Sincerely,

Mark Hill



**City Council Agenda Item 14A
Meeting of June 28, 2021**

Title: Resolutions related to the Livable Communities Demonstration Account (LCDA) – Transit Oriented Development (TOD) funding and authorizing applications for grant funds

Report From: Rob Hanson, EDFP, Economic Development Coordinator

Submitted through: Geralyn Barone, City Manager
Julie Wischnack, AICP, Community Development Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

The Metropolitan Council requires a resolution of local support for any project applying for Livable Communities Demonstration Account (LCDA) – Transit Oriented Development (TOD) funding. The city serves as the official applicant. Applications are for grant funds by the following development teams:

- Linden Street Partners dba Minnetonka Multifamily 1, LLC
- Doran Development dba Shady Oak Apartments, LLC

Recommended Action

Adopt the resolutions.

Strategic Profile Relatability

- | | |
|--|--|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Resources | <input checked="" type="checkbox"/> Livable & Well-Planned Development |
| <input type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input type="checkbox"/> N/A | |

The TOD funding account provides funding for higher density projects located within easy walking distance of a major transit stop by providing a higher concentration of amenities in compact transit station areas.

Financial Consideration

Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]

Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other: Pass-Through Grants

The city would be listed as the official applicant for each development team. The Metropolitan Council awards grant funds to the city, which are passed through to the grantee.

Background

The Metropolitan Council solicits annually for its Livable Communities Act Grants. The LCDA-TOD program, one of four programs available through the Livable Communities Grant programs, grants funds to moderate to higher density projects near a major transit stop. Funded projects are expected to diversify uses and provide a higher concentration of amenities in compact transit station areas, contributing to high-quality pedestrian-oriented streets and public spaces encouraging the use of transit services.

There are six types of activities eligible for funding with LCDA-TOD grants, including activities that contribute to environmental sustainability, preparing the project site, improving connections, design and community engagement, and site acquisition for affordable housing and jobs.

Staff is coordinating with the development teams of Linden Street Partners (10400, 10500, and 10550 Bren Road East) and Doran Development (5959 Shady Oak Rd.) to submit applications for LCDA-TOD funding. These grants are intended for projects that are ready to begin development or redevelopment, and there is land and/or infrastructure necessary to support the project.

Staff will work with the development teams to prepare applications for grant eligible activities by the application deadline of Sept. 7, 2021. The city serves as the official applicant, and awarded funds would pass through the city to the developer. Each city is eligible for an award total of up to \$2 million. If multiple projects within a city are awarded funds, the Metropolitan Council will split the award up to the \$2 million limit per city. The funding awards for the 2021 grant cycle will be announced in late 2021.

Resolution No. 2021-

Resolution Identifying the Need for Livable Communities Demonstration Account Funding and Authorizing Application for Grant Funds by Linden Street Partners dba Minnetonka Multifamily 1, LLC

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

Section 1. Background.

- 1.01. The city of Minnetonka is a participant in the Livable Communities Act's Local Housing Incentives Account Program for 2021 as determined by the Metropolitan Council, and is therefore eligible to apply for Livable Communities Demonstration Account (LCDA) funds.
- 1.02. The city has identified a proposed project within the city by Linden Street Partners dba Minnetonka Multifamily 1, LLC that meets the Demonstration Account's purposes and criteria and is consistent with and promotes the purposes of the Metropolitan Livable Communities Act and the policies of the Metropolitan Council's adopted metropolitan development guide.
- 1.03. The city has the institutional, managerial and financial capability to ensure adequate project administration.
- 1.04. The city certifies that it will comply with all applicable laws and regulations as stated in the grant agreement.
- 1.05. The city acknowledges LCDA grants are intended to fund projects or project components that can serve as models, examples, or prototypes for development or development projects elsewhere in the region, and therefore represents that the proposed project or key components of the proposed project can be replicated in other metropolitan-area communities.
- 1.06. Only a limited amount of grant funding is available through the Metropolitan Council's LCDA during each funding cycle, and the Metropolitan Council has determined it is appropriate to allocate those scarce grant funds only to eligible projects that would not occur without the availability of Demonstration Account grant funding.

Section 2. Council Action.

- 2.01. After appropriate examination and due consideration, the city council;
 1. Finds that it is in the best interests of the city's development goals and priorities for the proposed project to occur at this particular site and at this particular time.
 2. Finds that the project component(s) for which LCDA – TOD funding is sought:
 - a. will not occur solely through private or other public investment within the foreseeable future; and
 - b. will occur within three years after a grant award only if LCDA funding is made available for this project at this time.

2.02. The city council represents that the city has undertaken reasonable and good faith efforts to procure funding for the project component(s) for which LCDA funding is sought but was not able to find or secure from other sources funding that is necessary for project component completion within three years and states that this representation is based on the following reasons and supporting facts:

1. LCDA-TOD is a primary funding source for the uses requested in the application. The requested elements may not be of the quality or demonstration value possible without an award of LCDA funds.

2.03 The mayor and city manager are hereby authorized to submit on behalf of the city an application for Metropolitan Council Livable Communities TOD grant funds for the project component(s) identified in the application and to execute such agreements as may be necessary to implement the TOD project on behalf of the city.

Adopted by the City Council of the City of Minnetonka, Minnesota, on June 28, 2021.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on June 28, 2021.

Becky Koosman, City Clerk

Resolution No. 2021-

Resolution Identifying the Need for Livable Communities Demonstration Account Funding and Authorizing Application for Grant Funds by Doran Development dba Shady Oak Apartments, LLC

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

Section 1. Background.

- 1.01. The city of Minnetonka is a participant in the Livable Communities Act's Local Housing Incentives Account Program for 2021 as determined by the Metropolitan Council, and is therefore eligible to apply for Livable Communities Demonstration Account (LCDA) funds.
- 1.02. The city has identified a proposed project within the city by Doran Development dba Shady Oak Apartments, LLC that meets the Demonstration Account's purposes and criteria and is consistent with and promotes the purposes of the Metropolitan Livable Communities Act and the policies of the Metropolitan Council's adopted metropolitan development guide.
- 1.03. The city has the institutional, managerial and financial capability to ensure adequate project administration.
- 1.04. The city certifies that it will comply with all applicable laws and regulations as stated in the grant agreement.
- 1.05. The city acknowledges LCDA grants are intended to fund projects or project components that can serve as models, examples, or prototypes for development or development projects elsewhere in the region, and therefore represents that the proposed project or key components of the proposed project can be replicated in other metropolitan-area communities
- 1.06. Only a limited amount of grant funding is available through the Metropolitan Council's LCDA during each funding cycle, and the Metropolitan Council has determined it is appropriate to allocate those scarce grant funds only to eligible projects that would not occur without the availability of Demonstration Account grant funding.

Section 2. Council Action.

- 2.01. After appropriate examination and due consideration, the city council:
 1. Finds that it is in the best interests of the city's development goals and priorities for the proposed project to occur at this particular site and at this particular time.
 2. Finds that the project component(s) for which LCDA – TOD funding is sought:
 - a. will not occur solely through private or other public investment within the foreseeable future; and
 - b. will occur within three years after a grant award only if LCDA funding is made available for this project at this time.

2.02. The city council represents that the city has undertaken reasonable and good faith efforts to procure funding for the project component(s) for which LCDA funding is sought but was not able to find or secure from other sources funding that is necessary for project component completion within three years and states that this representation is based on the following reasons and supporting facts:

1. LCDA-TOD is a primary funding source for the uses requested in the application. The requested elements may not be of the quality or demonstration value possible without an award of LCDA funds.

2.03 The mayor and city manager are hereby authorized to submit on behalf of the city an application for Metropolitan Council Livable Communities TOD grant funds for the project component(s) identified in the application and to execute such agreements as may be necessary to implement the TOD project on behalf of the city.

Adopted by the City Council of the City of Minnetonka, Minnesota, on June 28, 2021.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on June 28, 2021.

Becky Koosman, City Clerk