

City Council Agenda Item #10B
Meeting of June 27, 2005

Brief Description: Resolution approving a joint powers agreement with the City of Deephaven and Minnetonka Economic Development Authority for the Deephaven Cove townhome project.

Recommended Action: Adopt the resolution.

Background

In February 2005, the Minnetonka and Deephaven City Councils each adopted resolutions supporting an application to Hennepin County for Transit Oriented Development (TOD) grant funds. The grant application requested \$325,000 in TOD funds to write down the cost of the five affordable units at Deephaven Cove from \$193,700 to \$128,700, a \$65,000 write-down for each affordable unit. The affordable units will be conveyed to Homes Within Reach and sold to qualifying buyers.

The Hennepin County Housing and Redevelopment Authority has authorized a TOD grant for the Deephaven Cove project for \$180,000. Of this award, \$130,000 has been allocated to write down the cost of two affordable units, and \$50,000 will be available to make site improvements, such as the installation of pedestrian lighting and safety improvements, to the area connecting Deephaven Cove to transit stops along County Road 101. Homes Within Reach also received \$195,000 in HOME funds to write down the costs of the other three affordable units at Deephaven Cove. Therefore, the total grants awarded for Deephaven Cove amount to \$375,000.

Joint Powers Agreement

In order to receive the TOD funds, a Housing Development Project must be put into place by the Economic Development Authority. With the development located in Minnetonka and Deephaven, the Housing Development Project must therefore be set-up in both cities; however, the City of Deephaven does not have an Economic Development Authority to set-up such a project. State law does allow for two communities to enter into a Joint Powers Agreement to permit one city to act on behalf of both communities. The enclosed Joint Powers Agreement prepared by the city attorney, allows the Minnetonka Economic Development Authority to act on behalf of the City of Deephaven regarding matters on the Deephaven Cove townhome project only, and also establishes the Housing Development Project that is required by Hennepin County in order to receive the TOD funds.

The City of Deephaven reviewed the Joint Powers Agreement at their June 20 meeting and adopted a resolution to enter into the agreement. The Minnetonka Economic

Development Authority also reviewed the Joint Powers Agreement, and adopted a resolution to enter into the agreement at their May 10 meeting.

Recommendation

Staff recommends the council adopt the resolution approving a Joint Powers Agreement with the City of Deephaven and Minnetonka Economic Development Authority for the Deephaven Cove townhome project.

Submitted through:

John Gunyou, City Manager
Ron Rankin, Community Development Director

Originated by:

Elise Souders, Community Development Coordinator

RESOLUTION NO. 2005-

**RESOLUTION APPROVING A JOINT POWERS AGREEMENT
WITH THE CITY OF DEEPHAVEN AND THE MINNETONKA
ECONOMIC DEVELOPMENT AUTHORITY FOR
THE DEEPHAVEN COVE TOWNHOME PROJECT**

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

Section 1. Background.

- 1.01. The city of Minnetonka has created the Economic Development Authority in and for the City of Minnetonka (“EDA”) to undertake housing development projects pursuant to Minnesota Statutes, Sections 460.001 to 469.047 (the “HRA Act”), but the city of Deephaven has not established such an entity.
- 1.02. The two cities have applied for financial assistance from Hennepin County for the purchase of five affordable housing units in the Deephaven Cove townhome project, and this constitutes a housing development project under the HRA Act.
- 1.03. Because the project is located partially in both cities, it is reasonable to have the EDA undertake the project on behalf of both cities.
- 1.04. A joint powers agreement between the two cities and the EDA is necessary to accomplish this project.

Section 2. Council Action.

- 2.01. The attached joint powers agreement is approved, subject to modifications that do not alter the substance of the transaction and that are approved by the mayor and city manager; provided that execution of the agreement by those officials is conclusive evidence of approval.
- 2.02. The mayor and city manager are authorized to execute the agreement.

Adopted by the City Council of the City of Minnetonka, Minnesota, on June 27, 2005.

Karen J. Anderson, Mayor

ATTEST:

Kathleen A. Magrew, City Clerk

ACTION ON THIS RESOLUTION:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on June 27, 2005.

Kathleen A. Magrew, City Clerk

**DEEPHAVEN COVE TOWNHOMES
JOINT POWERS AGREEMENT**

This Joint Powers Agreement (“Agreement”), dated as of _____, 2005, is made and entered into by and between the City of Deephaven, Minnesota (“Deephaven”), the City of Minnetonka, Minnesota (“Minnetonka”), and the Economic Development Authority in and for the City of Minnetonka (“EDA”) (referred to collectively as the “Joint Powers Participants”).

RECITALS

WHEREAS, the EDA is authorized to carry out “housing development projects” as that term is defined in Minnesota Statutes, Sections 460.001 to 469.047 (the “HRA Act”); and

WHEREAS, a housing development project includes any work or undertaking to provide housing for persons of moderate income and their families, including the planning and building of improvements and the acquisition of real property needed for housing purposes; and

WHEREAS, under Minnesota Statutes, Section 471.59 (the “Joint Powers Act”), the governing body of any governmental unit may enter into agreements with any other governmental unit to perform on behalf of that unit any service or function which the governmental unit providing the service or function is authorized to provide for itself; and

WHEREAS, Deephaven, Minnetonka, and EDA are “governmental units” within the meaning of the Joint Powers Act; and

WHEREAS, Deephaven Cove LLC (the “Developer”) has proposed to construct 28 townhomes located partially in the Cities of Minnetonka and Deephaven, referred to as the “Deephaven Cove Townhomes;” and

WHEREAS, the Joint Powers Participants have applied for grant funds from Hennepin County (the “County Grant”) to write down the cost of 5 units within the Deephaven Cove Townhomes in order to make such units affordable to moderate income persons; and

WHEREAS, such financial assistance constitutes a housing development project within the meaning of the HRA Act, and is hereinafter referred to as the “Project”; and

WHEREAS, Deephaven has not established a separate entity to undertake projects under the HRA Act, while Minnetonka has established the EDA and given it that authority; and

WHEREAS, the Joint Powers Participants have determined that, because the Project is located partially in both cities, it is reasonable and necessary for the EDA to perform the function of undertaking the Project, as a housing development project, on behalf of Deephaven and Minnetonka; and

WHEREAS, the governing bodies of each of the Joint Powers Participants have authorized the execution and delivery of this Agreement;

NOW, THEREFORE, the Joint Powers Participants hereby agree as follows:

1. Nature of Project. (a) The EDA will act on behalf of both Deephaven and Minnetonka in implementation of the Project, subject to the provisions specified below.

(b) Upon or after receipt of County Grant funds, the EDA will acquire the 5 Project units from Developer for a price not to exceed \$193,700 each. The precise units, timing, and other terms and conditions of such acquisition will be mutually agreed upon by the EDA and Developer. Nothing in this Agreement will be construed to obligate the EDA to acquire any Project units unless and to the extent the EDA receives grant funds from Hennepin County in an amount that, together with sale proceeds from WHALT described below, is at least equal to the purchase price paid to Developer.

(c) Simultaneous with closing on acquisition of each unit, the EDA will convey such unit to the West Hennepin Affordable Housing Land Trust (“WHALT”), for a purchase price equal to the price paid by the EDA to Developer less the amount of County Grant funds allocated to that unit.

(d) The EDA’s obligation to acquire and simultaneously convey the Project units as described in this Section is subject to the EDA having a conducted a public hearing regarding conveyance of the units pursuant to Minnesota Statutes, Section 469.105.

2. Income Limits. The parties agree and understand that WHALT will sell all Project units to persons or families who meet the income limits established by WHALT, which generally consists of incomes no more than 80% of the areawide median income as determined by the United States Department of Housing and Urban Development. The EDA determines, and Deephaven concurs, that for the purposes of the Project, the income levels established by WHALT constitutes moderate family income within the meaning of Sections 469.002, subd. 18 and 469.012, subd 1i of the HRA Act.

3. Miscellaneous.

(a) Each of the Joint Powers Participants has adopted a resolution granting approval of this agreement. Through the execution of this agreement, each Joint Powers Participant grants final approval to the terms herein.

(b) Except to the extent specifically provided herein, the Joint Powers Participants shall not incur any obligations or liabilities to each other as a result of the Project.

(c) All costs incurred by the Joint Powers Participants in the authorization, execution, delivery, and performance of this Agreement shall be paid by the respective Joint Powers Participants.

(d) This Agreement may be amended by the Joint Powers Participants at any time in writing with approval of their respective governing bodies.

(e) This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same Agreement.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, duly authorized officers of the Joint Powers Participants have executed this Agreement as of _____ 2005.

CITY OF DEEPHAVEN, MINNESOTA

By: _____
Its: Mayor

By: _____
Its: City Administrator

CITY OF MINNETONKA

By: _____
Its: Mayor

By: _____
Its: City Manager

ECONOMIC DEVELOPMENT AUTHORITY IN
AND FOR THE CITY OF MINNETONKA

By: _____
Its: President

By: _____
Its: Executive Director

City Council Agenda Item #10C
Meeting of June 27, 2005

Brief Description: Resolutions ordering the abatement of nuisance conditions existing at:
1) 3428 Hopkins Crossroad
2) 10008 Belmont Road

Recommended Action: Adopt the resolutions.

Background

The city council is asked to adopt resolutions ordering the abatement of long grass nuisance conditions at the above addresses. As described in the enclosed resolutions, these properties have been found to be in violation of the nuisance ordinance based on recent inspections by the community development department.

These properties were inspected and were found to be in violation of Nuisance Ordinance Section 845, by having grass and weeds exceed ten inches in height.

Ordinance Violation Notices were given to the owners ordering correction of the violations. However, the properties were not brought into compliance with ordinance requirements. Final reinspections will be conducted on June 27, 2005. If any property is brought into compliance, it will be recommended that the item be deleted from the council agenda.

The enclosed resolutions make findings and order the abatement of the conditions described above. If the resolutions are adopted, staff will arrange for abating the nuisances. As provided by the City Code, the property owners will become liable for these costs. If they are not paid, the costs will be recommended for special assessment against the properties. The actual cost of the abatement, plus staff costs and a five percent administrative fee, will be assessed against each property.

Recommendation

Staff recommends the council adopt the enclosed resolutions ordering the abatement of the nuisance conditions.

Submitted through:
John Gunyou, City Manager
Ron Rankin, Community Development Director

Originated by:
John Weinand, Environmental Health Supervisor

RESOLUTION NO. 2005-

**RESOLUTION ORDERING THE ABATEMENT OF CERTAIN CONDITIONS EXISTING
AT 3428 HOPKINS CROSSROAD**

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

Section 1. Background.

1.01. The Community Development Department has inspected the following property, on the dates listed:

<u>Property</u>	<u>Inspection Date</u>
3428 Hopkins Crossroad	June 10, 2005
	June 13, 2005

1.02 Nuisance conditions were observed on this property at the time of inspection, and an Ordinance Violation Notice was given to the owner.

1.03 A written report has been filed detailing the findings as a result of the inspections and these findings have been conveyed to the City Council.

Section 2. Findings.

2.01 The City Council finds and declares the property listed above to be in violation of Ordinance 845.00 et. seq. and constitute a public nuisance because of lawn grass and weeds over ten inches in height. (See Ordinance 845.030.)

2.02. It is in the public's best interest to have these nuisance conditions abated.

Section 3. Council Action.

3.01. The City Manager is hereby authorized to abate the Nuisance Conditions on the properties listed above using City personnel and equipment or by private contract. This authorization will continue throughout the growing season, and the City Manager is authorized to abate the nuisance conditions at any time the grass and weeds exceed ten inches in height.

3.02. The cost of abatement shall be recorded and become the personal responsibility of the owner of record. If unpaid, the clerk shall list such costs of the City Council to consider as a special assessment pursuant to Ordinance 845.045.

Adopted by the City Council of the City of Minnetonka, Minnesota, on June 27, 2005.

Karen J. Anderson, Mayor

ATTEST:

Kathleen A. Magrew, City Clerk

ACTION ON THIS RESOLUTION:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

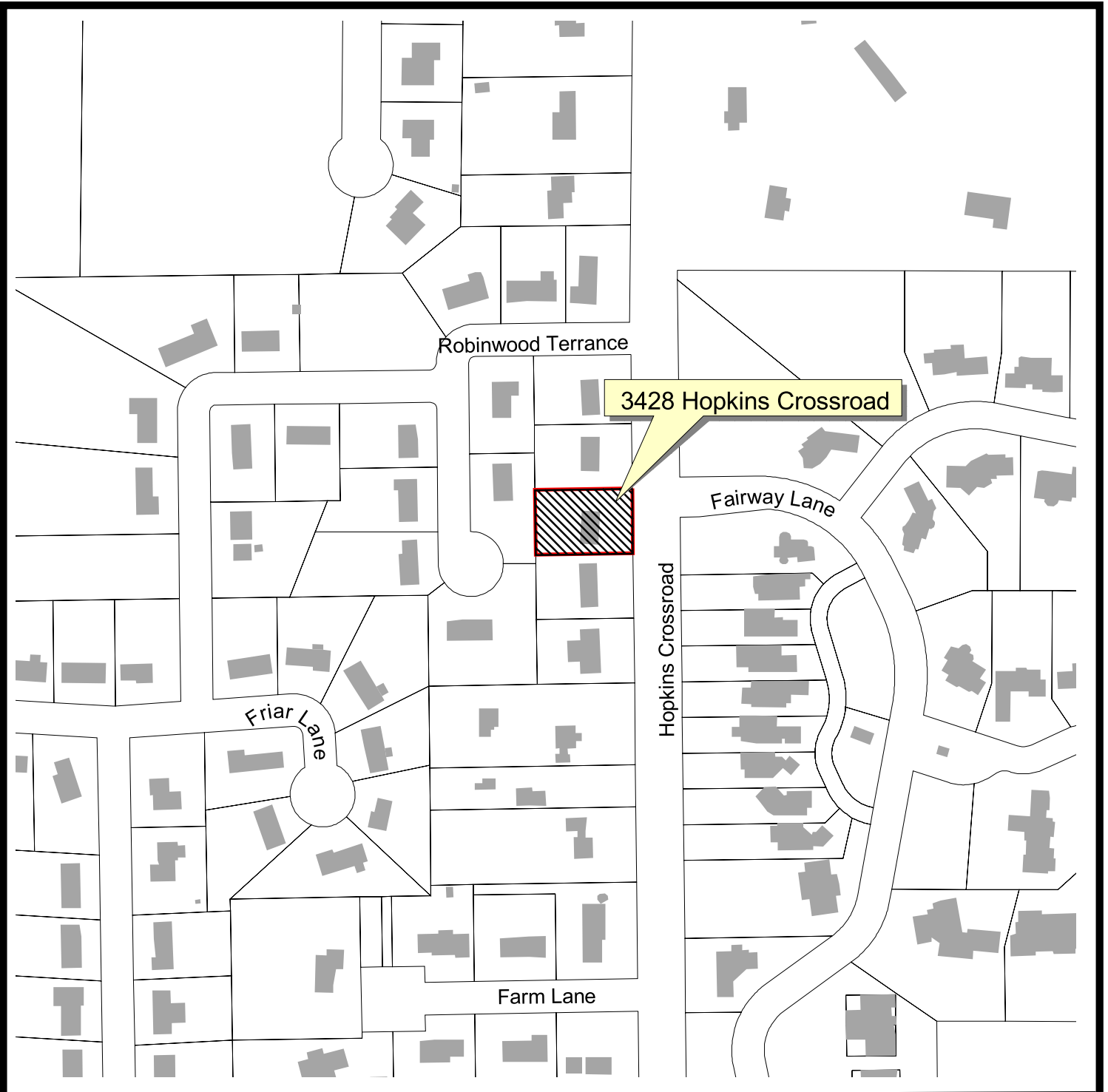
Abstained:

Absent:

Resolution adopted.

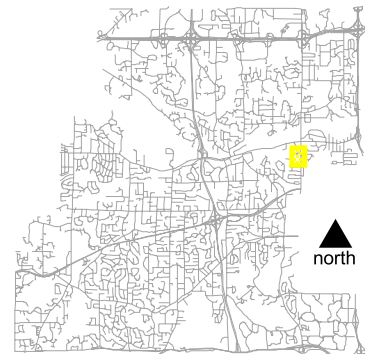
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on June 27, 2005.

Kathleen A. Magrew, City Clerk



Nuisance Abatement

Location: 3428 Hopkins Crossroad



This map is for illustrative purposes only.

RESOLUTION NO. 2005-

**RESOLUTION ORDERING THE ABATEMENT OF CERTAIN CONDITIONS EXISTING
AT 10008 BELMONT ROAD**

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

Section 1. Background.

1.01. The Community Development Department has inspected the following property, on the dates listed:

<u>Property</u>	<u>Inspection Date</u>
10008 Belmont Road	June 16, 2005

1.02 Nuisance conditions were observed on this property at the time of inspection, and an Ordinance Violation Notice was given to the owner.

1.03 A written report has been filed detailing the findings as a result of the inspections and these findings have been conveyed to the City Council.

Section 2. Findings.

2.01 The City Council finds and declares the property listed above to be in violation of Ordinance 845.00 et. seq. and constitute a public nuisance because of lawn grass and weeds over ten inches in height. (See Ordinance 845.030.)

2.02. It is in the public's best interest to have these nuisance conditions abated.

Section 3. Council Action.

3.01. The City Manager is hereby authorized to abate the Nuisance Conditions on the properties listed above using City personnel and equipment or by private contract. This authorization will continue throughout the growing season, and the City Manager is authorized to abate the nuisance conditions at any time the grass and weeds exceed ten inches in height.

3.02. The cost of abatement shall be recorded and become the personal responsibility of the owner of record. If unpaid, the clerk shall list such costs of the City Council to consider as a special assessment pursuant to Ordinance 845.045.

Adopted by the City Council of the City of Minnetonka, Minnesota, on June 27, 2005.

Karen J. Anderson, Mayor

ATTEST:

Kathleen A. Magrew, City Clerk

ACTION ON THIS RESOLUTION:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

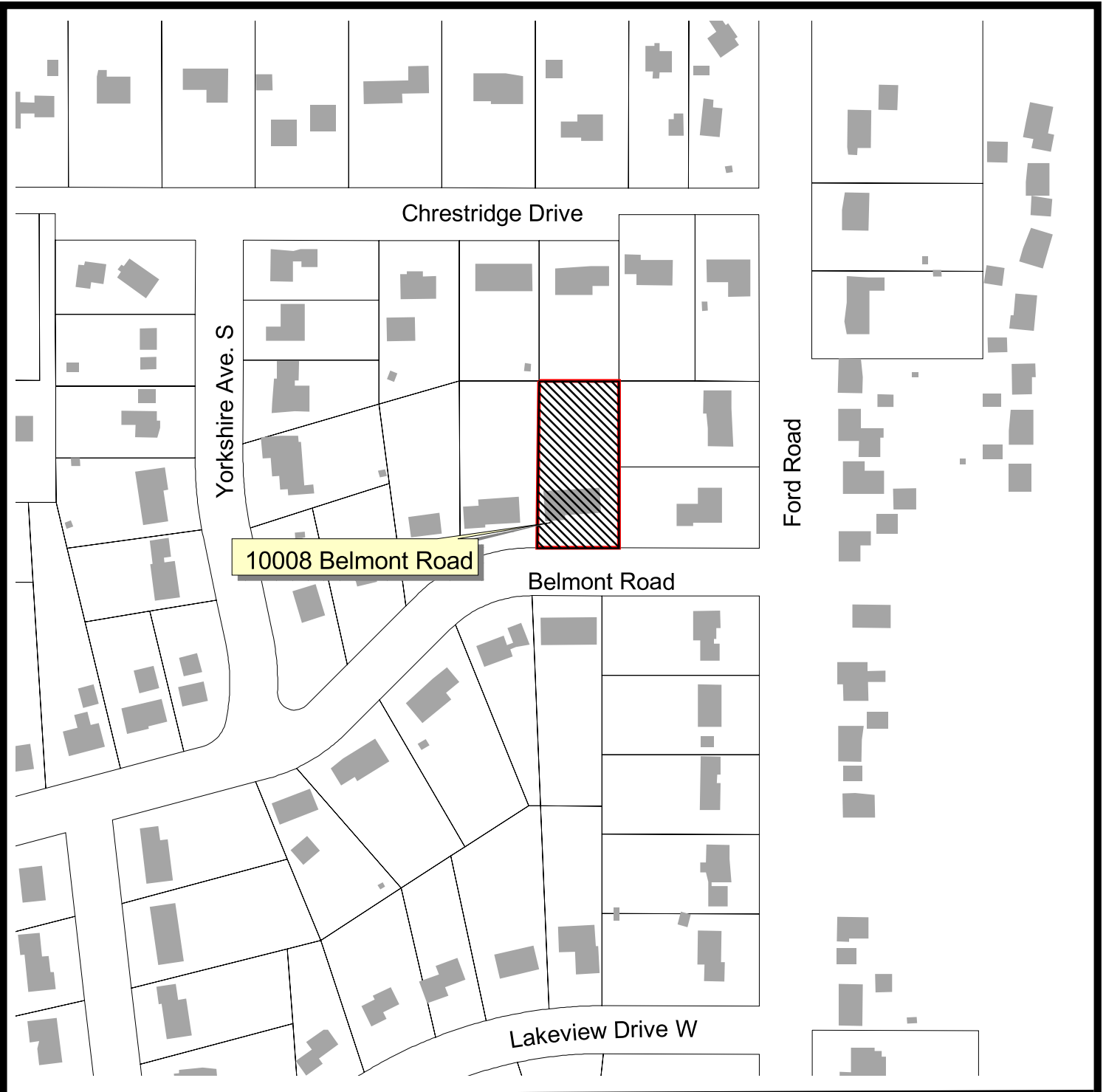
Abstained:

Absent:

Resolution adopted.

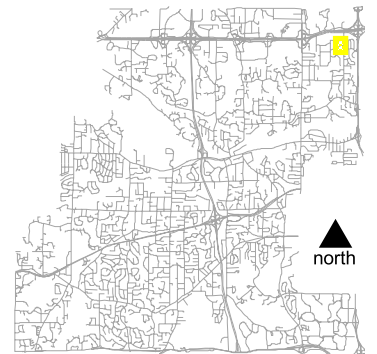
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Kathleen A. Magrew, City Clerk



Nuisance Abatement

Location: 10008 Belmont Road



This map is for illustrative purposes only.

City Council Agenda Item #10D
Meeting of June 27, 2005

Brief Description: Authorizing the scheduling of a public hearing regarding transfer of Time Warner Cable to Comcast Cable.

Recommended Action: Motion to approve.

Background

Minnetonka is a joint powers member of the Southwest Suburban Cable Commission, consisting of the cities of Eden Prairie, Edina, Minnetonka, Hopkins and Richfield. The commission jointly negotiates cable television franchises for its member cities, and the current franchisee is Time Warner Cable.

Comcast Communications is in the process of acquiring control of the cable systems and franchises in the member cities. Over the next few months, the city council will need to follow procedural requirements related to the transfer.

The first step is for the council to hold a public hearing to assess whether the transaction will have an adverse effect on the city's cable television subscribers. Reference the attached letter from Brian Grogan, the cable commission's attorney, regarding the need for a public hearing and a further description of the legal requirements. Also attached is a sample of the letter the city will send to Time Warner regarding the public hearing.

Recommendation

The city council is requested to adopt the following motion:

The city council finds that the proposed transfer of control of the cable television franchise from Time Warner Cable to Comcast Cable Communications, LLC may have an adverse effect on cable television subscribers, and a public hearing will be held on August 8, 2005, to address this issue.

Submitted through:
John Gunyou, City Manager

Originated by:
Geraldyn R. Barone, Assistant City Manager

MOSS & BARNETT

A Professional Association

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VIA EMAIL AND U.S. MAIL

June 24, 2005

Mr. John Gunyou
City Manager
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345

Re: Time Warner Transfer of Control

Dear John:

As we discussed, Time Warner Cable and Comcast Cable Communications, LLC (“Comcast”) have announced that Comcast will acquire control of the cable systems and franchises in the member cities of the Southwest Suburban Cable Commission (Eden Prairie, Edina, Minnetonka and Richfield, Minnesota). The proposed transfer of control **requires approval** under 1) Minnesota Statutes Section 238.083 and 2) the City of Minnetonka’s (“City”) current Cable Television Regulatory Ordinance (“Ordinance”).

As part of the regulatory approvals necessary for this merger, on or about June 14, 2005, your City received, Federal Communications Commission Form 394 - Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise (“Form 394”) from Comcast. Form 394 is Time Warner’s application seeking consent to the proposed transfer of control of the City’s cable television franchise to Comcast.

A number of procedural requirements control cable television franchise transfer requests. Under federal law, the City has 120 days from the date of receiving Form 394 to act upon the transfer request. Thus, the federal deadline for City action is approximately October 12, 2005. The City’s failure to act within that time serves as an implied approval of Time Warner’s transfer request.

The City’s Ordinance requires that the City either approve the transfer request within thirty (30) days of receiving Form 394 or determine the need for a public hearing. Your Ordinance provides that a public hearing may be held at the time of a proposed transfer of control in order

Mr. John Gunyou

June 24, 2005

Page 2

to assess whether the transaction may have an adverse effect on the City's cable television subscribers. There is no requirement that a public hearing must be held, however, if the City chooses not to hold a public hearing, it must approve the proposed transfer of control within thirty (30) days of June 14, 2005.

If a public hearing is deemed necessary to determine whether the proposed transfer of control will have an adverse effect on the City's cable television subscribers, the public hearing must be held within thirty (30) days of the date the City makes its determination of the need for a public hearing. Notice of the public hearing must be published fourteen (14) days in advance of the public hearing. A final decision by the City regarding Comcast's transfer request must be issued within thirty (30) days of the close of the public hearing. I recommend you delay sending notice of the public hearing to Time Warner until July 12-14, 2005 to maximize the time available for the conduct of the hearing. This will allow the City to hold the hearing on August 8, 2005.

Under state and federal law as well as the City's Ordinance, the City may review the qualifications of the prospective controlling party. These qualifications fall into three (3) categories; legal, technical and financial. On behalf of a number of clients which we represent, Moss & Barnett will be preparing a report regarding the legal, technical and financial qualifications of Comcast based on the proposed transfer of control. We will review the voluminous information provided by Comcast as part of Form 394 and may seek additional information to clarify unanswered questions. Mr. Yuri Berndt, an attorney in our office and former CPA, will perform a review of the financial qualifications of Comcast under the proposed transfer of control. We will also review Time Warner's compliance with the existing franchise.

We intend to issue our report outlining our recommendations regarding the legal, technical and financial qualifications of Comcast under the proposed transfer. Our report will also incorporate appropriate closing documentation including a detailed resolution and related documents. We also expect the Southwest Suburban Cable Commission to issue a recommendation to the City later this summer.

For your convenience, we have enclosed a memo regarding the public hearing and a letter addressed to Time Warner regarding the decision to call a public hearing. We have also enclosed a sample motion which may be used to call the public hearing.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Brian T. Grogan

BTG/tlh

Enclosures

785811v1

[CITY LETTERHEAD]

[SEND BETWEEN JULY 12-14, 2005]

Ms. Kim Roden
Vice President, Public Affairs and Programming
Time Warner Cable
9705 Data Park
Minnetonka, MN 55343

Re: Proposed Transfer of Control

Dear Ms. Roden:

On June 14, 2005 the City of Minnetonka received a letter, FCC Form 394 and numerous enclosures from Time Warner Cable, Inc. and Comcast Cable Communications, LLC (“Comcast”). This information is related to a proposed transfer whereby Comcast will acquire control of the City’s cable system from Time Warner Cable. Pursuant to the City’s Cable Television Regulatory Ordinance, the City has determined that the proposed transfer may have an adverse impact on subscribers and therefore a public hearing will be necessary to address this issue. The City’s public hearing will be held on August 8, 2005 and appropriate notice will be placed in a newspaper of general circulation in our area. We invite representatives from Time Warner Cable and Comcast to attend the meeting and present any information they desire.

The City has also determined to utilize the services of Brian T. Grogan at Moss & Barnett, A Professional Association, in Minneapolis, Minnesota. Mr. Grogan will advise the City, via the Southwest Suburban Cable Commission, regarding the proposed transaction and will prepare a report for the City addressing the legal, technical and financial qualifications of Comcast. Mr. Grogan may be forwarding a request for supplemental information in the near future. Please direct all relevant correspondence regarding this matter to Mr. Grogan at Moss & Barnett, 4800 Wells Fargo Center, 90 South Seventh Street, Minneapolis, Minnesota 55402-4129, 612-347-0340, 612 339-6686 (facsimile). Should you have any further questions please feel free to contact either myself or Mr. Grogan.

Sincerely,

CITY OF MINNETONKA, MINNESOTA

John Gunyou
City Manager

**City Council Item #14A
Meeting of June 27, 2005**

Brief Description: Conditional use permit for a school of up to 300 students at 14001 Ridgedale Drive for the Veritas Academy.

Recommended Action: Adopt the resolution.

Introduction

Veritas Academy, represented by Mark Keller (Director), is proposing to operate a 9th through 12th grade, public charter school out of the existing building at 14001 Ridgedale Drive. The school is oriented toward students preparing for college. This would be a closed campus—once students arrive, they would not be allowed to leave. During its first year of operation, Veritas Academy would occupy the first floor of the building. Up to 150, 9th and 10th grade students would attend the school, which would be staffed by up to 10 teachers. In later years, 11th and 12th grade classes would be added. At full capacity, the school would have up to 300 students, 15 staff members, and would occupy the entire building. (See the applicant’s narrative and plans on pages A10–A12.)

Charter schools are considered public schools. A conditional use permit is required for all public buildings or facilities in the I-394 zoning district.

Primary Issues

- **Is the proposal appropriate for the site?**

Yes. The proposed school is appropriate for four reasons:

Hours of Operation

The school’s operating hours would be similar to standard office use of the property. As a school, the building would be occupied between 7:30 a.m. and 4:00 p.m. Given the site’s lack of auditorium or athletic facilities, there would be few after-school activities in the building.

Traffic Generation

The number of vehicle trips to and from the school would be similar to the number of trips associated with office use of the site. Trips would be concentrated around the beginning and end of the school day. Unlike a standard office, Veritas Academy would be a closed campus; students would not be able to leave the property over the lunch hour.

School officials anticipate that the majority of students would be dropped off and picked up by parents. Up to four busses may be contracted, through the local school districts, to transport students. With just 9th and 10th grades, no more than 20 students are expected to drive to school during the first year of operation. This number would increase with the addition of 11th and 12th grade classes. However, traffic associated with a school use of the building would be similar to the traffic associated with a standard office. (See the "Trip Generation" section of this report.)

Noise

Noise would not be a problem to adjacent homes for 2 reasons:

1. There would not be any outside activities; and
2. The windows do not open, so there would be no inside noise that would be audible to adjacent homes.

City Code Standards

The proposed school would meet all city code standards. These specific standards are outlined in the "Supporting Information" section of this report.

Planning Commission Recommendation

On June 16, 2005, the planning commission recommended that the city council approve the conditional use permit as recommended by staff, with a 4-1 vote. (See the minutes on pages A23–A30.)

Staff Recommendation

Adopt the resolution on pages A1–A5, which approves a conditional use permit for a school of up to 300 students at 14001 Ridgedale Drive. This resolution is based on the finding that the proposal meets all conditional use permit standards. Approval is subject to the following conditions:

- 1) Comply with all state and federal requirements (MN Statute 121A.035) to develop a Crisis Plan for the facility in conjunction with the Minnetonka Police Department.
- 2) All external doors must be signed to meet requirements for emergency response.

- 3) The building's fire alarm system must be updated as required by the fire marshall.
- 4) The building must meet all minimum building code requirements for schools.
- 5) Record this resolution with the county before the city issues a building permit.
- 6) The city council may review the conditional use permit and reasonably add or revise conditions to address any future unforeseen problems, including parking and increased traffic through surrounding residential areas.
- 7) Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
- 8) The applicant must agree to the above conditions in writing.

Submitted through:

John Gunyou, City Manager
Geoff Olson, Planning Director

Originated by:

Susan Thomas, Planner

SUPPORTING INFORMATION

Surrounding Land Uses

- Northerly: Interstate 394
- Easterly: Office building; zoned PID and guided Office
- Southerly: Single-family homes; zoned R-1 and guided Low-Density Residential
- Westerly: Interstate 494

Planning

- Guide Plan designation: Office
- Zoning: Planned I-394 District (PID)

Site Features and Building Design

The existing building is located on the southeast side of the 2.2-acre property. The building and two-tier parking lot is buffered from surrounding residential properties by an area of trees and vegetation. (See page A9.)

Building Design

The three-story building has a total area of 27,000 square feet. During the first years of operation, Veritas Academy would occupy the first floor of the building. Use of the building during this time would be as follows:

	OCCUPIED AREA	VACANT AREA
First Floor	8,000 sq.ft. Veritas Academy	
Second Floor	4,200 sq.ft Dental Office	5,098 sq.ft
Third Floor	4,500 sq.ft General Office Space	5,135 sq.ft

Legal Non-Conforming Setbacks

In 1979, the city council approved final site and building plans for a three-story office building on the property. (See pages A16–A21.) At that time, the building met all code requirements. Setback requirements for both buildings and parking lots have since increased. Under the current ordinance, the building has a non-conforming setback from the east property line. The parking lot has a non-conforming setback from the north property line. (See page A13.)

Parking

The proposal would meet all parking requirements.

Building Occupants	Required Parking	Available Parking
School and Office Tenants	121	128
School Only	45	128

There are two unconnected parking lots on the site. The lower, northerly lot would be used for student parking. The upper, southerly lot would be used for staff and visitors.

Area residents have expressed concern that students may park on residential streets south of the property. (See page A9.) If this became a problem, residential streets could be designated “No Parking” during school hours or during the school year. As a condition of approval, the city may review the conditional use permit and conditions to address any future parking or traffic problem.

Trip Generation

Veritas Academy would be a closed campus; students would not be leaving/returning to the site over the lunch hour. The majority of trips would occur during peak a.m. and p.m. times.

The ITE Trip Generation manual suggests that a general office building of 27,000 square feet generates 72 pm peak hour vehicle trips per day. This site is designated for 119 pm peak hour trips in the I-394 zoning ordinance.

A high school with 300 students would generate 113 pm peak hour vehicle trips. Under the first year of operation the combination of school and office uses would generate 115 trips.

Conditional Use Permit Standards

Public buildings and facilities are permitted in the Planned I-394 zoning district only by conditional use permit. General and specific standards must be met for such a permit to be granted.

General Standards

a) *the use is in the best interests of the city;*

The proposal has been reviewed by various city departments and found to be acceptable. It would not have an undue adverse impact on public health, safety, or welfare.

b) *the use is compatible with other nearby uses;*

The property is guided for office use. Office uses are considered good transitional uses between residential areas and more intense land uses. Given the similarities between the operating hours and traffic associated with an office and school, staff finds that the proposed school is consistent with the comprehensive guide plan designation of the property. It would serve as an acceptable transition use between the residential properties to the south and the interstates to the north and west.

c) the use is consistent with other requirements of this ordinance;

The majority of standards outlined in the zoning ordinance relate to development and construction. Given that the Veritas Academy proposal is for use of an existing building, many of these standards are not applicable. The proposal would exceed relevant parking standards.

Specific Standards

In the PID district, there is just one specific conditional use permit standard for a public building; it must receive site and building plan approval. The proposed school meets site and building plan standards.

a) consistency with the elements and objectives of the city's development guides, including the comprehensive plan and water resources management plan;

The proposal would be consistent with the office designation of the property. The proposal would require no external changes to the building or parking areas. Therefore, it would not affect existing drainage patterns and is consistent with the city's water resources management plan.

b) consistency with the ordinance;

As a public building is a conditionally permitted use in the PID district, the proposal is consistent with the ordinance.

c) preservation of the site in its natural state to the extent practicable by minimizing tree and soil removal and design grade changes to be in keeping with the general appearance of neighboring developed or developing;

The proposal would require no exterior changes to site.

d) creation of a harmonious relationship of buildings and open space with natural site features and with existing and future buildings having a visual relationship to the development;

As all proposed changes to the site would be inside the building, the proposal would not impact the existing wooded buffer between the site and the residential properties to the south.

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

All changes necessary to accommodate the proposed school would be internal. The proposal would not alter the order of the site, exterior appearance of the building, or amount and location of green space on the property.

The site has two access points onto Ridgedale Drive. School officials indicate that the north entrance to the site and building would serve as the main entrance. Vehicles dropping off/picking up students would enter through the northerly drive, and would circulate through the parking lot, past the main building entrance, and back onto Ridgedale Drive. This is a logical circulation pattern through the site. (See page A12.)

- f) *promotion of energy conservation through design, location, orientation and elevation of structures, the use and location of glass in structures and the use of landscape materials;*

The proposed use would occupy a partially vacant building. Only interior changes would be required to accommodate the school.

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

The intent of site and design standards is to minimize the impact structures and developments may have on adjacent properties. Staff does not believe the proposal would

have any substantial affect on neighboring land uses. The school would occupy an existing building, requiring no exterior change to the site.

Schools in Residential Districts

The 14001 Ridgedale Drive property is directly north of a residential area. (See page A9.) The conditional use permit standards for schools in residential zoning districts are different than the standards outlined above. Though these residential standards do not apply, they are outlined here for informational purposes only.

- 1) *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; the use is not permitted on property that has access only by way of a private road or a driveway that is used by more than one lot.*

Ridgedale Drive is a designated major collector. It is the only access to the property.

- 2) *buildings set back 50 feet from all property lines and parking setbacks subject to section 300.28 of this ordinance.*

The existing building and parking lot have non-conforming setbacks. However, the setbacks from the residential (south) property line meet all requirements.

	REQUIRED	EXISTING
Building	50 feet	115 – north
		65 – south
		22 – east
		115 west
Parking	20 feet	15 – north
		32 – south
		15 – east
		15 – west

- 3) *school bus pick-up and drop-off areas located outside of the public right-of-way and designed to enhance vehicular and pedestrian safety.*

The site has two access points onto Ridgedale Drive. School officials indicate that the north entrance to the site and building would serve as the main entrance. Vehicles dropping off/picking up students would enter through the northerly drive, and would circulate through the parking lot, past the main building entrance, and back onto Ridgedale Drive. This is a logical circulation pattern through the site. (See page A12.)

- 4) *recreational areas designed for group outdoor activities set back 25 feet from residential property, suitable buffering provided to protect neighboring properties from noise and adverse visual impacts, and lighted playing fields permitted only upon demonstration that off-site impacts can be mitigated substantially;*

There are no recreational areas on the site and none are proposed. All athletic activities would take place off-site.

- 5) *no more than 60 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped.*

Currently, 60 percent of the site is covered with impervious surface. No exterior changes are proposed.

- 6) *site and building plan review pursuant to section 300.27 of this ordinance.*

See the previous section of this report.

- 7) *no connected to, or part of, any residential dwelling.*

Veritas Academy would occupy an existing office building.

Neighborhood Comments

We surveyed the property owners within 400 feet of this site. Out of 17 properties, we received 4 replies as follows:

0	0	0	0	4
Strongly Support	Somewhat Support	Neutral	Somewhat Oppose	Strongly Oppose

Opposed:

“Our home is the only lot that the backyard is completely open to this property. With the addition of this school our home’s safety would be at risk of loitering and easy access to our home. We also have two dogs that we have outside from time to time that would be easy targets for teenagers to harass. We have a nice quiet neighborhood and we feel this younger presence would disturb our peace. The amount of traffic this school could bring would be a problem as well. I realized this letter may have no affect on the city decision, but if this should proceed I would like a reassurance that a solid privacy wall will be put up to include our lot with no access.” (14104 Laurel Road)

“Forget it! Even 40 students would cause a nightmare fore traffic congestion, let alone the eventual 300 students. I can’t possibly see anyone from either side of this site where it

would benefit. I guess turning a semi-private housing area into strictly a commercial area is progress. They can buy my place along with the other couple homes that would become available if this goes through. What next? It appears the Minnetonka planning department is always after the poor homeowners in this corner of interstate 394 and 494.” (14008 Laurel Road)

“I live right back of this property ad we feel it will increase the noise we have from the highways (buses coming and going and also the cars).” (No address given)

Deadline for a city decision: August 30, 2005

RESOLUTION NO. 2005

RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR A SCHOOL OF UP TO 300 STUDENTS AT 14001 RIDGEDALE DRIVE

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

Section 1. BACKGROUND.

1.01 Veritas Academy is requesting a conditional use permit for a charter school of up to 300 students. (Project 05028.05a).

1.02 The property is located at 14001 Ridgedale Drive. It is legally described as follows:

SEE ATTACHED EXHIBIT A

1.03 On _____, 2005, the Planning Commission held a hearing on the application. The applicant was provided the opportunity to present information to the Planning Commission. The Planning Commission considered all of the comments and the staff report, which are incorporated by reference into this resolution. The Commission recommended that the City Council _____ the permit.

Section 2. GENERAL STANDARDS.

2.01 City Code Section 300.31, Subdivision 4 lists the following general standards that must be met for granting of the permit:

1. The use is in the best interests of the city;
2. The use is compatible with other nearby uses;
3. The use is consistent with other requirements of this ordinance.

Section 3. SPECIFIC STANDARDS.

- 3.01 City Code Section 300.27, Subdivision 5 lists the following specific standards that must be met for granting of the permit:
1. consistency with the elements and objectives of the city's development guides, including the comprehensive plan and water resources management plan;
 2. consistency with the ordinance;
 3. preservation of the site in its natural state to the extent practicable by minimizing tree and soil removal and design grade changes to be in keeping with the general appearance of neighboring developed or developing;
 4. creation of a harmonious relationship of buildings and open space with natural site features and with existing and future buildings having a visual relationship to the development;
 5. creation of a functional and harmonious design for structures and site features, with special attention to the following:
 - a) an internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors, and general community;
 - b) the amount and location of open space and landscaping;
 - c) materials, textures, colors, and details of construction as an expression of the design concept and compatibility of the same with adjacent and neighboring structure and uses; and
 - d) vehicular and pedestrian circulation, including walkways, interior drives and parking in terms of location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking.
 6. promotion of energy conservation through design, location, orientation and elevation of structures, the use and location of glass in structures and the use of landscape materials;
 7. protection of adjacent and neighboring properties through

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

Section 4. FINDINGS.

4.01 The proposal meets the conditional use permit standards.

Section 5. CITY COUNCIL ACTION.

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

1. Comply with all state and federal requirements (MN Statute 121A.035) to develop a Crisis Plan for the facility in conjunction with the Minnetonka Police Department.
2. All external doors must be signed to meet requirements for emergency response.
3. The building's fire alarm system must be updated as required by the Fire Marshall.
4. The building must meet all minimum building code requirements for schools.
5. Record this resolution with the county before the city issues a building permit.
6. The city council may review the conditional use permit and reasonably add or revise conditions to address any future unforeseen problems, including parking and increased traffic through surrounding residential areas.
7. Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
8. The applicant must agree to the above conditions in writing.

Adopted by the City Council of the City of Minnetonka, Minnesota, on

A3

2005.

Karen J. Anderson, Mayor

ATTEST:

Kathleen A. Magrew, City Clerk

ACTION ON THIS RESOLUTION:

Motion for adoption:

Seconded by:

Voted in favor of

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on _____, 2005.

Kathleen A. Magrew, City Clerk

SEAL

A4

EXHIBIT A

PARCEL I:

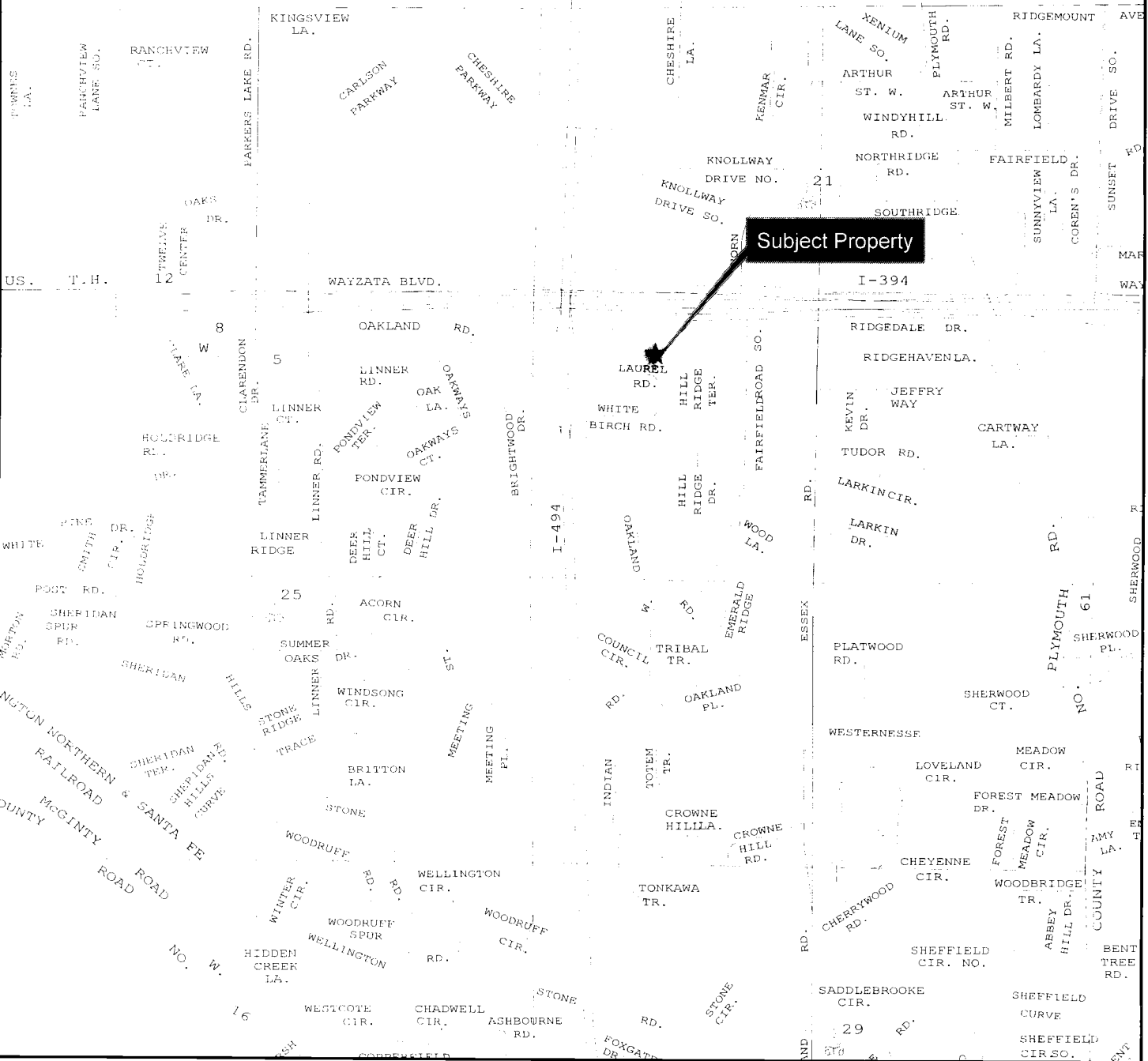
That part of the Northwest 1/4 of the Southwest 1/4 of Section 3, Township 117 North, Range 22 West of the 5th Principal Meridian, lying Southeasterly of the Highway right of way line and Northerly of a line parallel with the North line of said Northwest 1/4 of the Southwest 1/4 and drawn from a point in the East line of said Northwest 1/4 of the Southwest 1/4 distant 745 feet North of the Southeast corner thereof, Hennepin County, Minnesota.

PARCEL II:

The West 1/2 of that part of Lincoln Road lying North of the Easterly extension of the North line of White Birch Hill Addition, as originally platted in the plat of Fairfield Acres, Hennepin County, Minnesota.

From Survey.

PLYMOUTH



Area Map

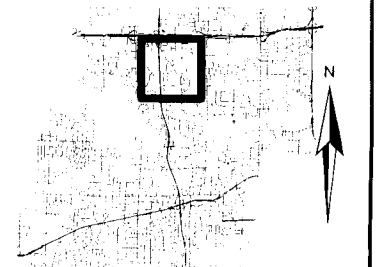
City of
minnetonka

05028.05a

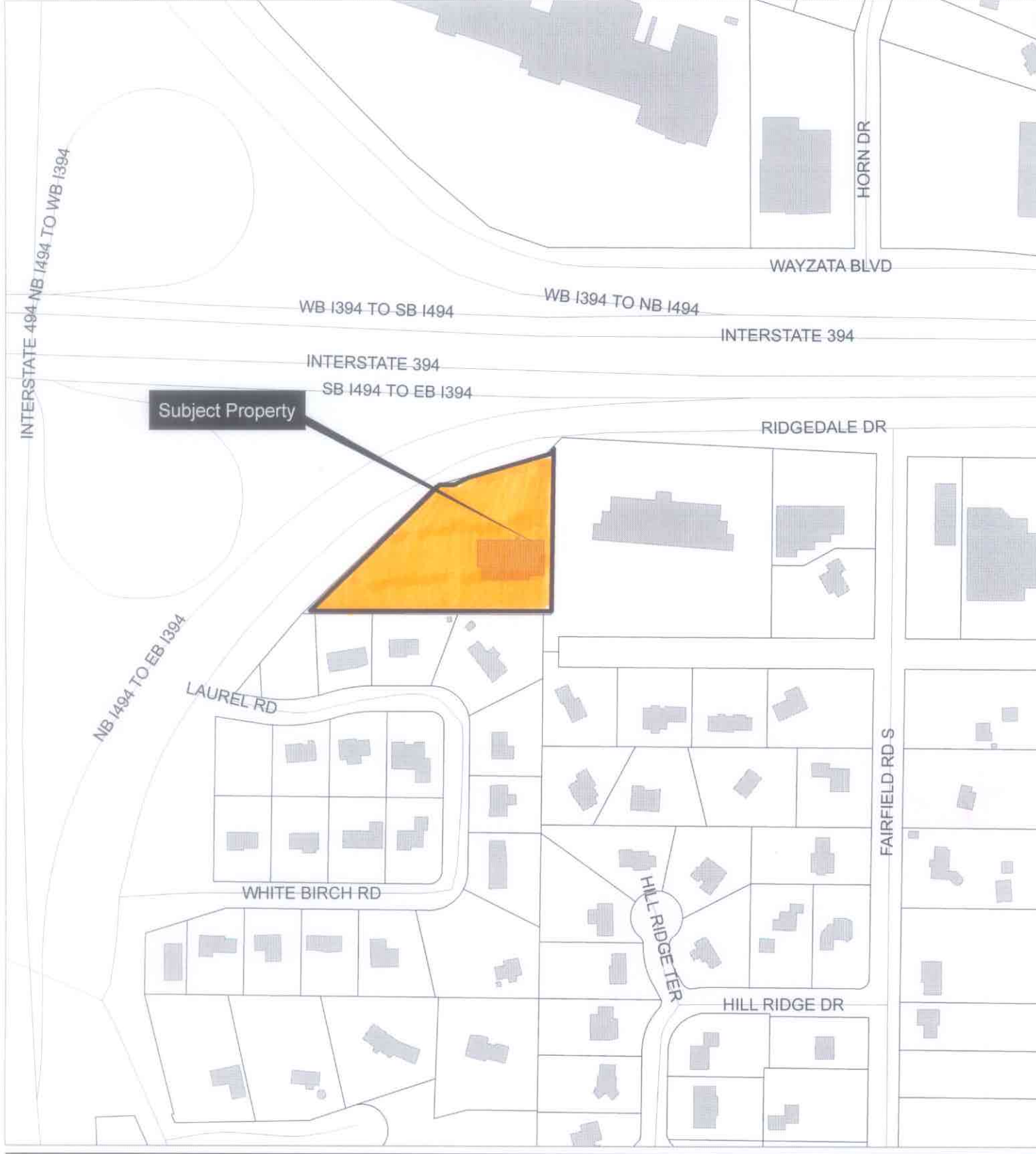
Project: Ridgedale Professional Center

Applicant: Mark Keller, Veritas Academy

Address: 14001 Ridgedale Drive



AV



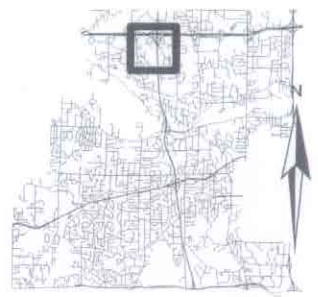
Location Map

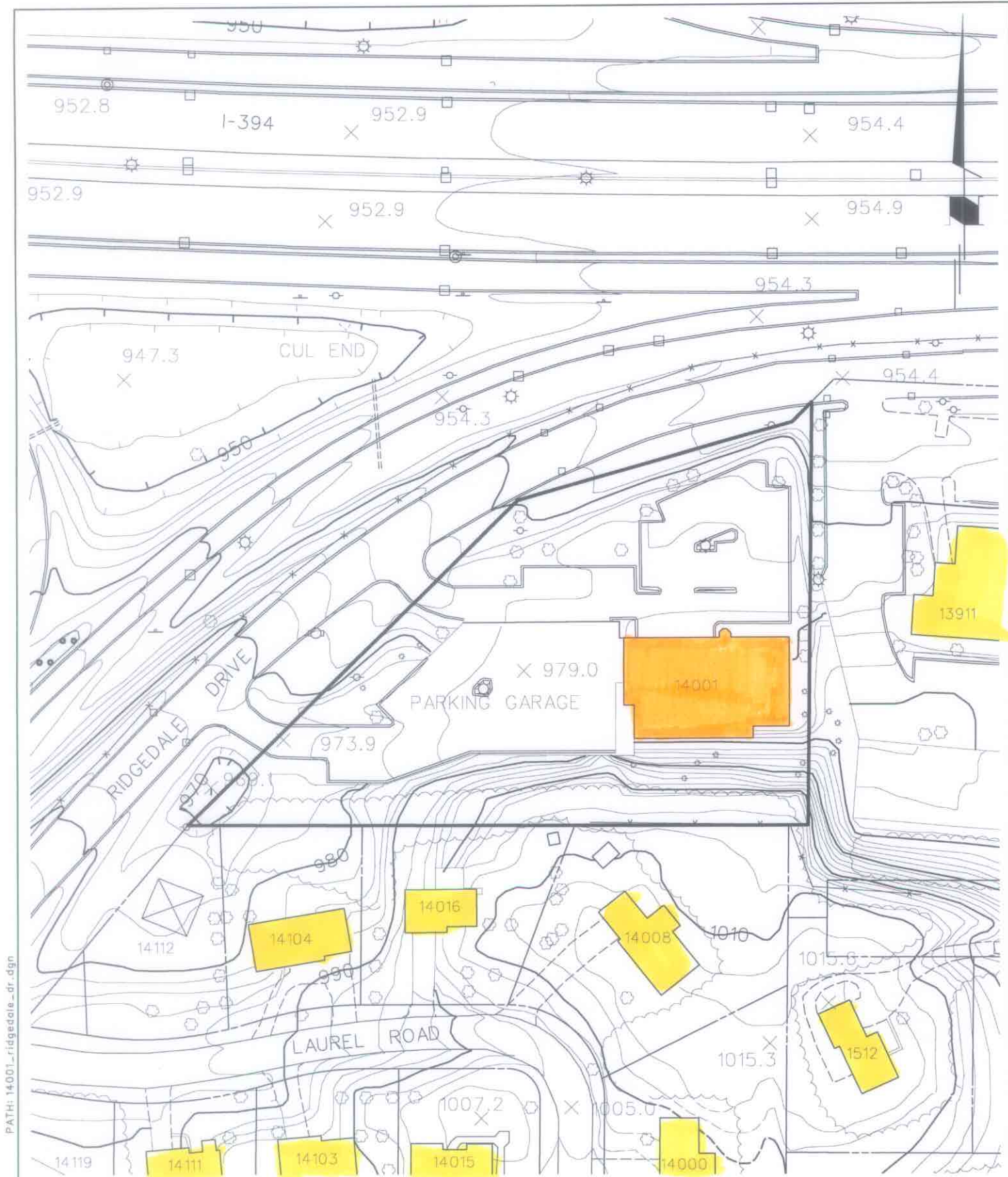
City of **minnetonka**

05028.05a

Project: Ridgedale Professional Center
 Applicant: Mark Keller, Veritas Academy
 Address: 14001 Ridgedale Drive

A7





PATH: 14001_ridgedale_dr.dgn

PLOTTED BY: sornat

DISCLAIMER

This drawing is not a legally recorded plat or an accurate survey. It is intended to be only an approximate representation of information from various government offices and other sources. It should not be used for a purpose that requires exact measurement or precision. People who use this drawing do so at their own risk. The City of Minnetonka is not responsible for any inaccuracies contained in the drawing. The City of Minnetonka provides no warranty, express or implied, about the correctness of the information.

City of minnetonka
 14800 MTKA BLVD, MTKA, MN. 55345 PH: 952-939-8200

SCALE:
 1" = 100'
 DATE:
 5/26/2005

AS

14001 RIDGEDALE DRIVE



A9



May 2, 2005

Mr. Olson:

An application for a CUP is enclosed. The Application is executed by, myself, Mark Keller Director of Veritas Academy and authorized by Mark Steingas, managing partner for the owners of the building. Upon issuance of the "Conditional Use Permit" an entity that is affiliated with Veritas Academy will be purchasing the property.

The project we contemplate is a 9-12 Minnesota public (charter) school. We have been searching for a proper facility for over twelve months. Facility location is almost always a difficult process for charter schools such as ours. Thus we cannot always control the timing of controlling a site. In fact, it was only a couple of weeks ago that we identified the site and learned that we had a financing plan to move forward.

Our particular situation is this:

- We have almost 40 students indicating interest in attending the school starting late August.
- We expect to close the purchase of the property in time to complete interior renovations of Floor 1 and 2 (partially) for use by our school with first year attendance likely to be about 100-150 students; there will be about 10 teachers and other staff working at the school.
- Eventually the school will use the entire building with up to 300 students attending; and about 15 teachers and other staff.
- The likely "build-out" will take about 75 days. Ideally, that would mean beginning the work around June 15.
- Our financing for the project is done; but we cannot complete the purchase and begin renovations until the City issues its CUP. (There may be a way to start earlier, though it is complicated and requires a high degree of assurance for all that the CUP will in fact be approved.

All factors considered, we are prepared to do whatever the City staff wishes to expedite consideration and approval of the application.

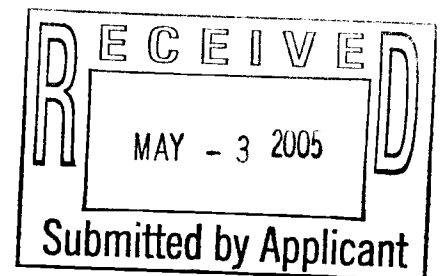
We look forward to working with you.

Sincerely,

Mark Keller

Veritas Academy
P.O. Box 927 • Wayzata MN 55391 • 612 991 2124
www.veritasmn.org

AIO



Conditional Use Permit Application -Veritas Academy- 14001 Ridgedale Drive

Table of contents:

1. Application w/ fee paid and legal description attached
2. Site plan x 15
3. Property Photos x 15
4. 8.5"x11" reduction of site plan
5. Statements regarding use, specific standards, parking and approval

Statement regarding intended use-

Intended use of this property is to operate a public charter high school grades 9-12. The majority of this facilities operations would be approximately 8:30-4:00 Monday thru Friday September through May.

Statement regarding specific standards of zoning ordinance for educational institution 300.16 3. a) 1-7

This property appears to meet all specific standards: Educational Institution.

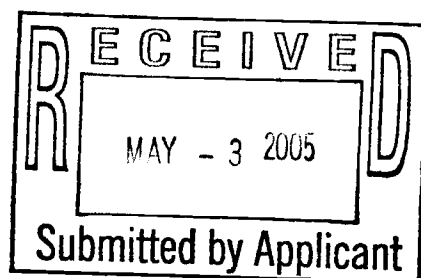
1. Access is limited to collector or arterial roadway: Ridgedale Drive
2. Building meets setback required by section 300.28 on North, South and East
3. School bus pick-up/drop-off are off of the public right-of-way .
4. Recreational areas do not apply- as recreational activities will be conducted after hours and off-site.
5. Site is well landscaped with hard cover as needed for parking and ingress egress.
6. Site Plan/Building review - Does not apply – This is an existing site.
7. This building is not part of a residential dwelling

Parking Requirements:

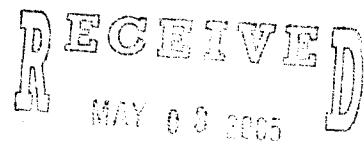
This property meets the parking requirements of 1 per class and 1 per 10 students.

Maximum required per this standard is 42. (12 class rooms and 300 students.)

Property has 128 parking spaces

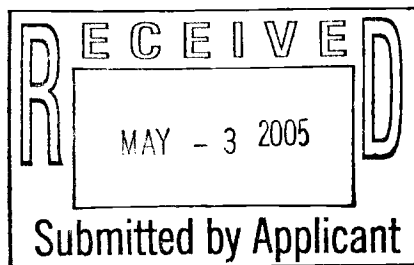


All

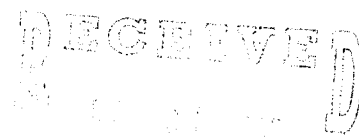


It is our belief that the city should approve this use for these reasons.

1. Veritas Academy will be an asset to the area by providing an affordable high quality public education for students and families in Minnetonka and the surrounding communities.
2. This use should reduce traffic counts relative to current use.
3. This conditional use will help reduce the current glut of office space found in the current market and provide a diverse and complimentary use to the current office/retail of the 394 corridor.



Alla



SHEET INDEX

ARCHITECTURAL

- C-1 SITE PLAN AND INDEX
- C-2 GRADING AND UTILITY PLAN
- C-3 LANDSCAPE PLAN
- A-1 FIRST FLOOR PLAN
- A-2 SECOND FLOOR PLAN
- A-3 THIRD FLOOR PLAN
- A-4 EXTERIOR ELEVATIONS AND ROOF PLAN
- A-5 STAIR SECTIONS AND PLANS
- A-6 HALL SECTIONS AND DETAILS
- A-7 1st FLOOR TENANT IMPROVEMENTS

STRUCTURAL

- S-1 FOUNDATION & 1st FLOOR PLAN
- S-2 2ND FLOOR PLAN
- S-3 3RD FLOOR PLAN
- S-4 ROOF PLAN
- S-5 SECTIONS & DETAILS
- S-6 STAIR, HALL, RESTROOMS & CORRIDORS
- S-7 SECTIONS & DETAILS
- S-8 SECTIONS & DETAILS

MECHANICAL

- M-1 1st FLOOR MECH. PLAN
(SEE MECH. A-E 1, 2, 3 FOR ADDITIONAL MECH. NOTED)

ELECTRICAL

- E-1
- E-2
- E-3
- E-4

PROJECT DATA

FIRST FLOOR AREA	7,722 SQ FT
SECOND FLOOR AREA	7,250 SQ FT
THIRD FLOOR AREA	7,685 SQ FT
TOTAL GROSS BUILDING AREA	22,657 SQ FT

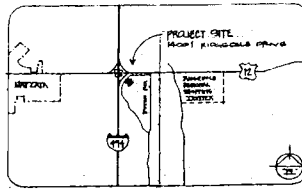
PARKING

STANDARD STALLS	65
COMPACT STALLS	65
HANDICAP STALLS	9
TOTAL	139

SURVEY DATA

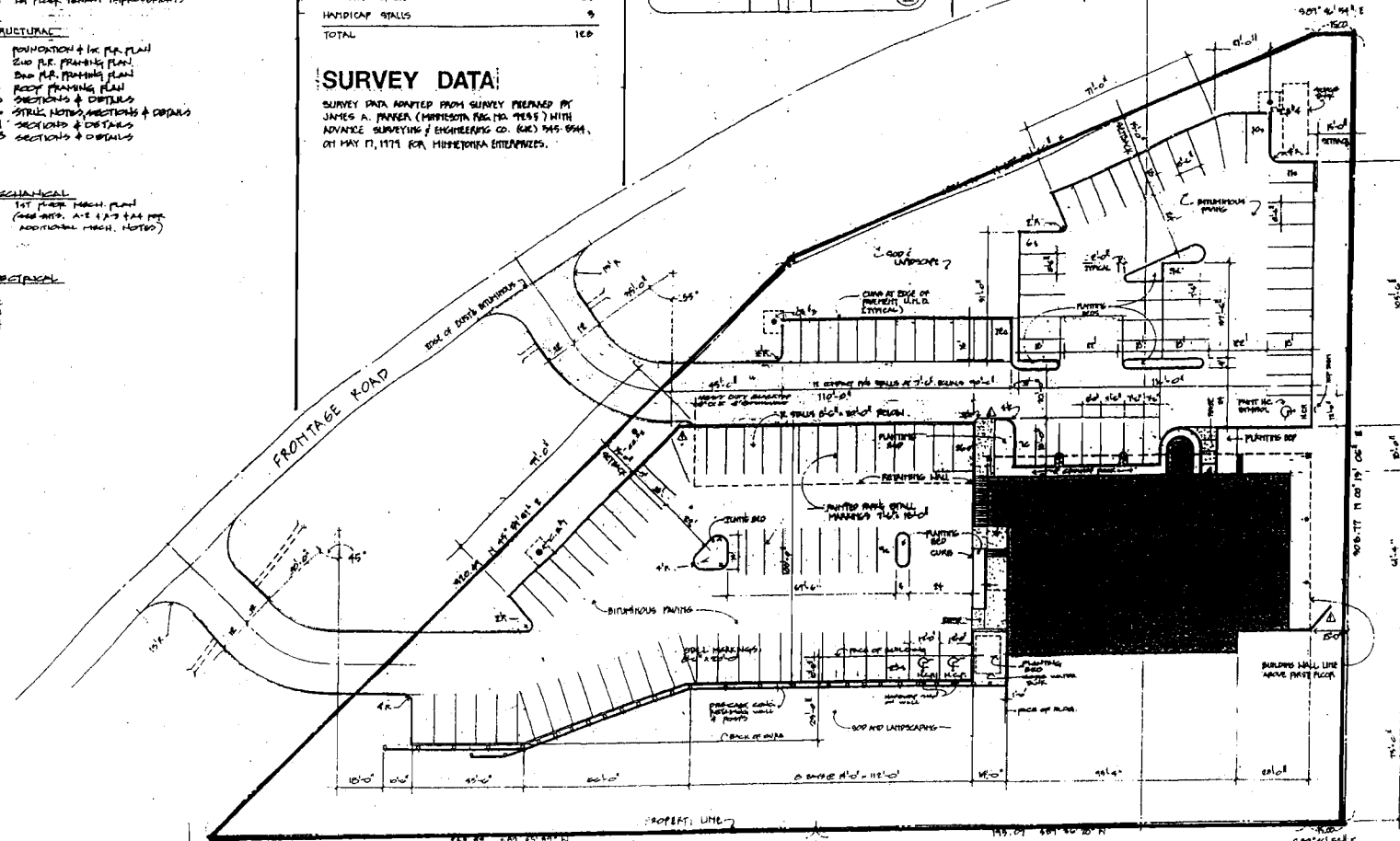
SURVEY DATA ADAPTED FROM SURVEY PREPARED BY JAMES A. PARKER (MINNESOTA REG. NO. 1255) WITH ADVANCE SURVEYING & ENGINEERING CO. (SAC) 545-8544, ON MAY 17, 1979 FOR MINNETONKA ENTERPRISES.

SITE LOCATION MAP



**RIDGEDALE PROFESSIONAL CENTER
MINNETONKA MINNESOTA**

RAUENHORST
DESIGNERS • PLANNERS • ARCHITECTS



SITE PLAN

AS BUILT

PROJECT: RIDGEDALE PROFESSIONAL CENTER
MINNETONKA MINNESOTA

DATE: 11-13-80
DRAWN BY: J. RAUENHORST
CHECKED BY: J. RAUENHORST
DATE: 11-13-80

A12

THE SITE PLAN AND INDEX

SITE PLAN

SHEET INDEX

ARCHITECTURAL

- C-1 SITE PLAN AND INDEX
- C-2 GRADING AND UTILITY PLAN
- C-3 LANDSCAPE PLAN
- A-1 FIRST FLOOR PLAN
- A-2 SECOND FLOOR PLAN
- A-3 THIRD FLOOR PLAN
- A-4 EXTERIOR ELEVATIONS AND ROOF PLAN
- A-5 STAIR SECTIONS AND DETAILS
- A-6 WALL SECTIONS AND DETAILS
- A-7 FLOOR FINISH IMPROVEMENTS

STRUCTURAL

- S-1 FOUNDATION & RC F.P. PLAN
- S-2 2ND F.P. FINISHING PLAN
- S-3 3RD F.P. FINISHING PLAN
- S-4 ROOF FINISHING PLAN
- S-5 SECTIONS & DETAILS
- S-6 STRUC. NOTES, SECTIONS & DETAILS
- S-7 SECTIONS & DETAILS
- S-8 SECTIONS & DETAILS

Mechanical

- M-1 1st FLOOR MECH. PLAN
- (SEE SHEETS A-1, A-2, A-3 FOR MECH. NOTES)

ELECTRICAL

- E-1
- E-2
- E-3
- E-4

PROJECT DATA

FIRST FLOOR AREA	7,322 SQ FT
SECOND FLOOR AREA	7,240 SQ FT
THIRD FLOOR AREA	7,645 SQ FT
TOTAL GROSS BUILDING AREA	22,207 SQ FT

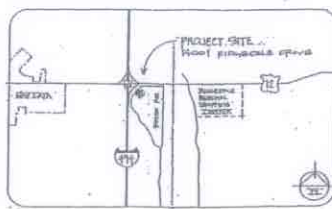
PARKING

STANDARD STALLS	60
COMPACT STALLS	63
HANDICAP STALLS	5
TOTAL	128

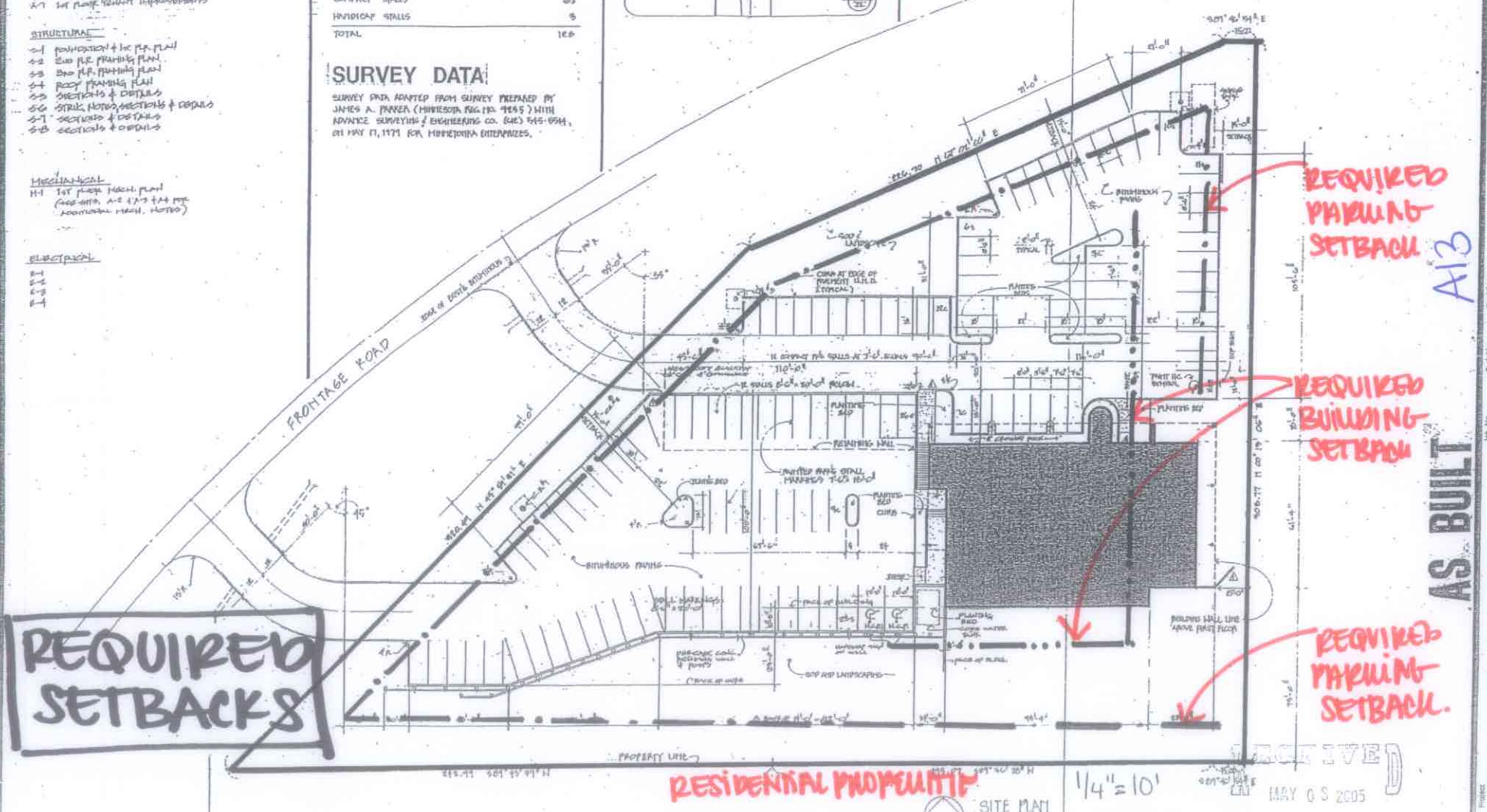
SURVEY DATA

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SITE LOCATION MAP



RIDGEDALE PROFESSIONAL CENTER MINNETONKA MINNESOTA



REQUIRED PARKING SETBACK

REQUIRED BUILDING SETBACK

REQUIRED PARKING SETBACK

REQUIRED SETBACKS

A13

AS BUILT

RESIDENTIAL PROPERTY

SITE PLAN

1/4" = 10'

MAY 05 2005

RIDGEDALE PROFESSIONAL CENTER MINNETONKA MINNESOTA
 DRAWN BY: [Name] CHECKED BY: [Name] DATE: [Date]
 PROJECT NO. [Number] SHEET NO. [Number] OF [Total]



FROM NORTH

RECEIVED
MAY 11 2011

14

BENSON-ORTH ASSOCIATES

FROM WEST

RECEIVED

A15



TO : Planning Commission and Members of the City Council
 THROUGH : Ron Rankin, Acting City Manager
 FROM : Planning Department, Ann Perry
 DATE : October 11, 1979
 SUBJECT : Revised Site Plan Review - No. 3-19 - Saliterman Office Building
 APPLICANT : Rauenhorst Corporation
 LOCATION : Generally located east of I-494, south of Highway 12, and west of Fairfield Road in the SW 1/4 of Section 3.

BACKGROUND : On July 12, 1979, the Planning Commission recommended conceptual approval for the Saliterman Office building with the final size of the building to be determined following approval of the Highway 12 Traffic Study and Planning Commission review of the final site plan - see attached minutes.

On July 16, 1979, the City Council held a public hearing to consider a Resolution giving preliminary approval to the Saliterman project under the Municipal Industrial Development Act. The City Council voted to continue the public hearing to September 4, 1979, when the BRW traffic report would be available - see attached minutes.

On September 20, 1979, a revised site plan of the Saliterman Office Building was presented before the Planning Commission. The revised site plan reflected a change in the building size from 32,000 sq. ft. to 26,000 sq. ft., the removal of the parking ramp, and the submission of a traffic report prepared by Strgar-Roscoe which was based upon a 32,000 sq. ft. office building with 20% medical and 80% general office uses. It should also be noted that on September 20, the Planning Department received a revised traffic report from the applicant which analyzed the traffic generated based upon 80% medical and 20% general office. Subsequently, the Planning Commission recommended denial of the project due to the revised use ratio in that the traffic generated by this ratio would be detrimental to the health, safety, and welfare of the community - see attached minutes.

Since this time, the Planning staff has met with the applicant in attempting to resolve the issues raised at the Planning Commission meeting. Further, the staff has requested that our planning consultants, Bather, Ringrose and Wolsfeld, study the traffic reports prepared by the applicants' traffic consultant.

PROPOSAL : The applicants are requesting revised site plan approval for the Saliterman Office building and acceptance of the new, revised traffic analysis report (3rd report) prepared for this site. We would note that the revised site plan and traffic report are based upon a 26,000 sq. ft. office building with 80% medical office and 20% general office uses.

SITE CHARACTERISTICS : The majority of the site has been graded in conjunction with grading permit No. 93 such that the majority of existing vegetation has been removed with the exception of a linear stand of trees paralleling the southern and eastern lot lines. It would appear that this stand of trees is approximately 20-30 feet in width and consists of mature oak, maple, ash, and elm. The site currently contains a flat plateau approximately 150-240 feet in width and then rises 33 feet to a man-made ridgeline which parallels the southern property line. The site ranges in elevation from 954' to 1,022'.

The property is triangular in shape and aligns the south Highway 12 frontage road on the north and northwest sides. Surrounding land uses include the Highway 12 494 interchange to the west, single family residences to the south and the approved Westridge Office building to the east.

ACCESS : Access will be obtained via two 24'-wide driveways into the south service road. We would note that the previous plan indicated one access point however, due to the change in the parking concept, two access points are requested. It is our opinion that one access point would be the most desirable because of the grade change between the two parking lots - see staff comment. We would note that a Minnesota Highway Department access permit must be acquired for these driveways.

EXISTING DRAINAGE : The site is overlain by the ...

BB
 OCT 22 1979

ALL

The applicants have prepared a revised snow sewer drainage plan providing for 12" pipe throughout the parking lot area and appropriate catch basins which will direct runoff to the northeast corner of the site where it will be carried across Highway 12 via City facilities. Additionally, culverts are provided under each access point which empty into a swale along the south service drive. The Engineering Department recommends that the applicant examine the location and capacity of the 30" concrete pipe and the potential need for a pump. We would note that this plan was prepared by the Minnesota Dept. of Transportation and the Minnesota Highway Department.

GRADING

The applicants have submitted a revised grading plan which indicates the present grades as a result of the mining activity and the proposed grades according to the grading plan, the southern hillside will be regraded in the vicinity of the building site and lowered 4' to 10'. Additionally, it appears that a major portion of the central hillside will be lowered and moved southward to facilitate the western parking lot, thus creating a 14' grade change between the two parking lots.

According to the applicant, the tree line at the southern property boundary will be maintained between the residential areas to the south and this development. This concept was embodied within the Highway 12 Corridor Plan and we believe all steps be taken to preserve these remaining mature trees. Therefore, we would recommend that all of the mature trees be maintained along the southern property line.

UTILITIES

Municipal sewer and water services are available to this site and located along the south frontage road. We would recommend that the City Fire Marshall approve these plans to assure the appropriate number and location of fire hydrants on this site.

BUILDING CONCEPT AND DESIGN: The building concept calls for a three-story office totaling 26,000 sq. ft. of gross floor area. The building will be situated adjacent to the eastern property boundary, thus appearing as an office complex with respect to the building to the east. We would note that this building will be set back further than the existing building. Two parking areas will be provided - one to the west of the building, and the other to the north of the building.

The rectangular office structure will be tucked into the hill and appear as a two-level building as viewed from the south and a three-level building from the north. The plan also calls for one retaining wall along the southern edge of the parking lot to hold the grade from the hillside.

Building design The first floor will contain approximately 8,200 sq. ft. in area while the second and third levels will each contain 8,800 sq. ft. Pedestrian access to the northern on-grade entrance point from the western parking will be available via a stairway located at the northwest corner of the building.

At this time, the exterior building facade will be constructed of earthenware architectural brick with bronze solar windows and dark aluminum trim. Alternative exterior materials that may be substituted for those noted above include

1. Metal curtain walls with reflective insulated glass windows and reflective spandrels
2. Exterior metal insulated wall panels with bronze insulated windows

At this time, the applicants are not proposing any rooftop mechanical fixtures in that these fixtures are planned to be incorporated in the building design. The staff would recommend, however, that the rooftop aggregate be of a color compatible with the exterior building facade. If rooftop fixtures should become necessary, we would recommend that these be screened.

PARKING

The western parking lot will be tucked into the southern hillside and contains 30 parking stalls. This parking lot will contain one landscaped parking island. The northern parking area (26 stalls) will be 8' from the eastern lot line and will not contain a parking island. It is our recommendation that a landscaped parking island also be provided in this lot to break up the mass of blacktopping.

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LANDSCAPING

- The proposed landscaping scheme indicates the following treatments:
1. ~~South slope area~~: Concentrated plantings of 2' high Redwig Dogwood and six Green Ash (2" caliber) located behind the building.
 2. ~~Western parking lot~~: The parking lot entrance will be treated with five Colorado Green Spruce (6' high) with the perimeter aligned with 34 Sargeants Juniper (18"-24" spreading). Further, the parking lot island will contain two Russian Olives (6' high).
 3. ~~Eastern parking lot~~: 48 Sargeants Juniper (18"-24" spreading) will ~~align with parking area~~. Additionally, one Russian Olive (6' high) and four Colorado Green Spruce (6' high) will also provide treatment in this area.

It is our opinion that the overall landscape plan is adequate with respect to the number and species of plantings. The staff would note, however, our concern with the existing mature tree on the hillside of the southern property boundary. The staff would recommend that all measures be taken to preserve and protect this existing natural vegetation and that appropriate measures be taken to maintain and stabilize the southerly bank. The staff would suggest that this area be planted with adequate stabilization plantings which could include sumac and/or birdsfoot trefoil.

SIGNAGE AND LIGHTING: Signage and lighting plans have not yet been submitted to the Planning Department. We would recommend that the applicant work with the developer of the Westridge Office building with regards to complementary signage concepts. Further, we believe a wall-mounted identification sign would be most appropriate.

ZONING : B-4 General Business District.

GUIDE PLAN : Office per Highway 12 Corridor Plan (see staff comment below).

COMPLIANCE WITH THE ORDINANCE: B-4.

	<u>ORDINANCE</u>	<u>PREVIOUS BUILDING</u>	<u>PROPOSED</u>
Building Height	2 stories (30')	3 stories (36') V	3 stories (36') V
Front Yard	50'	50'	120'
Rear Yard (residential)	50'	33' V (parking ramp) 117' (building)	65'
Lot Coverage	60%	37% (including parking ramp)	10%
Parking Setback (north)	15'	15'	15'
Parking Spaces	134 spaces	131 spaces V	Ord. 110 Provided 105 V

V - Variance required

STAFF COMMENT With respect to this revised site plan, we would note the following issues:

1. **Building Area** As you know, the original request was for a 32,000 sq ft office building with ramp parking. At the Planning Commission meeting, it was the consensus that if this building were reduced to 16,000 sq ft (10% greater than the estimated building size for this parcel as indicated in the BRW report), it would be in general compliance with the Highway 12 Land Use Plan Update. The applicants have reflected this alternative change in the revised site plan and also eliminated the parking ramp. Therefore, we believe this revised request will be in keeping with square footage standard of the BRW report.

Relationship to the Westridge Office Building Although this property and that of the Westridge Office Building are zoned for General Business District, the appearance, use, and site design of these buildings are more in character with a planned office building development. Therefore, the proposed development should be considered as a planned office building development.

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a common driveway easement could be provided between the two parking lots with landscaped parking islands. Further, we would recommend that the eastern access point be eliminated to permit a gradual grade change, eliminate a potential sight distance problem, and provide a more esthetic site plan for this property. It is also our belief that the parking stall variance can be eliminated by this approach. Therefore, we would recommend a revised site plan be submitted for this portion of the site to the Planning Department for approval.

3. Traffic Analysis Report: The applicants have retained the services of Strgar-Roscoe to prepare the attached traffic analysis report for this property per the Highway 12 Land Use Plan Update. The consultants evaluated the trip generation of this site based upon a 28,000 sq. ft. building which would contain medical offices (80%) and general offices (20%). The report concluded that the p.m. peak hour trip ends proposed (126) are 85% higher than the trip ends allocated for this site by the Highway 12 update (68). Further, the alternative route analysis performed by Strgar-Roscoe reduced the p.m. peak hour trips to 76 p.m. trips assuming all westbound trips (35% of all trips) use Oakland Road. With respect to the above analysis, staff and BEW examined the Strgar-Roscoe report and the use ratios and concluded the following:

- a. If the building usage was reduced to 60% medical/40% general office, which the applicant indicated was an acceptable use ratio alternative, 106 p.m. peak hour trip ends would result with 78 p.m. peak hour trips using the Highway 12/Plymouth Road intersection. This figure is 20% higher than the number allocated in the Hwy. 12 update.
- b. Staff also examined the trip generation if the medical office ratio was reduced to 50%. This use ratio would result in a p.m. peak hour trip end figure of 97 with 73 p.m. peak hour trips using the Hwy. 12/Plymouth Rd. intersection, which is 12% higher than that allocated in the Hwy. 12 Plan Update. Given the fact that this is a difference of only 5 trips through the intersection, it is staff's opinion that further medical use reduction is unwarranted.
- c. It is our recommendation that if the medical office use ratio were reduced to 60%, this proposal would be in general compliance with the recently adopted Hwy. 12 Plan Update and in the best interests of the City of Minnetonka. If a higher medical office use ratio was allowed, resulting in a greater number of p.m. peak hour trips using the Hwy. 12/Plymouth Road intersection, staff would evince concern over the potential precedent this would set with respect to the remaining undeveloped parcels along Highway 12. Therefore, it is our recommendation that the following traffic related items be included in the stipulations for revised site plan approval:
 - 1. The City reserve the right to restrict right turning movements onto the south service road
 - 2. The applicant prepare and post alternate route maps within the building
 - 3. The applicant attempt to lease no more than 20% of the office space for medical uses

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The discussion and tables below examine the rationale for the above recommendation. Staff requested BEW to examine the basic assumptions established in this study and also examine possible medical general office use ratio alternatives. The following tables reflect additional information on the Strgar-Roscoe study of the applicant office building.

TRIP GENERATION BASED UPON USE

Land Use	Trip Generation (Trips per 1,000 SF)	PM Peak Hour (% of Daily)	PM Peak Hour Trips (per 1,000 SF)
Average All Offices (Hwy. 12 Plan Update)	14	24%	3.4/1,000
General Office (Institute of Traffic Engineers and Highway Research Board)	11.7	18%	2.1/1,000
Medical Office (Highway Research Board)	40	18%	7.2/1,000
Medical Office (Institute of Traffic Engineers)	75	7.2%	9.6/1,000

The last row refers to a medical office use generating 75 trips per 1,000 sq. ft. This figure was utilized because it is the only available "hard data" relating to medical office trip generation analysis. Further, the percentage of p.m. peak hour trips has been reduced to 7.2 of the total daily traffic based upon data attained from the ITE. It is our opinion that this data more accurately reflect traffic characteristics of a medical office use. As may be inferred from the above table, medical office p.m. peak hour trips are a substantially lower percentage of total daily trips than are p.m. peak hour trips for general offices. However, due to the large amount of trips generated per 1,000 sq. ft., the p.m. peak hour trip number is higher.

The Highway 12 Plan Update report originally assumed a directional distribution of trips for parcels near Hwy. 12/Plymouth Road as shown in the first column of the following table:

DIRECTIONAL DISTRIBUTION OF TRIPS

Direction	% of Trips	% of Trips (Revisions by BRW)	% of Trips Thru 12/Plymouth Intersection*
West on TH 12	35%	35%	0%
East on TH 12	50%	50%	50%
North on Plymouth Rd.	10%	10%	10%
South on Plymouth Rd.	5%	0%	0%

*Alternative route study for Westridge and Salterman Office buildings prepared by Stigar-Roscoe

A basic assumption of the Stigar-Roscoe report was that the directional preference, i.e. the use of Oakland Road for all westbound trips, would further reduce the p.m. peak hour trips through the Hwy. 12/Plymouth Road intersection. It is staff's opinion and also that of BRW's that the 100% usage of this route by all westbound traffic from this site would be unrealistic for the following reasons:

- a. Oakland Road to westbound Hwy. 12 is a very circuitous route
- b. Although employees could be educated to use this route, patients probably would not be
- c. Travel time perception of Hwy. 12/Plymouth Road is probably shorter than Oakland Rd/Hwy. 12

It is staff's opinion that perhaps 50% of the westbound trips would utilize the Oakland Road route and this figure has been reflected in staff's and BRW's trip generation calculations for this site.

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4. Building Occupancy: This building is anticipated to be constructed this fall with occupancy planned for spring of 1980. The service road extending east from Essex Road to Plymouth Road will not be completed until summer or fall of 1980. This will result in unseir-able and hazardous left turns from westbound Highway 13 to the southerly service road entrance at LaBelles. We would recommend that this development be closely coordinated with completion of this new frontage road.

STAFF RECOMMENDATION: Staff would recommend approval to Site Plan No. 3-19 and acceptance of the new traffic report for the Salterman Office building with a variance for building height, subject to the following:

1. A Minnesota Highway Department Access permit be secured for the drive-way cut.
2. Approval of the drainage/grading plans, which will examine the existing City 30" storm pipe and the potential need for a sump, by the Minnehaha Creek Watershed District and the Minnesota Highway Department.
3. The existing mature trees along the south property boundary be retained.
4. The City Fire Marshal approve the utility plans.
5. The rooftop aggregate be of a color compatible with the exterior building facade. If there are rooftop fixtures, they be screened.
6. Final landscape signage and lighting plan review by the Planning Dept.
7. A revised site plan be submitted to the Planning Department for approval for the northeastern portion of the site that indicates a common driveway easement (if possible) with the Westridge Office Building and parking islands, the elimination of the eastern access point, and elimination of the parking stall variance.
8. The City reserve the right to restrict right turning movements onto the south service road.
9. The applicant prepare and post alternate route maps within the building.
10. The applicant attempt to lease no more than 60% of the office space for medical uses.

A21

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MACS**Minnesota Association of Charter Schools**

Advancing Learning and Choice in Public Education

[Home](#)[About Charter Schools](#)[Frequently Asked Questions](#)[MN Charter Schools](#)[Calendar](#)[News](#)[Services to Schools](#)[Public Policy](#)[Jobs](#)[Vendor Guide](#)[Resource Library](#)[Contact Us](#)**Charter School Facts**

Charter schools are K-12 public schools that provide choice for parents and students within the public school system. Charter schools are:

- Operated independently from the school district in which they are located
- Incorporated as a 501(c)(3) nonprofit organization or as a cooperative
- Staffed by teachers who have appropriate state licensure
- Funded primarily by state general education revenue with additional funding in the first three years provided by the federal government
- Located in leased facilities, funded in large measure by the state program that provides per pupil funding to compensate for the fact that charter schools cannot own property, levy taxes, or issue bonds
- Open to all who apply, except if the school is over-subscribed, in which case a lottery is held for all of the students who applied before the deadline. Once a student is enrolled, siblings are given preferential admission.
- Free of charge
- Accountable for academic and non-academic outcomes
- Sponsored by a school district, an institution of higher learning, a nonprofit organization, or a foundation
- Reviewed every three years by the sponsor to determine whether the charter will be renewed
- Governed by a board of directors made up of parents, teachers, and community members elected by the school community

Minnesota Statistics (Last update March 2005)

Number of Charter Schools: 104 in spring 2005

Number of Enrolled Students: Over 17,500

Year of Charter School Law: In 1991, Minnesota was the first state to pass charter school legislation. The first charter school in the United States, the United S Academy, opened in St. Paul, Minnesota in 1992.

A22

A. Conditional use permit for school of up to 300 students at 14001 Ridgedale Drive for the Veritas Academy (05028.05a)

Chair Hart 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.

Chair Hart asked Thomas to explain the traffic pattern. Thomas explained that traffic would enter the parking lot from Wayzata Boulevard. Students would be dropped off at the main entrance. The vehicle would circle back to exit on Wayzata Boulevard. The parking lots are separated.

Britain asked how the parking requirements for a charter school compare to a public school. Thomas explained that the same standard is applied that would be used for a typical high school. A school with 300 students would be required to have 30 parking stalls plus an additional stall for each faculty member.

Allendorf reviewed the traffic study. Thomas explained that the traffic projections were calculated with the assumption that the school would operate at its maximum capacity. An office use would create more trips than a school use at total capacity.

Cherokee Isles, interim director and recruiter for Veritas Academy, applicant, stated that the students would park in the low, north parking area. Staff and parent visitors would park in the south lot.

Allendorf asked if students from all over could attend the school. Ms. Isles stated that all students are welcome. The students that are already signed up mainly reside in Minnetonka, Wayzata, Plymouth, and a couple from Crystal. Most students reside in the western suburbs.

Allendorf asked the ability level of the students. Ms. Isles stated that, as a public school, special needs students must be accepted. Veritas is a college preparation type of a school. Hopefully there will be a self-selection process that would occur for the school to appeal to the serious student.

Allendorf emphasized that once the kids are in the building, they would not leave. Ms. Isles agreed. It would not be an open campus. Loitering would not be allowed. The whole philosophy is based on high morals and high standards. Students without high morals and good behavior would not be allowed to return.

Allendorf asked if there would be evening events. Ms. Isles stated that she could not promise that it would never happen, but there would not be a big enough space to house a performance. The school would need to contract another facility to have a large gathering. A small gathering would be possible, but that would be infrequent.

Britain asked for the background of Veritas Academy. He questioned if physical activities would take place off site. Ms. Isles explained that charter schools typically do not have gymnasiums. One thing discussed was utilizing the YMCA. She was a founder of a small school in Orono called Hill School. It does not have facilities on site, but the students travel to a golf course or ski resort. Parents are thankful that their kids are getting life sports experience rather than exercising in a gym. Traveling to another site for physical activity occurs one or two days a week.

Ms. Isles explained that she is a certified teacher and has been approached numerous times to start a school for grades 9 through 12 that would continue the classic style of teaching done in Hill School. Hill School has operated for ten years. The proposed facility hopes to be similar to Providence Academy by providing the educational experience without cost to the students' families. Sponsorship has been provided by Friends of Ascension which currently has sponsored up to 20 charter schools.

Britain asked if she felt the proposed location would be appropriate. Ms. Isles felt it would be an awesome location. The location is desirable for the families of the students. It is on a major road. It provides accessibility and visibility. It is also close to the library and YMCA. The windows do not open, so there should not be a noise problem. The building is much better than store fronts that end up being charter schools. This facility would be viewed as a lucky one.

Cheleen was curious what provisions would be made for kids being dropped off early and picked up late. Ms. Isles stated that there would be an after school program and provisions would be made in the morning. Bus routes are being considered, possibly on Plymouth Road.

The public hearing was opened.

Steve Pearlman, 14103 Lowell Road, behind the office building, was concerned with the curriculum of a charter school. It would be different than the public education schools.

Mr. Pearlman's higher concern related to the transportation flow and parking. He did not have issues with ninth graders driving. He has issues with eleventh and twelfth graders driving, based on his own kids' actions. Chair Hart stated that the number of parking stalls is determined by the city's ordinance and would be met. Mr. Pearlman's gut told him that more than 1 out of 10 students would drive. Chair Hart stated that the number of parking stalls and level of traffic flow meets ordinance requirements.

Mr. Pearlman was concerned with student parking occurring on the city street. He asked if it would be a situation where the street could have "no school parking" signs installed. Parking is not allowed on Ridgedale Drive.

Mr. Pearlman had no issue, whatsoever, with the projection for the facility during the next couple of years, but he was concerned that in three or four years the projected number of students would equal 300 and staff equal 25. He did not believe that parents would be dropping off and picking up students. He believed that the students would drive. Chair Hart stated that if parking on the street became a problem, the city needs to be notified and parking restrictions may be implemented at that time.

Mr. Pearlman doubted that Health Partners housed 325 people in the building. He was concerned that it would impact the water and sewer facilities. The facility would not be a revenue generating facility for the city. He agreed it would be a stellar location. He loved the location. Access for 300 people did not seem reasonable.

Mr. Pearlman questioned if a police liaison officer would be located in the school. Mr. Pearlman stated that 15 year old and 16 year old "select" students think similarly to other students. He favored education, but he supported people paying for what they receive. He pays taxes in Minnetonka. It is a public school, not a tuition based school. Up to 300 students using the YMCA and the Ridgedale library are not an issue and may not be a concern, but he wanted to raise the point.

Chair Hart confirmed with Ms. Isles that the college preparation materials used at charter schools is similar to college preparation materials used at larger schools. Ms. Isles said that the materials may vary, but would be very similar. Mr. Pearlman defined a special needs child as one that is exceptionally bright, has learning disabilities, or has a physical disability.

Thomas explained that two conditions of approval require the facility to meet all state and federal safety regulations including creating a crisis management plan

of action in conjunction with the police department and posting signs with the information. The police department has reviewed the proposal.

Allendorf asked if the city's ordinances require Minnetonka or Hopkins High Schools to house police liaison officers. Thomas answered in the negative. Allendorf recalled that the school itself requests a liaison officer. It is not up to the city council to require one at a public or private school.

Thomas explained that the building code would require the sewer and water systems to be adequate for the proposed use. The building code review would be included in the permit process.

Jennifer Garza-Stork, 14104 Laurel Road, was mostly concerned with security being compromised by a younger presence being introduced into the older neighborhood. A lot of the residents are older. Paths connect the site with people's back yards. It is a very nice neighborhood. She was concerned with kids walking in the woods. She went to a private school for the arts and knows how kids think. "Kids will be kids." Chair Hart stated that the campus would be closed during the day.

Ms. Garza-Stork requested a privacy fence be built around the site. Chair Hart confirmed with Thomas that Minnetonka High School and Hopkins High School do not have security fences surrounding the schools. In response to Ms. Garza-Stork's question, Chair Hart stated that homes are located close to the high schools. Ms. Garza-Stork stated that residences close to schools usually have some type of fence surrounding the back yard. Chair Hart stated that a fence is not a requirement and is not standard practice.

Ms. Garza-Stork stated that she can see the elevated parking lot from her back yard.

Brian Stork, 14104 Laurel Road, stated that:

- There is no berm.
- His land is washing out down a culvert.
- He installed a chain link fence for his dogs.
- When the trees loose their leaves, it is easy to see in his backyard.
- He explained the topography of his backyard.
- He was concerned with the traffic.
- The people that drive on Ridgedale Drive should have their driver's licenses revoked.
- He has to be careful driving on the frontage road in front of traffic.

- He used to be 18 years old. He squealed tires.
- He was concerned with the accessibility of his property.

Chair Hart explained that the school is a permitted use in a residential area with a conditional use permit. As long as the ordinance regulations are met, the city cannot deny the application. She appreciated the concerns and instructed that the city and police be notified when necessary.

Mr. Stork had problems with a business having garbage removed at 2 a.m. Chair Hart requested Mr. Stork report issues to the city.

Ron Weidenbach, 14008 Laurel Road, stated that the building is located directly behind him. He wished the use would be different. The parking and traffic capacity is unrealistic. Possible future problems should be planned for now. It is hard to say something against public education. It is hard to get out of his driveway now. With the bridge closed, it is really terrible.

Chair Hart explained that if the building was full of businesses, it would generate the same number of trips as the school would. As far as the realistic expectations regarding how many students would drive, the city ordinance requirement is met. It is an allowed use in any zoning district of the city.

Mr. Weidenbach asked if the road would be widened when the bridge is replaced. Chair Hart suggested he call the engineering department to find out what will be done.

Mr. Weidenbach invited commissioners to visit the site. Chair Hart explained that the commissioners had visited the site. He wished the commissioners luck and was confident they would make the right decision.

Cheleen referred to the condition that would allow the city council to modify requirements listed in the conditional use permit to address traffic and parking issues.

Mr. Pearlman asked how long a conditional use permit is valid. Chair Hart explained that the conditional use permit does not expire, it can be reviewed any time the city council chooses to do so, and it can be revoked by the city council if a condition is not met.

Mr. Pearlman's position was not adversarial, but the center for the arts is in a very rural area and not the same. He understood that ordinance requirements have been met and that there is little to talk about. If the building would be a

traditional office building, the school drop offs and pick ups are similar. He accepted that. In this case, even though the average would be the same number, the trips would be heavily concentrated at 8 a.m. and 4 p.m.

Mr. Pearlman stated that he tries to avoid driving near the Ridgeway stores during Thanksgiving and New Years. Hundreds of trips would be added in the late afternoon. Chair Hart stated that the facility would be in the Interstate 394 Planned District. She reviewed the results of the traffic study that determined that the proposed use would create less trips than an office use and meets ordinance requirements. Mr. Pearlman understood that.

Mr. Pearlman stated that if there would be problems of trespassing or parking on residential streets, then he would request police coverage. The police department is working at capacity. The house across from him was occupied illegally by a group of nonaffiliated individuals. Chair Hart questioned the relevance of that situation. Mr. Pearlman stated that while the police department's hands are tied, in terms of approving the permit, if Ridgedale Drive becomes a speedway and if Laurel Road becomes a parking lot, he will be contacting the police department daily. Chair Hart agreed that he should.

Mr. Dworsky, 14003 White Birch Road, was concerned with increased traffic and parking. More than 1 in 10 students would drive themselves. He felt that there would be a lot more drivers. Chair Hart stated that the adopted city ordinance is the standard the city uses.

Ms. Garza-Stork stated that she purchased her home unaware that there would be a school behind it; unlike most of the residents who reside around the large public schools. Chair Hart agreed. Ms. Garza-Stork invited the commissioners to visit her back yard.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issues.

Allendorf asked if the building was treated differently because it is located in the planned Interstate 394 district. Thomas responded in the negative. The public building would be allowed in any district with a conditional use permit.

Allendorf felt the use would be appropriate for the building and was the closest use to an office use. The concentration of morning and afternoon trips would be true of an office building as well. The traffic generation has been reviewed. The structure would still look and function similar to an office building. If a problem

arises, the police department should be notified. He supported the use and welcomed it to the community.

Dahl felt that the school is a great concept. He was unsure if the location would be appropriate. He asked when the parking lot standard was done. Teague stated that that part of the ordinance was updated in 1988. The traffic consultant indicated that the standard is still reasonable. Dahl felt the standard might be a little low.

Chair Hart stated that the use is permitted and the ordinance requirements have been met.

Allendorf moved, second by Cheleen, to recommend that the planning commission adopt the resolution on pages A1–A3 of the staff report, which approves the proposed variance. This resolution is based on the following findings:

- 1) Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
 - a. The existing building has non-conforming side yard setbacks.
 - b. The proposed addition would not encroach further into required setbacks than the existing building.
- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. As the addition would maintain existing setbacks, it would have no negative impact on the surrounding area.

Approval is subject to the following conditions:

- 1) Submit proof of having recorded this resolution with the county before the city issues a building permit.
- 2) A temporary rock driveway, erosion control, and tree protection fencing must be installed, subject to review by the city's environmental resources coordinator.

- 3) This variance will end on December 31, 2006, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

Allendorf, Cheleen, Dahl, and Hart voted yes. Britain voted no. Bonoff and Frisque were absent. Motion carried.

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