

MAY 31 2007

CITY OF MINNETONKA

May 26, 2007
Project 97096.07a

I attended the neighborhood meeting held last week at OPUS headquarters. Aside from the neighborly lite-refreshments served and the friendly PowerPoint presentation the architects of the project proudly presented—I left the meeting early, upset, wondering how quickly I should sell my condo unit, and how much of a loss I will take if I wait too long.

The question I had on my mind as I walked out of the meeting was not summed up by the discussions regarding OPUS headquarters turning their lights off at night, nor by how many trees OPUS is going to plant or preserve, nor even how the wetlands, ducks, or geese will fare with the proposed corporate expansion. Rather, my big question is:

Does the quality of life of the tax paying, voting, OPUS area residents in the City of Minnetonka, take a back seat to the OPUS Corporation's desire to expand and consolidate their hundreds of employees into a massive OPUS campus?

This project directly impacts many hundreds of residents:

- The five phases of the OPUS2 Condominiums at 5627, 5607, 5643, 5645, and 5697 Green Circle Drive.
- Southampton Apartments at 5445 and 5455 Smetana Drive.
- Elmbrook Townhouses at 5420 Smetana Dr.

For the record, these are my concerns:

#1- ADDITIONAL TRAFFIC AND CONJESTION. A City representative stated at the meeting that studies conducted by the City of Minnetonka estimates there will be an additional 400 vehicles per day generated by the OPUS Corporate expansion on the proposed realigned Green Circle Drive. In reality this could be well over a 1000 additional vehicles per day, traveling directly in front of the residential buildings. We are talking maybe a 20 to 30 foot distance to the bedroom windows and living rooms. There will be noisy large service vehicles and trucks, along with an increased number of couriers that will be required to service a corporate campus of this size. Also, note the proximity of the corporation's proposed expanded loading docks to the condominium buildings.

I am very concerned this proposed realigned Green Circle Drive will become a major safety issue to current residents (especially to elderly citizens that drive, families with children playing in the area, bikers, etc.). Future OPUS area buyers and renters will come to see this area as undesirable and residential property values will suffer as a result.

#2- OPUS 'ONE-WAY ROAD SYSTEM' IS FAR FROM IDEAL AT PRESENT. The one-way road system that the City of Minnetonka supports is currently called 'a confusing racetrack' by people having to use it. Now is the time for the city to make some meaningful changes to this road system. I don't mean more signage stating "You are now entering a one-way road system", which these signs, by the way, poorly placed, and not illuminated in any way at night, making them useless.

#3- THE CURRENT PROPOSAL ONLY PROVIDES ONE ROUTE FOR OPUS II CONDOMINIUM RESIDENTS TO GET TO THEIR HOMES. With the current proposed, realigned, one-way, Green Circle Drive, residents will be forced to travel completely around the expanded OPUS Corporate Campus to get to the five condominium buildings.

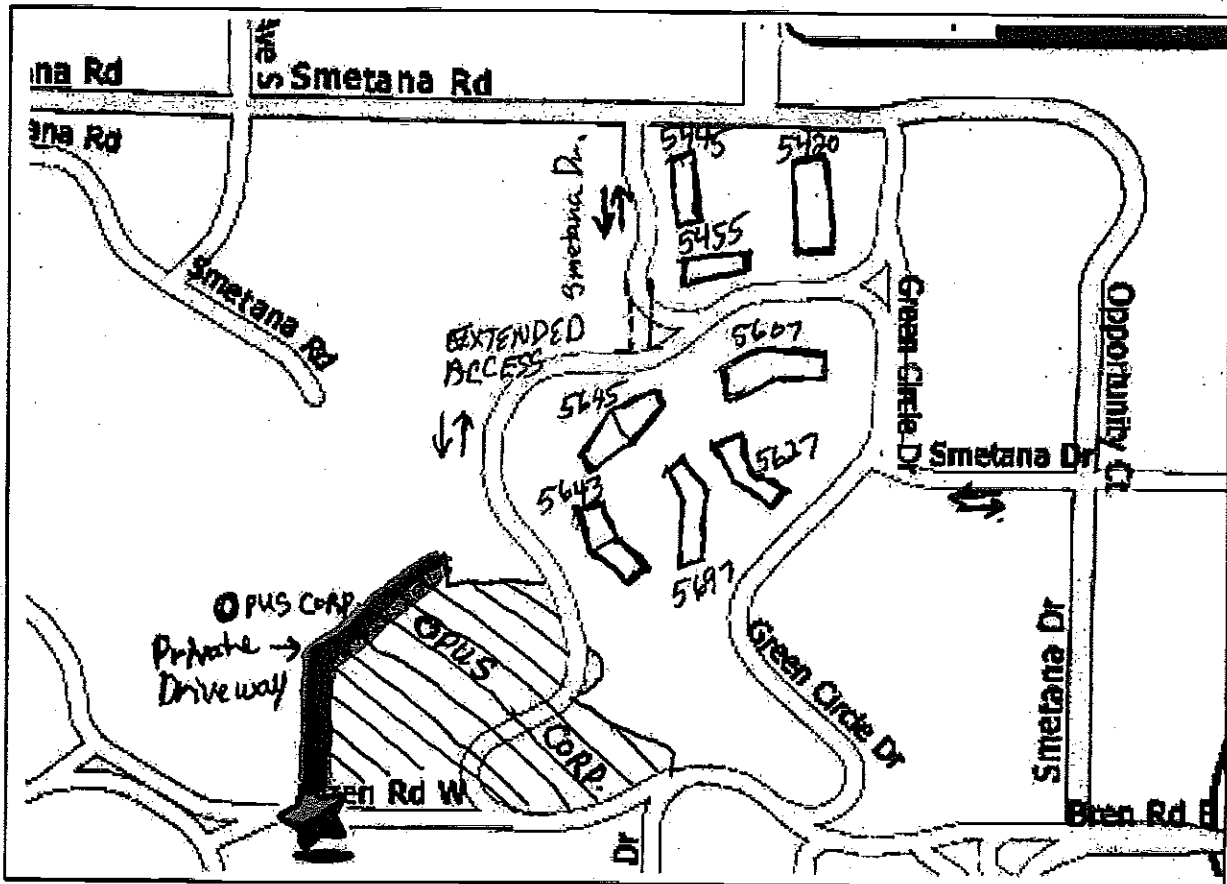
#4- TAXES. Another issue is what exactly will be the yearly *OPUS Corporation's property taxes* to the city after this proposed corporate campus is built? What will it be the condo residents' property taxes impact resulting from this expansion?

My suggestions:

I propose making Smetana Dr. S. (intersecting Smetana Rd in front of Southampton Apartments.) a two way street, like its sister street that intersects Smetana Dr. to Green Circle Dr. (on the side of the Opportunity Center). Then extend the proposed new access road in front of 5643 condominium all the way down past 5645 until reaching an altered Smetana Dr. S./Green Circle Dr. intersection. Making Smetana Dr. S. a two way street will also give Southampton residents an alternative route to exit the OPUS area. (Also, please notice there are currently too many streets, roads, and drives with 'Smetana' as a part of the name.)

Please see Illustration #1 below:

Illustration #1:



The Green Circle Drive realignment would not necessarily need to be created as it is currently proposed. All vehicles to OPUS Corporate would access from Bren Road West and then return back onto Bren Road West, including truck loading dock delivery traffic. A private OPUS Corporation driveway could access from Bren Road W. to the loading docks, and would not have to be a street built at taxpayers' expense.

The result is no OPUS Corporation thru-traffic anywhere near the residential areas.

Something similar was suggested at the meeting by a woman resident, and a city representative, jumped to his feet, as if on cue, saying the city desires to keep Green Circle Drive a one-way street and that any cul-de-sac would delay emergency response vehicles from reaching the condominiums. Our response to his statement: Nonsense. The current proposal shows creating a new access road in front of 5643 Green Circle Drive, which is essentially dead-ending travel in this direction anyway. It just does not, however, go far enough in extending it to in front of the 5645 condominium building. Also, no mention was made as to this access road also needing to be a 'two way' access road. This access road could be widened and improved for both the 5697, 5643 and 5645 buildings.

Summary:

I know the City of Minnetonka is going to approve the OPUS Corporate Campus expansion, just as Richfield did the Best Buy headquarters. Big money has a way of getting what it wants. I do request however, that city leaders and planners take city residents issues of safety and greatly increase traffic flow in front of residential buildings seriously. I also wish more consideration is paid to assuring access to the residential buildings while eliminating corporate thru-traffic. Please, again, request the city engineers devise a way to make additional revisions in this current expansion proposal.

I am not dwelling on the year and a half of construction noise. Nor the fact that everything looks great in the three months of summer where their OPUS PowerPoint slide shows the aerial view from the condominiums of leafy trees blocking the view of the proposed expanded corporate building. However, in the other nine months of the year, 5643 residents will be looking through bare tree branches at a massive structure directly outside their windows.

The current proposal of a realigned Green Circle Drive is not the solution the people that live in this residential neighborhood are necessarily looking at as the best possible solution.

Al Bliss
5645 Green Circle Dr., #313
Minnetonka, Minnesota 55343

The Leadership in Energy and Environmental Design (LEED) Green Building Rating System is a system for designing, constructing, operating and certifying the world's greenest buildings. This rating system is a voluntary standards and certification program that defines green buildings as more environmentally responsible and healthier structures than those built outside of the program.

Green design and construction practices are important because they significantly reduce or eliminate the negative impact of buildings on the environment and occupants in five broad areas: sustainable site planning, safeguarding water and water efficiency, energy efficiency and renewable energy, conservation of materials and resources, and indoor environmental quality.

The LEED ratings for new construction are awarded according to the total number of points achieved. They are divided into four categories, which include: Certified, Silver, Gold, and Platinum. The Opus Headquarters Expansion Building is to be designed to be LEED Certified or possibly Silver.

PLANNING COMMISSION JULY 12, 2007 MEETING MINUTES

D. Items concerning the expansion of the Opus Corporate Center at 5700, 5720, and 5740 Green Circle Drive and 10350 Bren Road West for Opus Corporate Center LLC. (97096.07a.)

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

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

Adams asked how the proposal would effect the future location of light rail. Wischnack explained that the Opus area has been identified as a preferred route by the Metropolitan Council to locate light rail. The alignment was currently planned west of the wetland. That alignment could shift radically depending on numerous variables.

Adams was relieved to see that accommodations had been made for a trail. He assumed that there would be no access to the trails during construction. Wischnack agreed.

A ten-minute recess was taken.

Chair Hart commented that the proposal was for a change to an already approved expansion.

Dave Bangaser, 10350 Bren Road West, vice president of project management for Opus, applicant, was present with additional Opus staff to answer questions. The project is complicated. He stated that:

- A plan has been approved. If the proposal was rejected, the approved plan would move forward.
- An agreement was made with a third commercial property that provided an opportunity.
- The proposal would provide a better plan for Opus and the roadway system.
- The expansion would allow housing the architects and engineers in the new space.
- The new location would skirt around the wetland.
- Trees would be added to create more of a park-like feel.
- The curves in the road would be decreased.
- The proposal would be comparable in size and architecture to what was already approved.
- A neighborhood meeting was conducted. The driveway extension for 5697 was discussed. The condominium

- owners would be compensated for long-term maintenance. Additional meetings were scheduled.
- The pond would be dredged and more storm water would be directed to it.
 - Coniferous trees would be added for year-long screening.
 - Preservation of the large stand of oak trees was a priority. The driveway was extended to avoid the oak trees.
 - Impact to the wetland and trees was minimized.
 - The wetland would be mitigated and a higher quality wetland would be created.
 - He agreed with staff's support of the project.
 - He provided his traffic consultant's results.
 - Two exits for the ramp should remain.
 - The park dedication fees have already been paid.

Adams asked what caused the change. Mr. Bangaser stated that the proposal would be more expensive than the already approved plan. One building on one campus would be better and that is what prompted the change.

Lehman asked why two exits would be needed for the parking ramp. Mr. Bangaser stated that the parking consultant recommended two exits. Essentially, one internal road might qualify as one exit.

Cheleen received confirmation that the parking ramp would be part of Phase 2. Chair Hart stated that the preliminary plan includes Phase 2. Traffic would be reexamined after construction of Phase 1. Wischnack agreed that the site and building plan review would be conducted at a later time. Staff's intention is to put the developer on notice regarding potential issues.

Mr. Bangaser objected to the strict prohibition of two exits. Wischnack supported the strict prohibition.

Chair Hart commented that the applicant could submit a different site and building plan when requesting approval for Phase 2. Wischnack answered affirmatively. The exit onto Green Circle Drive could be included during the site and building plan review for Phase 2; however, that could be a significant enough change to warrant a master plan review.

Lehman clarified that staff's recommendation opposed exiting onto the new Green Circle Drive. If the applicant requested two exits, one on the north and one on the east, staff would not oppose that.

Wischnack was researching the park dedication fees already paid. The determination would be made before the city council reviewed the application.

The public hearing was opened.

Lynda Allen, 5697 Green Circle Drive, objected to:

- increased traffic;
- icy driveway extension;
- cost of redoing the condominiums bylaws;
- response times of emergency vehicles during construction;
- and
- the new plan.

Lillehaug explained the new traffic pattern. Proper sight lines, approached grade to the roadway, and right-of-way and easement issues would be considered.

Wischnack stated that Opus representatives and the property owner would work to come to an agreement regarding the bylaws. The city would intervene if there was difficulty reaching an agreement.

In response to Lehman's question, Lillehaug and Chair Hart explained the ramp's accesses. Lehman felt the proposed plan would decrease traffic on Green Circle Drive. Wischnack stated it would be a matter of direct access. The difference in trip generations would be negligible.

Lehman asked if staff's recommendation would eliminate the ramp on Green Circle Drive. Wischnack clarified that staff was only opposed to exiting onto Green Circle Drive.

Maria Klein, 5627 Green Circle Drive, thanked Wischnack and Lillehaug for their cooperation, confidence, and professionalism. She stated that:

- The current proposed light rail route is a problem.
- The animals and humans appreciate the existing ecosystem.
- She questioned how the animals would know to relocate where the mitigation would be located.
- Opus should care more for the trees. Make the trees part of the campus.
- Replant with native vegetation species.
- Replant an inch for every inch of trees removed.
- Opus has an opportunity to create a sustainable campus.
- Use pervious pavers instead of bituminous.
- Locate a green roof on the parking ramp.

- Locate flower boxes on the windows.
- Slow the process down.

Bob Thiel, 5643 Green Circle Drive, agreed with Ms. Kline. He was concerned with the landscaping. His house has a direct view of the site. The replacement trees would take a while to grow. He requested more communication with Opus. He thanked Wischnack for walking the site with him.

Alfred Bliss, 5645 Green Circle Drive, requested to be involved in construction traffic planning as a condominium representative. He asked what the minor changes to traffic control during construction plan preparation referred to in the staff report. His issues were:

- Green Circle Drive realignment would not be completed before the current Green Circle Drive is disabled.
- During the construction period, there would be only one lane of travel.
- It would be the only route for emergency vehicles.
- The hours that construction would take place.
- What would be the target date for completion.

Wischnack stated that meeting with the neighborhood to discuss the construction management plan would occur once it is prepared.

Jane Ochrymowycz, 5607 Green Circle Drive, loved the Opus area. She could get to her garage without traveling on the rest of Green Circle Drive, but none of the rest of her neighbors could. She stated that:

- An increase in the number of employees would cause an increase in traffic.
- The slope and curve causes a dangerous intersection. Motorists ignore the stop sign.
- Green Circle Drive is the only area in Opus that has residential housing.

Kathy Johnson, 5643 Green Circle Drive, chair of the condominium board, stated that Opus did not contact condominium residents except through the condominium's management firm yesterday.

Nancy McGonagle, 5643 Green Circle Drive, member of the condominium board, thanked Wischnack for her professional manner. She stated that:

- The residents need to be involved in a project that would impact the quality of their lives.

- The condominium residents have worked with representatives regarding light rail and other businesses' expansions.
- Action should be delayed until the safety and quality of life issues are addressed.

Jim Platt, 5697 Green Circle Drive, felt that Opus should have discussed moving the driveways with the homeowners. He preferred to keep his driveway as it is. Chair Hart explained that a condition of approval would require Opus to make agreements with all condominium associations before permits may be issued. She guaranteed Opus would be talking to him now. A legal agreement would have to be in place before anything can happen.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issues.

Adams was looking forward to having a skyway in Minnetonka, but felt the proposal would be more reasonable than the originally approved plan.

Cheleen concurred with Adams. He agreed with the concern regarding wildlife. The proposal would provide a larger wetland than the proposed plan. Colleran agreed. She explained how the wetland would be improved. The first priority was to save the oak trees, second priority was floodplain mitigation, and the third priority was wetland protection. Cheleen appreciated looking at the big picture and planning for the future. If it is done right, wildlife will find the habitat.

In response to Chair Hart's request, Colleran explained which trees would be removed and replacement requirements. Staff would need to approve the final landscape plan. She hoped Opus representatives listened to Ms. Kline and utilize a variety of native vegetation. A mix of evergreen and deciduous throughout the project would be preferred. She explained how small trees go through less transplant shock and will outgrow a larger tree in a few years. Colleran explained that the city's ordinances do not require the replacement of an equal amount of bio mass. Cheleen felt large evergreens would work to screen the loading dock.

Chair Hart acknowledged that Wischnack would continue to meet with the residents and Opus representatives to discuss the construction management plan. She was confident it would be a tightly controlled plan.

Schmitz supported staff's recommendation regarding prohibiting an exit on Green Circle Drive. The trucks unloading on the dock would be enough

increased traffic for a residential area. Wischnack explained the traffic flow for the trucks.

Adams stated that Green Circle Drive does not provide an easy route to State Highway 169. Bren Road would be the preferred exit route. He suggested that Green Circle Drive be made a two-way street during construction to allow exiting onto Bren Road.

Cheleen suggested looking at improving the safety for 5697 Green Circle Drive. Lillehaug explained that the "T" intersection would be the safest possible access.

Chair Hart commented that Opus representatives would have to work out driveway relocation agreements with condominium associations. Lillehaug saw decreasing the curvature of the road as a benefit to the city.

Wischnack reviewed the conditions regarding approval of the driveway relocations.

Schmitz moved, second by Brandt, to approve the following items concerning the expansion of the Opus Corporate Center at 5700, 5720, and 5740 Green Circle Drive and 10350 Bren Road West for Opus Corporate Center, LLC., with a modification provided in the change memo dated July 12, 2007:

Preliminary Plat

- 1) *Recommend that the city council give preliminary approval to the Opus Campus Addition, date stamped July 2, 2007. Approval is based on the finding that the plat meets the required standards and ordinances. Approval is subject to the following conditions:*
 - a. Complete the following before final plat approval:
 - (1) Show the following on the final plat:
 - (a) At least ten-foot-wide drainage and utility easements next to any existing or proposed public street rights-of-way and at least seven-foot-wide drainage and utility easements along all other lot lines.
 - (b) Utility easements over existing or proposed public utilities, as determined by the city engineer.

- (c) Drainage and utility easements over wetlands, floodplains, and public stormwater ponds, as determined by the city engineer.
 - (2) Pay the city a park dedication fee.
 - (3) If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.
- b. The following items must be submitted to the city before the city releases the final plat:
- (1) An engineering/utility inspection fee.
 - (2) Payment for traffic signs and installation, as required by the city engineer.
 - (3) An electronic CAD file of the final plat in microstation or DXF on a CD disk.
 - (4) If the developer is constructing any public improvements, the developer must submit a signed agreement with the city. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements. This agreement must include an escrow to ensure that the developer completes all public improvements and complies with all city regulations. This escrow must be a letter of credit or cash deposit. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.
 - (5) The following documents for the city attorney's approval:
 - (a) Title evidence that is current within thirty days before release of the final plat.
 - (b) Conservation easements over wetland and wetland buffer areas and a drawing of the easements. The easements and drawings must be recorded with the final plat.
 - (c) Provide declaration and restrictive covenants over all mitigated wetland areas per the

Wetland Conservation Act (WCA), for review by the city's natural resources staff.

- (d) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.
 - (e) Any other requirements included with final plat approval.
- (6) A drainage and utility easement must be granted over the alternate stormwater plan and the stipulations of its use must be provided in a separate document approved by the city attorney.
- c. The following must be completed before the city issues a grading permit or any site work is started.
- (1) Approval of final grading, drainage and erosion control plans by the city engineer. If the developer is building the streets and utilities, the developer must submit final street and utility plans for the city engineer's approval.
 - (2) A letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site must be submitted to the city. The city will not release the letter of credit or cash escrow until the developer submits as-built drawings and a letter certifying that the utilities, driveway, and grading have been completed according to the plans approved by the city.
 - (3) All trees to be preserved must be fenced and erosion control measures installed, as approved by the city.
 - (4) Approval of a construction and traffic control management plan by the city planner.
 - (5) The applicant must submit evidence of the watershed district approval, in specific, approval of the floodplain alteration on Outlot A (owned by the city). The city

may require revisions to the preliminary plat to meet the district's requirements.

(6) NPDES permit required from Pollution Control Agency.

d. The following must be completed before the city issues a building permit:

(1) All conditions provided in the site and building plan review.

Planned Unit Development Rezoning with Master Development Plan Amendment with Conditional Use Permit for over 1,000 cubic yards of material.

2) *Recommend that the city council adopt the ordinance on pages A120–A124 of the staff report. The ordinance approves the following for the Opus Corporate Expansion at 5700, 5720, 5740 Green Circle Drive and 10350 Bren Road:*

- A rezoning from B3 (5700 Green Circle Drive) to PUD, planned unit development;
- A master development plan and final site and building plans (Phase I); and
- A conditional use permit to move over 1,000 cubic yards of material.

a. The ordinance is based on the following findings:

- (1) The use would be the same as the existing office use on the site. Opus would replace the existing office buildings in the area.
- (2) The plan would contain adequate parking.
- (3) The site would be adequately landscaped.
- (4) The height of the building would be consistent with the existing Opus building and buildings located in the area.
- (5) As demonstrated in the Supporting Information section of the staff report, all minimum zoning ordinance standards would be met or mitigated by replacing natural areas.

- b. This rezoning is subject to the following conditions:
- (1) Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site plan date stamped June 6, 2007.
 - Grading plan date stamped June 6, 2007.
 - Landscaping plan date stamped June 6, 2007.
 - Building elevations date stamped June 6, 2007.
 - Wetland and Floodplain mitigation plans, as amended - July 3, 2007.
 - (2) Before starting any site work or obtaining a grading permit, complete the following work:
 - (a) The installation and maintenance of temporary rock driveways, erosion control, tree protection, and wetland protection fencing for each lot must be installed, subject to review by the city's natural resources staff.
 - (b) Submit final site, grading, drainage, utility, roadway and erosion control plans for staff approval. These plans must include cross sections.
 - (c) Submit a letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site.
 - (d) Submit copies of the watershed district permit, in particular the approval of the floodplain mitigation for Outlot A. The city may require revisions to the approved plans to meet the district's requirements.
 - (e) Submit a construction and traffic control management plan for staff approval.
 - (f) Site storm sewer plans are required to be submitted for review and approval including

complete storm sewer design calculations, profiles for all storm sewers, and the necessary revisions for the alternate storm sewer as noted in the May 25, 2007, memo from BARR Engineering.

- (g) Receive approval from the property owners to relocate the driveway access to the newly constructed Green Circle Drive. If no approval is received, the ordinance needs to be revised and reconsidered by the planning commission and city council.
 - (h) A development agreement documenting the improvements and corresponding securities.
- (3) The following must be submitted to the city before the city issues a building permit:
- (a) Final landscape and irrigation plans for staff approval. Landscaping plans must equal 1% or greater of the total project value. Additional trees between the roadway and the trail must be provided and approved by the natural resource staff.
 - (b) A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping.
 - (c) An illumination plan for staff approval.
 - (d) All required hook-up fees.
 - (e) Final utility plans are required to be reviewed and approved by the city engineering staff.
 - (f) Revisions to the grading plan must include curbs and/or barriers to prevent traffic southbound from driving on non-roadway areas.
 - (g) All utility services must be abandoned as required by the engineering department.
 - (h) Plans must be in substantial compliance with items outlined in the "Green Circle Drive

Realignment” dated June 6, 2007, and bridge memorandum dated June 22, 2007.

- (i) Additional traffic improvements in the area will be necessary over time. The city will further outline those responsibilities during a land use analysis of the entire Opus area, and will determine appropriate participation of property owners compliant with all applicable state statutes. This will be completed prior to Phase II of the site plan.
 - (j) Complete roadway, bridge, retaining wall, and pedestrian plans need to be provided for review and approval by the engineering department.
 - (k) Phase II of the site plan includes a parking ramp. This parking ramp will be an entry ramp off of Green Circle Drive, to encourage the use of Bren Road.
 - (l) Record this ordinance with the county.
- (4) The property owner is responsible for replacing any required landscaping that dies.
 - (5) All rooftop and ground-mounted mechanical equipment and exterior trash and recycling storage areas must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.
 - (6) Approval does not include the signs shown on the drawings. Separate permits are required from staff.
 - (7) With the exception of security lighting, lights within the building must be turned off by 11:00 p.m. unless there is an emergency situation or a room is being cleaned.
 - (8) Spaces shown as proof-of-parking may not be paved unless approved by the city upon showing of a demonstrated need for these spaces.

- (9) Phase II would require site and building plan review.
- (10) Construction must begin by December 31, 2008, unless the planning commission grants a time extension.
- (11) Completion prior to certificate of occupancy:
 - (a) Complete a travel demand management plan.

The above plans are hereby adopted as the master development plan and as final site and building plans (Phase I).

Wetland Conditional Use Permit and Rezoning With Floodplain Alteration

- 3) *Recommend that the city council adopt the resolution on pages A125-128 of the staff report, which approves the proposed change in the wetland overlay district boundaries. Also recommend the city council approve wetland alteration with wetland buffer impacts and floodplain alteration. This ordinance is based on the following findings:*
 - a. The floodplain impacts are also mitigated in the same sub-watershed area.
 - b. The wetland and floodplain impacts meet the standards of the city code.
 - c. The mitigation area for the wetland is being compensated within the same sub-watershed district as the wetland being altered.
 - d. The wetland will ultimately have a higher function and value.
 - e. The application meets the standards of the conditional use permit criteria.

This approval must meet the following conditions:

- a. Obtain approval from all appropriate agencies before construction.
- b. Obtain approval and comply with the requirements for the Wetland Conservation Act (WCA) replacement plan as presented in the plans dated July 3, 2007.

- c. Revegetate all disturbed areas with appropriate vegetation.

***Adams, Brandt, Cheleen, Dahl, Lehman, Schmitz, and Hart voted yes.
Motion carried.***

ORDINANCE NO. 2007-____

AN ORDINANCE REZONING 5700, 5720, 5740 GREEN CIRCLE DRIVE AND 10350 BREN ROAD WEST FROM B-3, GENERAL BUSINESS TO PUD, PLANNED UNIT DEVELOPMENT; AND AMENDING A MASTER DEVELOPMENT PLAN, WITH FINAL SITE AND BUILDING PLANS (PHASE I)

The City Of Minnetonka Ordains:

Section 1.

- 1.01 The properties at 5700, 5720, 5740 Green Circle Drive and 10350 Bren Road West are hereby rezoned from B-3, general business, to PUD, planned unit development based on the following findings:
- a. The rezoning would be consistent with the City's guide plan; and
 - b. The rezoning would be consistent with the public health, safety, and welfare.
- 1.02 This ordinance also hereby adopts a planned unit development master development plan for a two-phase office redevelopment at 5700, 5720, 5740 Green Circle Drive and 10350 Bren Road West (Project 97096.07). Adoption is based on the findings in the August 6, 2007, staff report.

Section 2.

- 2.01 The properties are legally described as follows:

As found on Exhibit A

Section 3.

- 3.01 This ordinance is based on the following findings:

- a. The use would be the same as the existing office use on the site. Opus would replace the existing office buildings in the area.
- b. The plan would contain adequate parking.
- c. The site would be adequately landscaped.
- d. The height of the building would be consistent with the existing Opus building and buildings located in the area.
- e. As demonstrated in the Supporting Information section of the staff report (dated August 6, 2007) all minimum zoning ordinance standards would be met or mitigated by replacing natural areas.

Section 4.

4.01 Approval is subject to the following conditions:

- a. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site plan date stamped June 6, 2007.
 - Grading plan date stamped June 6, 2007.
 - Landscaping plan date stamped June 6, 2007.
 - Building elevations date stamped June 6, 2007.
 - Wetland and Flood Plain mitigation plans, as amended, July 2, 2007.
- b. Before starting any site work or obtaining a grading permit, complete the following work:
 - 1) The installation and maintenance of temporary rock driveways, erosion control, tree protection, and wetland protection fencing for each lot must be installed, subject to review by the city's natural resources staff.
 - 2) Submit final site, grading, drainage, utility, roadway and erosion control plans for staff approval. These plans must include cross sections.
 - 3) Submit a letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site.

- 4) Submit copies of the watershed district permit, in particular the approval of the flood plain mitigation for Outlot A. The city may require revisions to the approved plans to meet the district's requirements.
 - 5) Submit a construction and traffic control management plan for staff approval.
 - 6) Site storm sewer plans are required to be submitted for review and approval, including complete storm sewer design calculations, profiles for all storm sewer, and the necessary revisions for the alternate storm sewer as noted in the May 25, 2007, memo from BARR Engineering.
 - 7) Receive approval from the property owners to relocate the driveway access to the newly constructed Green Circle Drive. If no approval is received, the ordinance needs to be revised and reconsidered by the planning commission and city council.
 - 8) A development agreement documenting the improvements and corresponding securities.
- c. The following must be submitted to the city before the city issues a building permit:
- 1) Final landscape and irrigation plans for staff approval. Landscaping plans must equal 1% or greater of the total project value. Additional trees between the roadway and the trail must be provided and approved by the natural resources staff.
 - 2) A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping.
 - 3) An illumination plan for staff approval.
 - 4) All required hook-up fees.
 - 5) Final utility plans are required to be reviewed and approved by the city engineering staff.
 - 6) Revisions to the grading plan must include curbs and/or barriers to prevent traffic southbound from driving on non-roadway areas.
 - 7) All utility services must be abandoned as required by the engineering department.

- 8) Plans must be in substantial compliance with items outlined in the "Green Circle Drive Realignment" dated June 6, 2007, and bridge memorandum dated June 22, 2007.
 - 9) Additional traffic improvements in the area will be necessary over time. The city will further outline those responsibilities during a land use analysis of the entire Opus area, and will determine appropriate participation of property owners compliant with all applicable state statutes. This will be completed prior to Phase II of the site plan.
 - 10) Complete roadway, bridge, retaining wall, and pedestrian plans need to be provided for review and approval by the engineering department.
 - 11) Phase II of the site plan includes a parking ramp. This parking ramp will be an entry ramp off Green Circle Drive, to encourage the use of Bren Road.
 - 12) Record this ordinance with the county.
- d. Before a certificate of occupancy, complete a travel demand management plan.
 - e. The property owner is responsible for replacing any required landscaping that dies.
 - f. All rooftop and ground-mounted mechanical equipment and exterior trash and recycling storage areas must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.
 - g. Approval does not include the signs shown on the drawings. Separate permits are required from staff.
 - h. With the exception of security lighting, lights within the building must be turned off by 11:00 p.m. unless there is an emergency situation or a room is being cleaned.
 - i. Spaces shown as proof-of-parking may not be paved unless approved by the city upon showing of a demonstrated need for these spaces.
 - j. Phase II would require site and building plan review.

- k. Construction must begin by December 31, 2008, unless the planning commission grants a time extension.

The above plans are hereby adopted as the master development plan and as final site and building plans (Phase I).

Section 5. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 6. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on July _____ 2007.

Janis A. Callison, Mayor

ATTEST:

David Maeda, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction: June 4, 2007

Date of adoption: _____

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent: Wagner

Ordinance adopted.

Date of publication:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on _____.

David Maeda, City Clerk

Date:

Exhibit A

ORDINANCE NO. 2007-

**AN ORDINANCE MODIFYING A WETLAND OVERLAY DISTRICT BOUNDARY,
CONDITIONAL USE PERMIT FOR WETLAND BUFFER IMPACTS AND FLOOD
PLAIN ALTERATION FOR THE OPUS CORPORATION REDEVELOPMENT AT 5700,
5720, 5740 GREEN CIRCLE DRIVE AND 10350 BREN ROAD WEST**

The City Of Minnetonka Ordains:

Section 1.

1.01 This ordinance modifies the boundary of a Wetland Overlay District at , based on the findings in the August 6, 2007, staff report (Project 97096.07A) which identify the following:

- a. The flood plain impacts are also mitigated in the same subwatershed area.
- b. The wetland and floodplain impacts meet the standards of the city code.
- c. The mitigation area for the wetland is being compensated with the same subwatershed district as the wetland being altered.
- d. The application meets the standards of the conditional use permit criteria.
- e. The wetland will ultimately have a higher function and value.

This approval must meet the following conditions:

- a. Obtain approval from all appropriate agencies before construction.
- b. Obtain approval and comply with the requirements for the Wetland Conservation Act replacement plan as presented in the plans dated July 2, 2007 and as

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

amended.

- c. Provide a plan which indicates specific wetland species and location/elevation. Additionally, at least 50% of the species must be herbaceous or biomat.
- d. Provide information to ensure adequate hydrology of the mitigated wetland area
- e. Applicant must provide wetland conservation act forms, including: affidavit of land ownership, declaration of restrictive covenants, and consent to replacement wetland.
- f. Applicant must provide wetland monitoring reports, annually, for a period of five years or until the technical evaluation panel accepts the mitigated wetland. At the end of the monitoring period there shall be no more than 15% invasive species present.
- g. Applicant must provide a cash escrow in the amount of \$7,500 (\$1,500 per year x 5 years) to ensure compliance with the wetland monitoring schedule.
- h. Applicant must provide a letter of credit for 150% of the estimated cost or 125% of the actual bid for the wetland and flood plain replacement to be constructed. The letter of credit will be reduced based on establishment of the replacement wetland.

Section 2.

2.01 The property is legally described as follows:

As found on Exhibit A

Section 3. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 4. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on _____, 2007.

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

Janis A. Callison, Mayor
ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction:
Date of adoption:
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on _____, 2007.

David E. Maeda, City Clerk

Date:

G:\Word\Ord\000 Wetland.doc

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

EXHIBIT A

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

Copy

July 31, 2007

Mayor
Council Members
City Manager
City of Minnetonka
14600 Minnetonka Blvd.
Minnetonka, MN 55345

Dear Mayor and Council Members:

A petition is enclosed pertaining to the "proposed" expansion of Opus Corporation headquarters. It is signed by a majority of residents of our condominium known as Opus 2 Phase V located at 5645 Green Circle Drive. We have heard the explanations from Opus Corporation and watched the Planning Commission review. We are aware that in this day and age large corporations usually get their way. If you approve this expansion it will be without our consent.

Sincerely,

James L. Cardinal

5645 Green Circle Drive No 312
Minnetonka, MN 55343

Note: Two additional copies of this letter and the petition are included for distribution.

COPY

7. 5. 07

Petition
July 2007

The undersigned residents of Opus 2 Phase V Condominiums located at 5645 Green Circle Drive Minnetonka, MN hereby petition the City Council of the City of Minnetonka to deny Opus Corporation permission to redirect the roadway known as Green Circle Drive. Opus' request is clearly for their own convenience and would adversely impact the hundreds of Opus II Condominium residents as follows:

Expansion of this company to 1000 employees and some 950 automobiles would put an unacceptable increase in the daily traffic on this residential roadway impacting safety and noise levels to the detriment of the residents.

The intersection of the proposed roadway with the existing Green Circle Drive would create a dangerous situation due to merging traffic.

The encroachment of two additional large office buildings and huge parking lots in an area supposedly reserved for residential use would further spoil the character of the area.

The original Opus development plan was to include a residential area to compliment the campus style business setting. As we have seen in recent years and still witness today Opus has designs on building much larger office structures effectively encroaching on the minimal portion set aside for residential living. We find this unacceptable.

<u>Maria Van Cardui #312</u>	<u>Mary Ann 207</u>
<u>[Signature] #204</u>	<u>Marie A Grenson 213</u>
<u>[Signature] #204</u>	<u>Shelli Museel 109</u>
<u>Neil Cooper #104</u>	<u>Bill + Kim Crouch 209</u>
<u>Carol Wade #206</u>	<u>Cindy Oksa #307</u>
<u>Iris Cooper 214</u>	<u>[Signature] #211</u>
<u>Jack Cooper (48)</u>	<u>MRS Robert V. Thoberg #105</u>
<u>Levone M. Carlstrom #101</u>	<u>Glady's Jeff #309</u>

Bill Graham #115

Al Bein #313

Rodney E. Kublak #110

~~Jason Weber #103~~

Jerry Eckel #100

Joan Kongson

~~XXXXXXXXXXXXXXXXXXXX~~

Gregory Bill

Edward Kesler #303

Ray Thomas #315

Eliz. Sandberg 310

Robert Bloom #112

Elizabeth Snyder #306

James Moody #308