



# Amended Draft Section 4(f) Evaluation

January 2016  
Southwest LRT Project



# **Amended Draft Section 4(f) Evaluation**

## **Southwest LRT Project**

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# 1 Introduction

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The Southwest Light Rail Transit Project (Project) Amended Draft Section 4(f) Evaluation provides additional information on the Project's Section 4(f) properties and determinations since publication of the Project's Draft Section 4(f) Evaluation Update. The Draft Section 4(f) Evaluation Update was published in May 2015 within the Southwest LRT Project Supplemental Draft Environmental Impact Statement (EIS) (see Section 3.5 of the Supplemental Draft EIS)<sup>1</sup>. In particular, this Amended Draft Section 4(f) Evaluation provides preliminary Section 4(f) *de minimis* impact determinations for two newly identified Section 4(f) properties in Minnetonka, Minnesota (i.e., Unnamed Open Space B and the Opus development area trail network); the Federal Transit Administration (FTA) is only seeking comment on these two newly identified preliminary determinations (see contact information below).

Table 1-1 describes the preliminary determination of the Section 4(f) properties affected by the Project, including the two new preliminary Section 4(f) *de minimis* impact determinations.

With this Amended Draft Section 4(f) Evaluation, FTA and the Metropolitan Council (Council) invite public and agency review and comment on the preliminary Section 4(f) *de minimis* impact determinations for Unnamed Open Space B and the Opus development area trail network. Comments received concerning those preliminary Section 4(f) *de minimis* impact determinations will be considered by FTA, the Council, and the City of Minnetonka prior to making a final Section 4(f) *de minimis* impact determinations for those properties.

Comments on this Amended Draft Section 4(f) Evaluation will be accepted between January 11, 2016, and February 25, 2016. Requests for additional information and comments on the Amended Draft Section 4(f) Evaluation should be directed to:

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OR

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<sup>1</sup> Prior to the Draft Section 4(f) Evaluation Update, FTA issued the Project's Draft Section 4(f) Evaluation within the Project's Draft EIS (see Chapter 7 of the Draft EIS), which was published in October 2012.

TABLE 1-1  
Current Status of FTA's Section 4(f) Property Use Determinations<sup>a</sup>

Section 4(f) Property	Property Type	Official with Jurisdiction	Non- <i>de minimis</i> Use	<i>De minimis</i> Impact	Temporary Occupancy: No Use	Determination Status
Purgatory Creek Park	Park	City of Eden Prairie			•	Preliminary
Unnamed Open Space B	Park	City of Minnetonka		•		Preliminary
Opus Development Area Trail Network	Park	City of Minnetonka		•		Preliminary
Minikahda Club	Historic	MnSHPO			•	Preliminary
Cedar Lake Parkway/Grand Rounds Historic District <sup>b</sup>	Historic	MnSHPO			•	Preliminary
Kenilworth Lagoon/Grand Rounds Historic District <sup>c</sup>	Historic	MnSHPO	•			Preliminary
Kenilworth Channel/Lagoon (as an element of the Minneapolis Chain of Lakes Regional Park)	Park	MPRB		•		Preliminary
Cedar Lake Park	Park	MPRB			•	Preliminary
Bryn Mawr Meadows Park	Park	MPRB		•		Preliminary
St. Paul, Minneapolis & Manitoba Railroad Historic District	Historic	MnSHPO		•		Preliminary

<sup>a</sup> See Section 3 for definitions of the potential types of Section 4(f) uses.

<sup>b</sup> Cedar Lake Parkway is a contributing element of Grand Rounds Historic District. FTA has made a Section 106 determination of no adverse effect to Cedar Lake Parkway.

<sup>c</sup> Kenilworth Lagoon is a contributing element of Grand Rounds Historic District. FTA has made a Section 106 determination of adverse effect to Kenilworth Lagoon historic property and Grand Rounds Historic District.

Note: MnSPHO = Minnesota State Historic Preservation Office; MPRB = Minneapolis Park and Recreation Board.

This Amended Draft Section 4(f) Evaluation includes the following sections:

- 1 Introduction
- 2 Amended Draft Section 4(f) Evaluation Summary
- 3 Regulatory Background/Methodology
- 4 Purpose and Need
- 5 Description of the Project
- 6 Use of Section 4(f) Properties in the Project Study Area
- 7 Coordination
- 8 Determination of Section 4(f) Use

Appendix A provides the Southwest LRT Project Preliminary Engineering Plans used for this Amended Draft Section 4(f) Evaluation and Appendix B provides additional supporting documentation for this Amended Draft Section 4(f) Evaluation.

## 2 Amended Draft Section 4(f) Evaluation Summary

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FTA is issuing a preliminary determination with this Amended Draft Section 4(f) Evaluation that there will be a Section 4(f) *de minimis impact* at two park properties in Minnetonka, Minnesota (Unnamed Open Space B and the Opus development area trail network). The rationale for the preliminary determinations is documented in Section 6 and supporting documentation is provided in Appendix B.

In general, this Amended Draft Section 4(f) Evaluation is based on Southwest LRT preliminary engineering plans and design work (see Appendix A). The engineering plans provide design details throughout the corridor, including station designs, site-specific and typical cross sections, and various other design details.

Text and exhibits within Section 6 of this Amended Draft Section 4(f) Evaluation provide detail on proposed Project improvements and construction activities for Section 4(f) properties noted above that would be used by the Project. The exhibits supplement the preliminary engineering plans by providing additional detail and/or reflecting additional design adjustments.

## 3 Regulatory Background/Methodology

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Section 4(f) of the United States Department of Transportation (USDOT) Act of 1966, 49 United States Code (U.S.C.) 303(c) is a federal law that protects publicly owned parks, recreation areas, wildlife and/or waterfowl refuges, as well as significant historic sites, whether publicly or privately owned. Section 4(f) requirements apply to all transportation projects that require funding or other approvals by the USDOT. As a USDOT agency, FTA must comply with Section 4(f). FTA's Section 4(f) regulations are at 23 Code of Federal Regulations (CFR) Part 774.

This documentation has been prepared in accordance with legislation established under the United States Department of Transportation Act of 1966 (49 U.S.C. 303; 23 U.S.C. 138, hereafter referred to as "Section 4(f)) and the joint Federal Highway Administration (FHWA)/ FTA regulations for Section 4(f) compliance codified as Title 23 CFR 774. Additional guidance was obtained from *FHWA Technical Advisory T6640.8A* (FHWA, 1987) and the revised *FHWA Section 4(f) Policy Paper* (FHWA, 2012).

Section 6009(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) amended Section 4(f) legislation at 23 United States Code (USC) 138 and 49 USC 303 to simplify the processing and approval of projects that have *de minimis* impacts on lands protected by Section 4(f). This revision provides that once the USDOT determines that a transportation use of Section 4(f) property, after consideration of any impact avoidance, minimization, and mitigation or enhancement measures, results in a *de minimis* impact on that property, an analysis of avoidance alternatives is not required and the Section 4(f) evaluation process is complete. The FTA's final rule on Section 4(f) *de minimis* findings is codified in 23 CFR 774.3 and CFR 774.17.

The same methods utilized in the Draft 4(f) Evaluation and Draft Section 4(f) Evaluation Update to identify potential Section 4(f) resources within 350 feet of the proposed light rail alignment and to assess the potential use of those resources have been utilized for this Amended Draft Section 4(f) Evaluation (this 350-foot buffer area is referred to herein as the study area). Three hundred fifty feet is the unobstructed screening distance utilized for FTA noise impact assessments. This unobstructed screening distance allows for identification of potential constructive uses of Section 4(f) resources. Maps, aerial photography, and local comprehensive plans were reviewed to determine the location of parks and recreational lands.

### 3.1 Types of Section 4(f) Properties

Section 4(f) requires consideration of:

- Parks and recreational areas of national, state, or local significance that are both publicly owned and open to the public
- Publicly owned wildlife and waterfowl refuges of national, state, or local significance that are open to the public to the extent that public access does not interfere with the primary purpose of the refuge
- Historic sites of national, state, or local significance in public or private ownership regardless of whether they are open to the public that are listed in, or eligible for, the National Register of Historic Places (NRHP)

The two properties that are the subject of this Amended Draft Section 4(f) Evaluation are considered under the definition of parks and recreational areas above.

### 3.2 Section 4(f) De Minimis Impact Determinations

*De minimis* impacts are defined as those that do not "adversely affect the activities, features, and attributes" of the Section 4(f) property. To distinguish the activities, features, or attributes of a Section 4(f) park property that are important to protect from those which can be used without resulting in an adverse effect, the FTA carefully considered the activities, features and attributes of the properties noted in this analysis.

In order for a *de minimis impact* determination to be approved for a Section 4(f) park property, the following conditions must be met:

1. The transportation use of the Section 4(f) property, together with any impact avoidance, minimization, and mitigation or enhancement measures incorporated into the project, does not adversely affect the activities, features, or attributes that qualify the resource for protection under Section 4(f);
2. The public has been afforded an opportunity to review and comment on the effects of the project on the protected activities, features, or attributes of the Section 4(f) property; and
3. The official(s) with jurisdiction over the property, after being informed of the public comments and FHWA's intent to make the *de minimis* impact finding, concur in writing that the project will not adversely affect the activities, features, or attributes that qualify the property for protection under Section 4(f).

A *de minimis* impact determination is made for a permanent incorporation or temporary occupancy (i.e., construction) of Section 4(f) property. A *de minimis* impact determination requires agency coordination and public involvement as specified in 23 CFR 774.5(b). For park properties and recreation areas, the official(s) with jurisdiction over the property must be informed of the intent to make a *de minimis* impact determination, after which an opportunity for public review and comment must be provided. After considering any comments received from the public, if the official(s) with jurisdiction concurs in writing that the project will not adversely affect the activities, features, or attributes that make the property eligible for Section 4(f) protection, then FTA may finalize the *de minimis* impact determination. The public notice and opportunity for comment, as well as the concurrence for a *de minimis* impact determination, may be combined with similar actions undertaken as part of the environmental review process. FTA makes the final determination in a project's final EIS or Record of Decision.



## 4 Purpose and Need

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The Southwest LRT Project's Purpose and Need is included in Chapter 1 of the Supplemental Draft EIS. It is included in this section as reference for the Amended Draft Section 4(f) Evaluation.

### 4.1 Project Purpose

The purposes of enhancing transit service in the Southwest LRT Project Corridor are summarized below:

- The Southwest LRT Project will improve access and mobility to the jobs and activity centers in the Minneapolis central business district, as well as along the entire length of the corridor for reverse-commute trips to the expanding suburban employment centers.
- The Southwest LRT Project will provide a competitive, cost-effective travel option that will attract choice riders to the transit system. The competitive and reliable travel time for the Southwest LRT Project is attributed to the diagonal nature of the line compared to the north-south/east-west orientation of the roadway network and to the increasing levels of congestion of the roadway network.
- The Southwest LRT Project will be part of the region's system of transitways, integrated to support regional transportation efficiency. Since the late 1990s, the Southwest LRT Project has been identified by the Council as warranting a high level of transit investment to respond to increasing travel demand in a highly congested area of the region. Due to congestion levels on the roadway network, speed and use limitations of the shoulder bus operations, and capacity constraints in downtown Minneapolis, a bus option is limited in its ability to adequately serve the travel demand and to provide reliable travel times.

### 4.2 Project Need

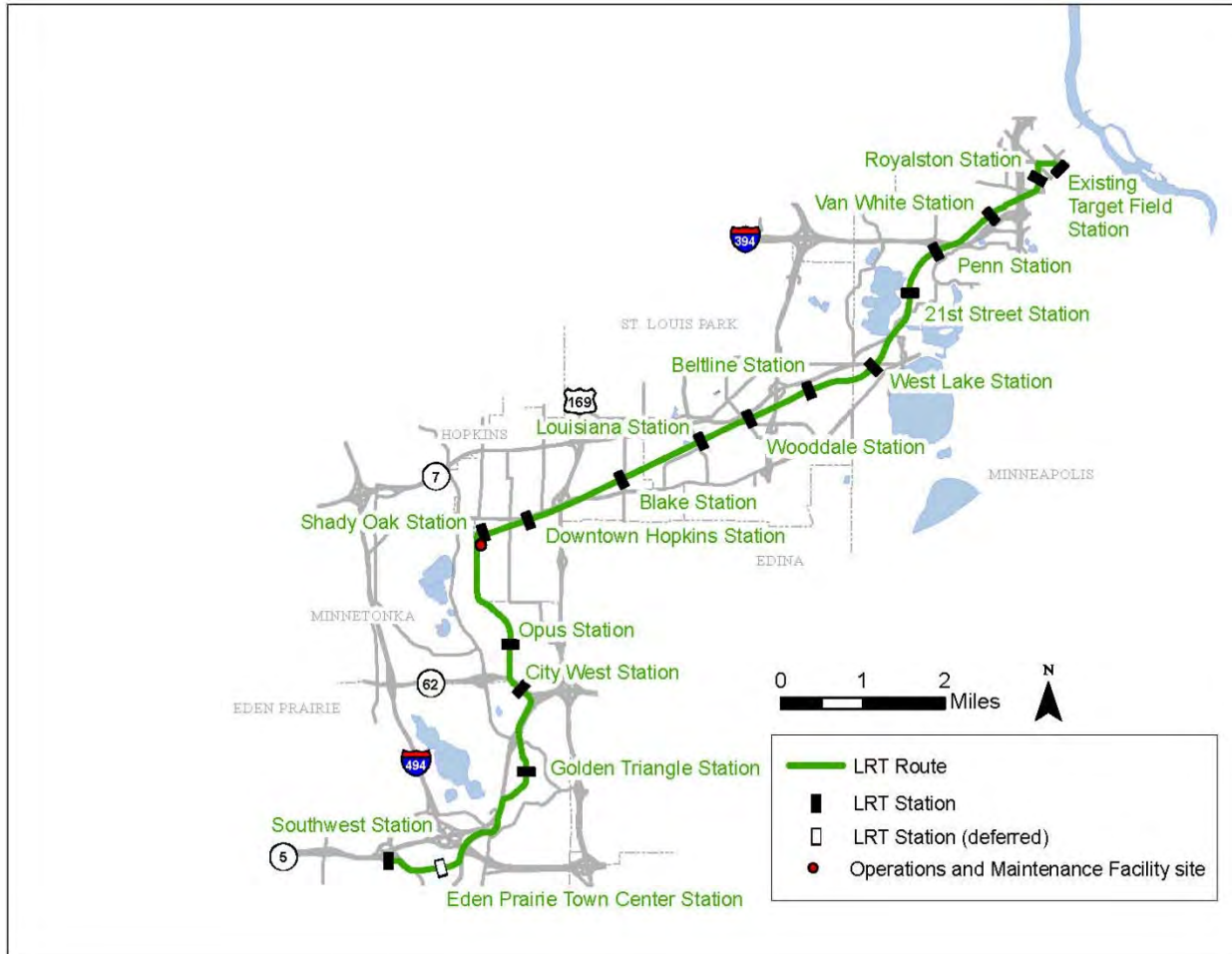
The transportation issues facing the Southwest LRT Project Corridor illustrate the need for improved mobility, accessibility, and system linkages to key activity centers (Eden Prairie, Minnetonka, Hopkins, St. Louis Park, and downtown Minneapolis) through high-capacity transit service. The Southwest LRT Project is one of several transit corridors identified in the Council's 2040 Transportation Policy Plan as being in need of enhanced transit service. The Southwest LRT Project Corridor continues to experience increases in population and employment with limited additional traffic capacity on existing streets and highways, resulting in increased travel time, delays, and air pollution. Portions of the Southwest LRT Project Corridor are already densely developed. New development and redevelopment in areas of the corridor are expected to generate increases in travel demand.

Four primary need factors make the Southwest LRT Project important for people who live and work in the southwest metropolitan area: (1) declining mobility; (2) limited competitive, reliable transit options for choice riders and people who rely on public transportation, including reverse-commute riders; (3) need to maintain a balanced and economically competitive multimodal freight system; and (4) regional/local plans calling for investment in additional light rail transit projects in the region.

## 5 Description of the Project

The proposed Project<sup>2</sup> is an approximately 14.5-mile proposed extension of the METRO Green Line (Central Corridor LRT) which will operate from downtown Minneapolis through the communities of St. Louis Park, Hopkins, Minnetonka, and Eden Prairie, passing in close proximity to Edina (see Exhibit 5-1).<sup>3</sup>

EXHIBIT 5-1  
Proposed Southwest LRT Alignment



The proposed light rail alignment includes 16 new stations (including Eden Prairie Town Center Station that is deferred for construction at a later date), approximately 2,500 additional park-and-ride spaces, and

<sup>2</sup> Within this Amended Draft Section 4(f) Evaluation, the Project is defined as the Locally Preferred Alternative (LPA) and Locally Requested Capital Investments (LRCIs). See the Southwest LRT Project Supplemental Draft EIS for a description of the LPA and LRCIs.

<sup>3</sup> The Project is included within LRT 3A and LRT 3A-1 of the Draft EIS, with the difference between these two alternatives being the “relocation” or “co-location” of TC&W trains currently operating in the Bass Lake Spur and Kenilworth Corridor. In April and July 2014, based on the design adjustment process, technical analysis, and agency and public involvement process that was addressed in the Supplemental Draft EIS, the Council identified adjustments to the Project based on the following: the transit elements included in LRT 3A and LRT 3A-1 as described in the Draft EIS and adjusted as described in the Supplemental Draft EIS; the freight rail modifications of LRT 3A-1 (i.e., retention of freight rail service in the Kenilworth Corridor, termed “co-location” in the Draft EIS, with freight rail modifications described in the Supplemental Draft EIS). Also, in July 2015, the Council made additional design adjustments.

accommodations for passenger drop-off (kiss-and-ride), bicycle and pedestrian access, as well as new or restructured local bus routes connecting stations to nearby residential, commercial, and educational destinations. Major activity centers from Eden Prairie to St. Paul, including UnitedHealth Group campuses, the Opus and Golden Triangle employment area, Park Nicollet Methodist Hospital, the Minneapolis Chain of Lakes, downtown Minneapolis and St. Paul, the University of Minnesota, and the State Capitol area, will be accessible by a one-seat ride. Passengers will be able to connect to the greater METRO system, including METRO Blue Line (Hiawatha LRT), METRO Orange Line (I-35W BRT), Northstar Commuter Rail, METRO Red Line (Cedar Ave BRT) via Blue Line, and the planned METRO Blue Line Extension (Bottineau LRT) as well as future commuter rail, planned Arterial Bus Rapid Transit lines connecting at multiple locations on the METRO system.

The double-tracked light rail alignment will be primarily at-grade, with some sections of below- and above-grade alignment and a mix of at-grade and grade-separated roadway crossings. As previously noted, the proposed Project will be an extension of the METRO Green Line (Central Corridor LRT). When completed, the two light rail alignment swill provide a one-seat ride (with no transfer) between the two corridors.

The Project's base-year cost (in 2016 dollars without contingency) will be approximately \$1.71 billion, and total cost to fund the Project will be approximately \$1.79 billion (in year-of-expenditure dollars).

## 6 Newly Identified Section 4(f) Properties in Minnetonka

This section addresses the newly identified Section 4(f) properties within the City of Minnetonka, Minnesota. Table 6-1 lists the resource name, location, and jurisdictional owner. Exhibit 6-1 shows the location of the two park properties within the context of the larger Project and within the area of the Project’s alignment in Minnetonka.

TABLE 6-1  
Section 4(f) Properties Evaluated in this Amended Draft Section 4(f) Evaluation

Property Name	Property Type	Location	Official with Jurisdiction	Section 4(f) Qualifying Description <sup>a</sup>
Unnamed Open Space B	Park	Located generally south of Smetana Rd, west of Green Circle Dr, North of Bren Rd W, east of Claremont Apartments	City of Minnetonka	49.0 acre open space
Opus Development Area Trail Network	Park	Located generally between Smetana Road to the north, Hwy 169 to the east, Hwy 62 to the South and Shady Oak Road to the west	City of Minnetonka	9.6 acre recreational trails

<sup>a</sup> All listed parks are publicly owned, publicly accessible and of local significance.

Table 6-2 summarizes FTA’s Section 4(f) use determinations for each of the Section 4(f) park and recreation properties within the Project’s study area. Table 6-2 also includes how many acres, if any, of the property will be incorporated under the Project (compared to the property’s acreage). Park and recreation properties are generally listed from south-to-north in the Project study area.

TABLE 6-2  
Summary of Permanent Section 4(f) Park and Recreational Property Uses

Section 4(f) Property	Non- <i>de minimis</i> Use	<i>De minimis</i> Impact	No Use	Existing Property Acreage	Acres Permanently Used	% of Property Used
Unnamed Open Space B		•		49.0	1.0	2.0%
Opus Development Area Trail Network		•		9.6	0.0	0.0% <sup>a</sup>

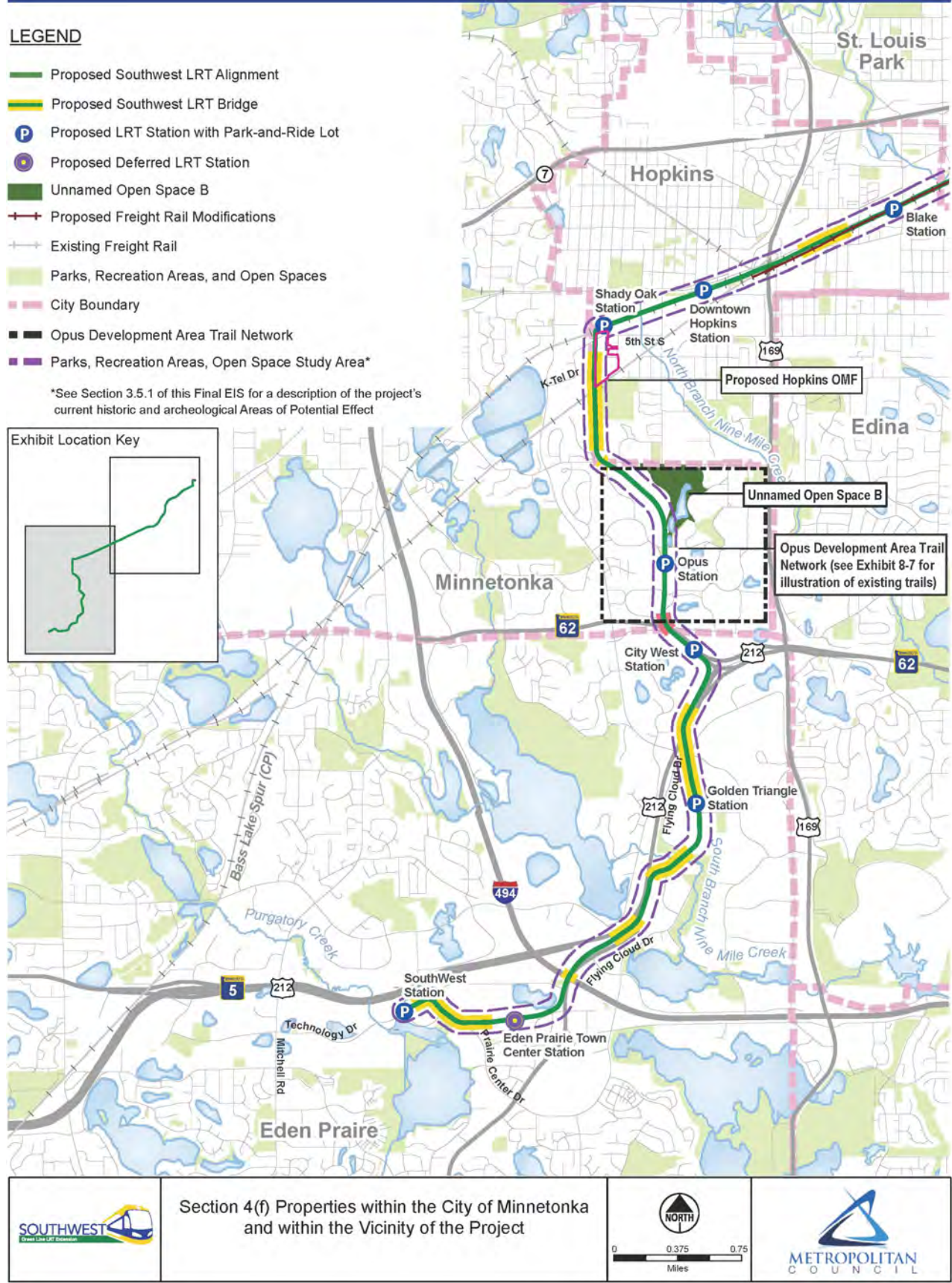
<sup>a</sup> Approximately 1.5 acres of the Opus development area trail network will be removed due to the Project and it will be replaced with approximately 1.8 acres of new trails with the same connections and functions, for a net increase of 0.3 acres of additional trail area within the Opus development area trail network.

The following property in the City of Minnetonka is not considered a Section 4(f) park/recreation property:

- **Unnamed Open Space A.** Composed of one generally naturally vegetated parcel (approximately 3.0 acres), Unnamed Open Space A is located immediately east of Bren Road E. This parcel’s official plan designation in the City Minnetonka 2030 Comprehensive Plan (Figure IV-15) is “Mixed Use” (and not “Parks” or “Open Space”)<sup>4</sup>. A paved trail, which is part of the Opus development area trail network, (see Section 6.1.2) crosses the parcel in an east-west manner at a point approximately 830 feet north of the intersection of Bren Road East and Red Circle Drive. Based on deed/title information on this property there are no park/recreation-related easements or other park/recreational legal agreements attached to this property. Further, there is no deed covenant restricting the future use of this parcel to “parkland” or “open space.” Therefore, FTA does not consider Unnamed Open Space A to be a Section 4(f) property.

<sup>4</sup> Figure IV-1 – Existing Land Use in the City of Minnetonka’s 2030 Comprehensive Plan shows that the existing use of this parcel as “Open Space.” The Comprehensive Plan notes that the Existing Land Use map (and corresponding table showing gross acreage of existing use by land use category) is provided as “a ‘benchmark’ for the development of previous and future land use planning activities, and for the analysis of impacts on city services and facilities” (City of Minnetonka; page IV-4).

EXHIBIT 6-1  
Section 4(f) Properties in Minnetonka and within the vicinity of the Proposed Project



Following is a description of the two Section 4(f) park and recreation properties within the Project's park and recreation study area within the City of Minnetonka (generally from south to north), including:

- A description of the Section 4(f) property
- A Section 4(f) *de minimis* impact determination

## 6.1 Unnamed Open Space B – Preliminary *De Minimis* Impact Determination

### A. Section 4(f) Property Description

Unnamed Open Space B (also known as Outlot A) is an approximately 49-acre open space located in Minnetonka, located generally south of Smetana Road, west of Green Circle Drive, North of Bren Road West, and east of Claremont Apartments (see Exhibit 6-2). Unnamed Open Space B is owned and operated by the City of Minnetonka. The open space is generally located between Bren Road West on the south, Smetana Road on the north, Green Circle Drive on the east, and private residential and commercial properties on the west. This parcel is designated as "Open Space" in the City of Minnetonka 2030 Comprehensive Plan (Figure IV-5) versus Open Space A, which is designated as "mixed use." The City's Plan notes that the purpose of "open spaces" is to preserve as many of the natural features of the land as possible.<sup>5</sup>

Unnamed Open Space B is predominantly naturally vegetated (e.g., wooded, riparian, and wetland features), with some areas of landscaping and pavement (i.e., roadway and trail segments that cross the property). The primary recreation features and attributes of Unnamed Open Space B are: 1) the naturally vegetated areas of the property that make up the majority of the recreation area; and 2) segments of the Opus development area trail network, which is also a Section 4(f) property (see Section 6.2).

The natural areas of Unnamed Open Space B are predominantly made up of the following: an established and functioning wetland in the northern portion of the property; a meandering minor waterway connecting to the wetland; and areas of natural woods, meadow, and brush. These natural areas of the property attract an array of wildlife, which are also attracted to and move about and between other natural areas that are located on nearby private properties within the Opus development area. The recreational activities within Unnamed Open Space B that are related to those natural features include bird watching, wildlife viewing, native plant observation and identification, nature photography, picnicking, work breaks (from adjacent offices), solitude and contemplation, off-trail walking/hiking, and cross country skiing (weather permitting). Within Unnamed Open Space B there are a few park benches located adjacent to the trail segments that traverse the open space.

Additional recreation activities that occur within Open Space B are those that occur on the segments of the Opus development area trail network that pass through the property. Those recreation activities include walking, running, bicycling, nature and wildlife observation, cross country skiing, and other similar activities. The trail network is the primary way in which recreational users of Unnamed Open Space B access the property.

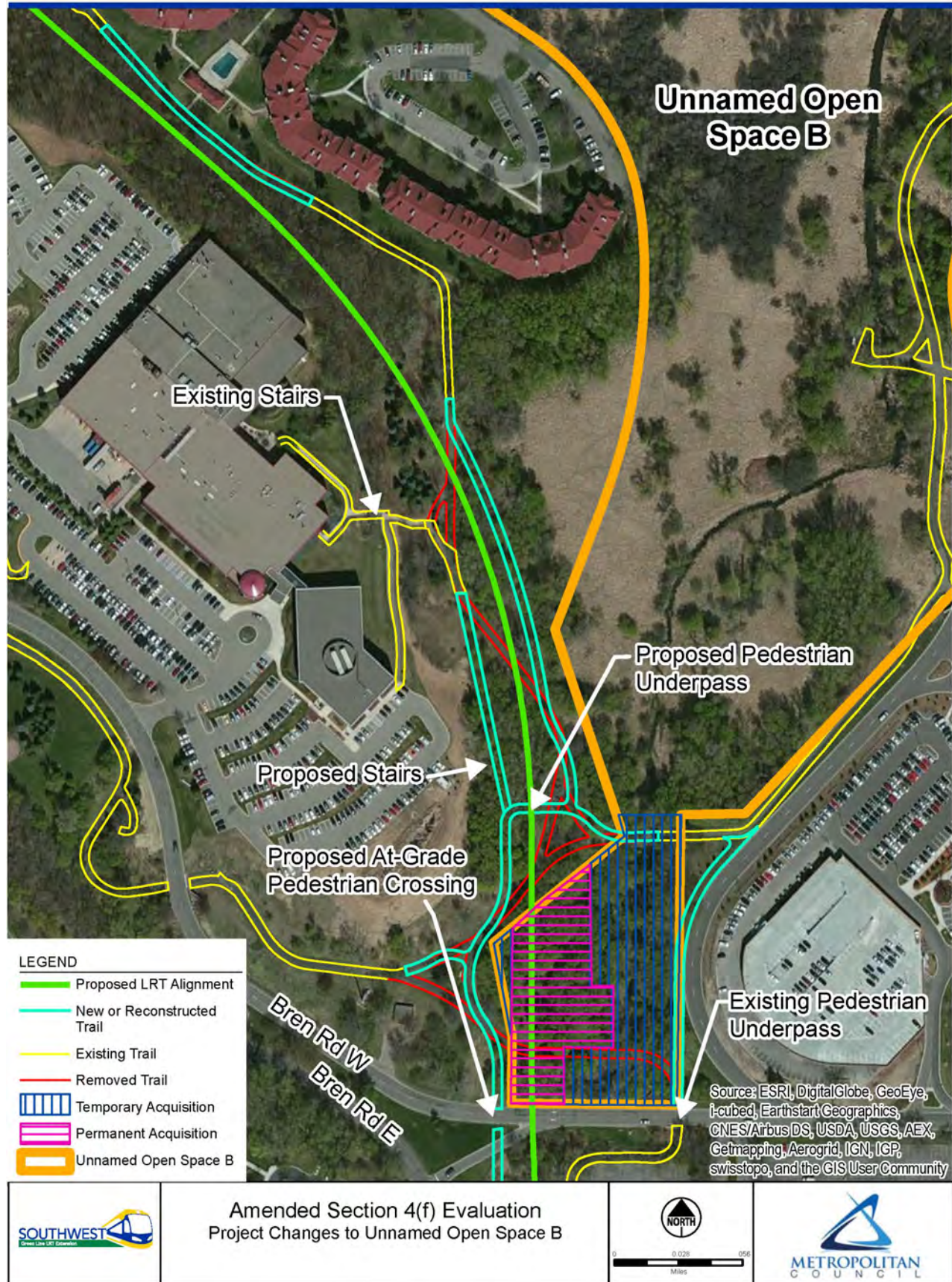
As Unnamed Open Space B is a publicly owned, publicly accessible recreation area of local significance, FTA considers Unnamed Open Space B to be a Section 4(f)-protected property. Consultation between City of Minnetonka and Project staff on design issues related to Open Space B has occurred throughout the design refinement process that occurred after publication of the Draft EIS. In addition, Project staff held a meeting with City staff on January 5, 2016,<sup>6</sup> which focused on recreation areas owned and operated by the City of

<sup>5</sup> There is a covenant restricting the future use of this parcel to "parkland" or "open space" (see Deed Document No. 1260164). The covenant restriction will be addressed through the Council's and MnDOT's property acquisition process by implementing a real property condemnation process for the portion of Open Space B that will be permanently acquired for the Project. Open Space B also includes an easement for right-of-way across the northwest portion of the property, which includes an existing paved roadway by the Claremont Apartments to access Smetana Road. Other easements affecting the property include those for flowage rights of the City of Hopkins, drainage, and utilities.

<sup>6</sup> See Section 7 for a more detailed description of the FTA's and the Council's Section 4(f) consultation process and activities.

EXHIBIT 6-2

Amended Draft Section 4(f) Evaluation – Project Changes to Unnamed Open Space B



Amended Section 4(f) Evaluation  
Project Changes to Unnamed Open Space B



Minnetonka, the Section 4(f) process and documentation, and FTA's preliminary Section 4(f) determinations for the two City recreation areas addressed in this document.

## **B. Determination of Permanent Section 4(f) Use**

As illustrated in Exhibit 6-2, the Project will result in a variety of permanent and short-term (construction-related) changes to Unnamed Open Space B, described as follows.

The Council will permanently acquire from the City of Minnetonka an approximately 1.0 acre portion of Unnamed Open Space B (approximately 2 percent), as illustrated on Exhibit 6-2). The acquired property will be incorporated into the Project for transportation purposes. In particular, the acquired portion of Unnamed Open Space B will be used by the Project for the following:

- A short section of the proposed light rail alignment, including a double crossover and grading required to accommodate the light rail alignment;
- A traction power substation and a double-crossover bungalow, and
- An access driveway between the substation/bungalow and Bren Road West.

Most of the natural areas of Unnamed Open Space B, which are predominantly located in the northern portion of the property, will not be directly affected by the Project. Those areas, such as the wetland, will not be altered by the Project, either permanently or temporarily. In addition, the proposed light rail alignment will generally be screened from view from those natural areas due to retained trees and existing residential buildings located between the proposed alignment and those natural areas.

The portion of the property that will be acquired by the Project includes some natural vegetation; however, that area is generally isolated from the larger natural areas located in the northern portion of the property. Further, the area that will be acquired by the Project has somewhat different attributes than the northern natural areas, in that it is directly bordered on three sides – by large commercial development immediately to the east and west and by an arterial roadway (Bren Road West) to the south. Additionally, some of the area to be acquired for the Project is currently landscaped, rather than naturally vegetated. Finally, over half the southern portion of the property will not be acquired for the Project and will be retained in City ownership; this remaining area of the southern portion of Unnamed Open Space B will provide a vegetative buffer between a new trail segment on the southwest edge of the property and commercial development located to the west.

Project construction activities will be confined to the southern portion of Unnamed Open Space B. Those construction activities will predominantly occur within the area of Unnamed Open Space B that will be permanently acquired for the Project. Those construction activities will include clearing, grubbing, and grading, construction of the light rail alignment, new trail sections, the new traction power substation and signal bungalow, and revegetation of the site.

Some construction activities will also occur within the approximately 1.6 acres of Unnamed Open Space B located outside and immediately to the east of the area of the property to be permanently acquired for the Project. In general, those construction activities will be related to regrading that will be required to match the grading within the area to be permanently acquired, as well as the removal and replacement of trail segments. Those construction activities may also include the construction and removal of potential temporary trail connections.

Construction activities within Unnamed Open Space B will be closely coordinated with the City of Minnetonka to help avoid and minimize effects on recreational activities within the open space. The Council will also provide the City of Minnetonka and the public with ongoing notification of construction activities within the open space, such as the timing and location of heavy construction activities and trail detours. All areas of the remaining Unnamed Open Space B property that will be affected by Project construction activities will be restored to existing conditions or better and restoration plans will be developed and implemented in consultation with the City of Minnetonka.



Relative to the segments of the Opus development area trail network that traverse portions of Unnamed Open Space B, portions of the existing at-grade trail will be relocated to accommodate construction of the light rail alignment and other facilities. New sections of trail will be located within the remaining adjacent portion of Unnamed Open Space B, as illustrated on Exhibit 6-2. The realignment of the trails within the open space will ultimately be determined through continued consultation between FTA, the Council, and the City of Minnetonka, which will work to avoid, minimize, and mitigate impacts to the open space's Section 4(f)-qualifying activities, features, and attributes. As noted in Section 6.2, existing trail connections for portions of the Opus development area trail network that are within Unnamed Open Space B will be maintained in the long-term under the Project. Except for the potential for short-term trail closures to ensure trail user safety, all existing trail connections will be maintained during construction of the new trail alignment. During those short-term temporary trail closures, trail users will be provided with detour routes and information. Temporary trails may be constructed to allow for the removal of existing trail segments and construction of new trail segments.

FTA, the City of Minnetonka, and the Council have made efforts to help avoid, minimize, and mitigate impacts to Unnamed Open Space B, including participation in a Section 4(f) coordination meeting in January 2016. See Appendix B for the notes and materials from that meeting. In particular, the Project minimized the amount of area of the property needed to be acquired for transportation purposes and designed the modified trail network to ensure continued connections and minimal trail modifications. Further, the recreation activities that currently occur within the area unaffected by the Project in Unnamed Open Space B will be maintained both during and after construction of the Project.

### **C. Preliminary Section 4(f) Use Determination**

Based on the design and analysis as described in this section, and consistent with the requirements of 23 CFR 774.5(b), FTA has preliminarily determined, in coordination with the City of Minnetonka, that Project actions will not adversely affect the features, attributes, or activities that qualify Unnamed Open Space B for Section 4(f) protection. As such, FTA has concluded that Project actions will result in a Section 4(f) *de minimis* impact at Unnamed Open Space B, consistent with 23 CFR 774.17.

FTA, the Council, and the City of Minnetonka will consider all comments received during the public comment period for this Amended Draft Section 4(f) Evaluation that address this preliminary Section 4(f) *de minimis* impact determination for Unnamed Open Space B. Following the close of the public comment period on this Amended Draft Section 4(f) Evaluation and after consideration of the comments, FTA will request written concurrence from the City of Minnetonka prior to making a final *de minimis* use determination for this property. FTA intends to make the final *de minimis* impact determination for Unnamed Open Space B in the Project's Final EIS/Final Section 4(f) Evaluation.

## **6.2 Opus Development Area Trail Network – Preliminary De Minimis Impact Determination**

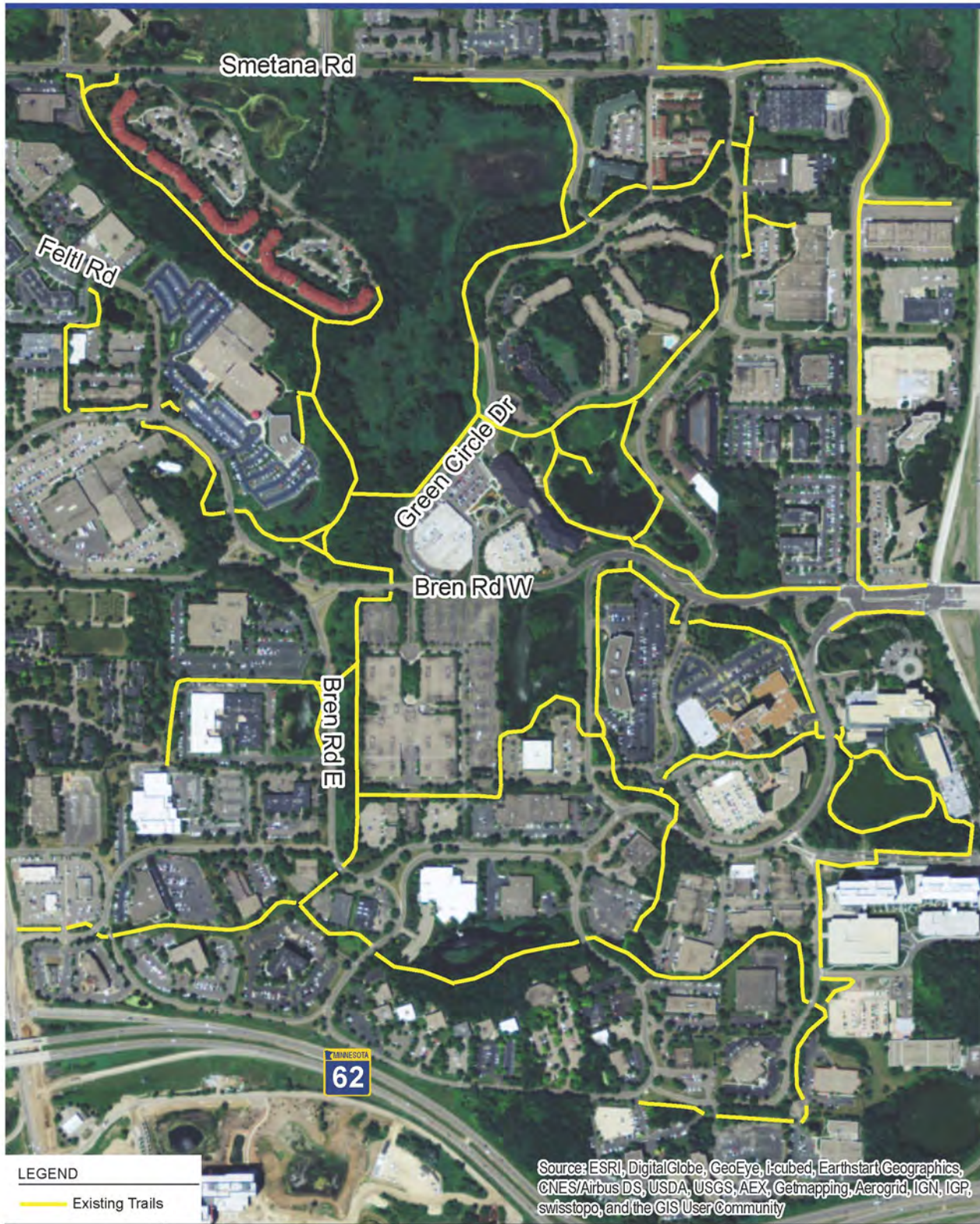
### **A. Section 4(f) Property Description**

The Opus development<sup>7</sup> trail network is an approximately eight-mile (approximately 42,000 feet) length of trail corridor that generally serves the mixed-use Opus development area in Minnetonka, Minnesota (see Exhibit 6-3). In general, the Opus development trail network is owned and maintained by the City of Minnetonka. Portions of the trail network are on land owned fee simple by the City of Minnetonka (e.g., within Unnamed Open Space B); portions of the trail network are on land owned fee simple by a private entity or individual within an easement owned by the City of Minnetonka (e.g., south of the Claremont Apartments); and portions of the trail network are located on land owned fee simple by a private entity or individual.

<sup>7</sup> Which is formally known as Opus 2 Business Park.

EXHIBIT 6-3

Amended Draft Section 4(f) Evaluation – Opus Development Area Trail Network



	<p>Amended Section 4(f) Evaluation Opus Development Area Trail Network</p>		
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The Opus development area trail network is generally located between Smetana Road to the north, Highway 169 to the east, Highway 62 to the south and Shady Oak Road to the west. The Opus development trail network was originally designed and constructed as an element of the Opus mixed use development, which includes office, retail, residential, institutional, recreation, and other uses. Overall, trails within the City of Minnetonka, including the Opus development area trail network, are designated as both a recreation and a transportation facility in the City Minnetonka 2030 Comprehensive Plan (Chapter VII – Parks, Open Space and Trail Plan; Figure VII-2 – Existing Trail System within the Comprehensive Plan; Chapter 8 – Transportation Plan).

The Opus development area trail network is a collection of trails that are generally paved with asphalt, with short sections of concrete pavement. Most of the trail network is at-grade, with some short sections of trails crossing under local roads. Maintaining and improving the road/trail grade separations are a priority of the City of Minnetonka. The primary recreation facilities within the Opus development area trail network are the trails themselves. There are scattered benches, picnic tables, directional signs, and the like that are located adjacent to the trail network and are utilized by trail users. Segments of the Opus development area trail network cross through and are included within Unnamed Open Space B, which is a Section 4(f) property (see Section 6.1 for additional information on Unnamed Open Space B). The primary recreation activities that occur within the Opus development area trail network occur on the trails. Those recreation activities include walking, running, bicycling, nature and wildlife observation, cross-country skiing (conditions allowing), and other similar activities. There are also ancillary passive and active recreation activities occurring on other public and private recreation areas or open spaces that connect to the trail network, for example, where trail users stop to observe or use a recreation area or open space. Transportation activities also occur within the trail network, providing pedestrians and bicyclists with connections between residential, commercial retail, and other uses within and outside of the Opus development area. Much of the trail network is plowed of snow during the winter.

As the Opus development area trail network is a publicly owned, publicly accessible recreation area of local significance, FTA considers the Opus development area trail network to be a Section 4(f)-protected property. Consultation between the City of Minnetonka and Project staff on design issues related to the Opus development area trail network has occurred throughout the design refinement process that occurred after publication of the Draft EIS. In addition, Project staff held a meeting with City staff on January 5, 2016,<sup>8</sup> which focused on recreation areas owned and operated by the City of Minnetonka, the Section 4(f) process and documentation, and FTA's preliminary Section 4(f) determinations for the recreation areas.

## **B. Determination of Permanent Section 4(f) Use**

As illustrated on Exhibits 6-4 and 6-5, the Project will result in a variety of permanent and short-term (construction-related) changes to the Opus development area trail network, described as follows.

The Council will permanently alter relatively short sections of the Opus development area trail network to accommodate the introduction of the light rail alignment, station, and related improvements (as illustrated on Exhibits 6-4 and 6-5). In general, alterations to the trail network by the Project will include removal of relatively short sections of paved trail to be replaced with new paved trail sections in different locations, resulting in a net increase in the size of the trail network. In summary, approximately 1.5 acres of existing trail will be removed and replaced with approximately 1.8 acres of new trail, resulting in a net increase of approximately 0.3 acres of trail. The Project will also maintain the number of trail undercrossings beneath roadways and will include a new trail undercrossing beneath the proposed light rail alignment. All alterations to the trail network will result in maintaining all connections currently provided through the Opus development area trail network. Each new trail segment will be designed and constructed to have the same or better physical and functional characteristics of the trail segment that it will replace. For example, new trail segments will be paved with asphalt where the current trail segment is paved with asphalt and a trail segment that is currently 10 feet wide will be replaced with a trail segment that is at least 10 feet wide.

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<sup>8</sup> See Section 7 for a more detailed description of the FTA's and the Council's Section 4(f) consultation process and activities.

EXHIBIT 6-4

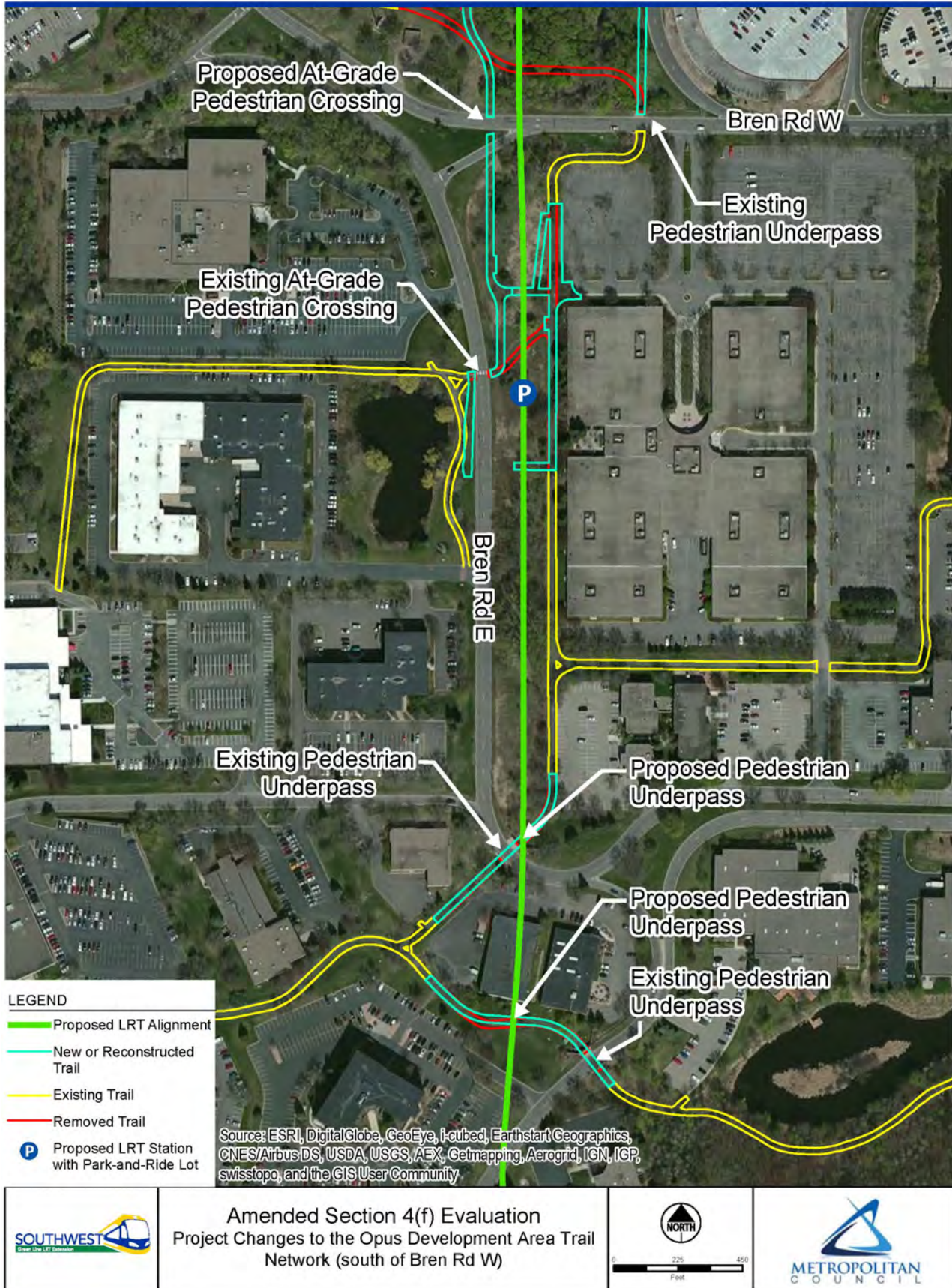
Amended Draft Section 4(f) Evaluation – Project Changes to the Opus Development Area Trail Network (north of Bren Rd W)



	<p align="center"><b>Amended Section 4(f) Evaluation</b> Project Changes to the Opus Development Area Trail Network (north of Bren Rd W)</p>		
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EXHIBIT 6-5

Amended Draft Section 4(f) Evaluation – Project Changes to the Opus Development Area Trail Network (south of Bren Rd W)



Specifications for the new replacement trail segments have and will be developed in consultation with the City of Minnetonka.

Some temporary construction activities associated with the Project will affect the Opus development area trail network within and directly adjacent to the segments of trail that will be removed and replaced with a new trail segment. Construction activities within the Opus development area trail network include grading, vegetation removal and replacement, repaving segments of the trail that will remain in place to match new trail segments, temporary trail connections and signage, and other activities associated with reconstruction of affected trails. The Project will provide the public and the City of Minnetonka with construction detour information. Further, the Project will restore all segments of the Opus development area trail network altered but not permanently moved by the Project (e.g., regrading a trail segment to match a new trail segment) to pre-construction conditions or better, based on specifications agreed to between the Council and the City of Minnetonka.

All existing trail connections provided by the Opus development area trail network will be maintained in the long-term under the Project. Except for the potential for short-term trail closures to ensure trail user safety during construction, all existing trail connections will be maintained during construction of the new trail. During those temporary trail closures, trail users will be provided with detour routes, signage, and other information as appropriate. Temporary trails may be constructed to allow for the removal of existing trail segments and construction of new trail segments. Construction activities within the Opus development area trail network will be closely coordinated with the City of Minnetonka to help avoid and minimize effects on recreational activities within the trail network. The Council will also provide the City of Minnetonka and the public with ongoing notification of construction activities within the trail network, such as the timing and location of trail detours.

FTA, the City of Minnetonka, and the Council have made efforts to help avoid, minimize, and mitigate impacts to the Opus development area trail network, including participation in a Section 4(f) coordination meeting on January 5, 2016 (see Appendix B for copies of the notes and materials for that meeting). For the areas of the Opus development area trail network that will be permanently and temporarily affected by the Project, FTA, the City of Minnetonka, and the Council have coordinated to define ways to help avoid, minimize, and mitigate impacts to the open space. In particular, the Project minimized the amount of area of the trail network to be modified. Further, Project designs have and will ensure that all existing trail connections will be maintained during and after construction of the Project. In addition, the modifications to the trail network have avoided the removal of any existing trail undercrossings of roadways of trails within the network. Further, a new trail undercrossing of the proposed light rail alignment will be provided just north of Bren Road West. Finally, the design of the Project has and will continue to ensure that recreation activities that currently occur within the Opus development area trail network will be maintained both during and after construction of the Project.

### **C. Preliminary Section 4(f) Use Determination**

Based on the design and analysis as described in this section, and consistent with the requirements of 23 CFR 774.5(b), FTA has preliminarily determined, in coordination with the City of Minnetonka, that Project actions will not adversely affect the features, attributes, or activities that qualify the Opus development area trail network for Section 4(f) protection. As such, FTA has concluded that Project actions will result in a Section 4(f) *de minimis* impact of the Opus development area trail network, consistent with 23 CFR 774.17.

FTA, the Council, and the City of Minnetonka will consider all comments received during the public comment period for this Amended Draft Section 4(f) Evaluation that address this preliminary Section 4(f) *de minimis* impact determination for the Opus development area trail network. Following the close of the public comment period on this Amended Draft Section 4(f) Evaluation and after consideration of the comments, FTA will request written concurrence from the City of Minnetonka prior to making a final *de minimis* impact determination for this property. FTA intends to make the final *de minimis* impact determination for the Opus development area trail network in the Project's Final EIS/Final Section 4(f) Evaluation.

## 7 Coordination

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This section addresses Section 4(f) coordination and concurrence requirements set forth in 23 CFR 774 through by providing a summary of the Project's Section 4(f) coordination activities that have occurred with regard to the properties discussed within this Amended Draft Section 4(f) Evaluation.

### 7.1 Department of Interior

The Amended Draft Section 4(f) Evaluation was provided to the Department of Interior (DOI) for review and comment during the public review and comment period, which concludes on February 25, 2016. The DOI's comments on the Amended Draft Section 4(f) Evaluation will be provided in the Project's Final EIS.

### 7.2 Officials with Jurisdiction

Following is a summary of the Section 4(f) coordination activities that have occurred with officials with jurisdiction since publication of the Draft Section 4(f) Evaluation and the Draft EIS.

- **Minnetonka.** FTA and Council staff met with City of Minnetonka staff on January 5, 2016, to review the Project's construction plan for Purgatory Creek Park and modifications to the plan were subsequently made by the Council, as reflected in this assessment. See Appendix B for meeting notes and materials.

In addition, the Project's Amended Draft Section 4(f) Evaluation was provided to the officials with jurisdiction within the Project's study area for review and comment, which concludes on February 25, 2016. All substantive comments received from officials with jurisdiction on the Amended Draft Section 4(f) Evaluation will be addressed in the Final Section 4(f) Evaluation, included in the Project's Final EIS.

### 7.3 Draft Section 4(f) Evaluation(s) for the Project

The Draft Section 4(f) Evaluation was provided to the public for review and comment during the official Draft EIS comment period, which concluded on December 31, 2012. The Draft Section 4(f) Evaluation Update was provided for review and comment during the official Supplemental Draft EIS comment period, which concluded on July 21, 2015. All substantive comments received from officials with jurisdiction on the Draft EIS (including the Draft Section 4(f) Evaluation) and the Supplemental Draft EIS (including the Draft Section 4(f) Evaluation Update) will be addressed in the Project's Final 4(f) Evaluation, included in the Project's Final EIS.

## 8 Determination of Section 4(f) Use

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**Preliminary Section 4(f) Determinations.** Based on Southwest LRT preliminary engineering plans and analysis summarized in this Amended Draft Section 4(f) Evaluation, FTA has made the following preliminary Section 4(f) determinations:

- **Unnamed Open Space B.** The Project will result in *de minimis* impact at Unnamed Open Space B, consistent with 23 CFR 774.17. Most of the natural areas of Unnamed Open Space B, which are predominantly located in the northern portion of the property, will not be directly affected by the Project. Those areas, such as the wetland, will not be altered by the Project, either permanently or temporarily. In addition, the proposed light rail alignment will generally be screened from view from those natural areas due to retained trees and existing residential buildings located between the proposed alignment and those natural areas.

The portion of the property that will be acquired by the Project is generally isolated from the larger natural areas located in the northern portion of the property and has different attributes, such as close proximity to surrounding development and streets. Further, over half of the southern portion of the property will not be acquired for the Project and will provide a vegetative buffer between a new trail segment on the southwest edge of the property and commercial development to the west. All existing trail connections for the Opus development area trail network that are located within Unnamed Open Space B will be maintained in the long-term under the Project. The recreation activities that currently occur within Unnamed Open Space B will be maintained both during and after construction of the Project. The Council will also provide the City of Minnetonka and the public with ongoing notification of construction activities within the open space, such as the timing and location of heavy construction activities and trail detours. All areas of the remaining Unnamed Open Space B property that will be affected by Project construction activities will be restored to existing conditions or better and restoration plans will be developed and implemented in consultation with the City of Minnetonka.

- **Opus Development Area Trail Network.** The Project will result in a *de minimis* impact at the Opus development area trail network, consistent with 23 CFR 774.5(b). All alterations to the trail network by the Project will result in maintaining all connections currently provided through the Opus development area trail network. Each new trail segment will have the same or better physical and functional characteristics of the trail segment that it will replace. Specifications for the new replacement trail segments have and will be developed in consultation with the City of Minnetonka. Construction activities within the Opus development area trail network include grading, vegetation removal and replacement, landscaping, trail repaving segments of the trail that will remain in place to match new trail segments, temporary trail connections and signage, and other activities associated with reconstruction of affected trails. Replanting specifications for the temporary construction areas associated with alternations to the Opus development area trail network will be agreed upon between the Council and City of Minnetonka. The Project will provide the public and the City of Minnetonka with construction detour information. Further, the Project will restore all segments of the Opus development area trail network that are altered (but not permanently moved by the Project) to pre-construction conditions or better, based on specifications agreed to between the Council and the City of Minnetonka. The design of the Project has and will continue to ensure that recreation activities that currently occur within the Opus development area trail network will be maintained both during and after construction of the Project.



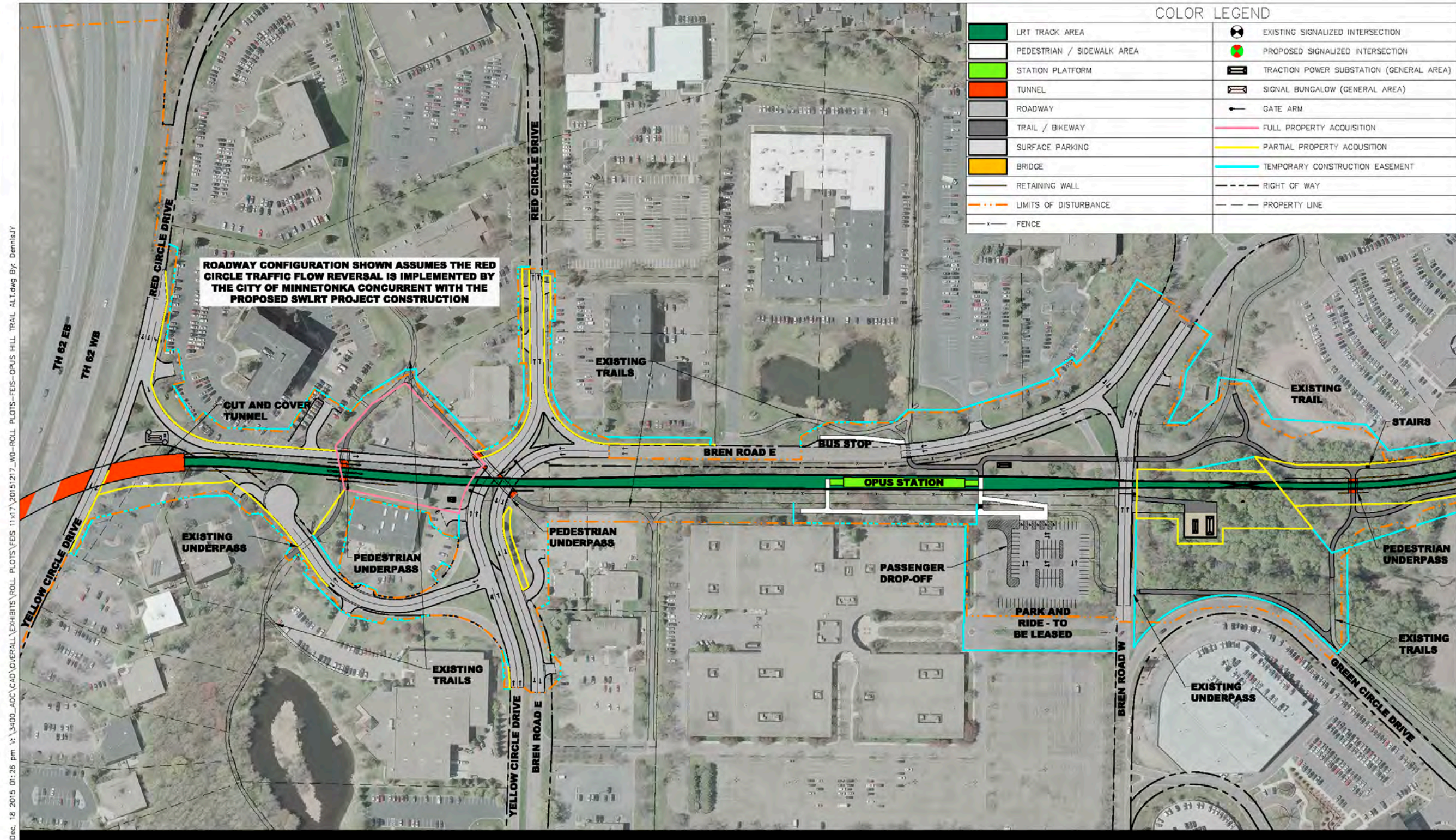
Appendix A  
Preliminary Engineering Plans

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**APPENDIX A****Preliminary Engineering Plans**

This appendix includes the Preliminary Engineering Plans for the Southwest Light Rail Transit (LRT) Project that cover the geographic area containing the two newly identified Section 4(f) properties within the City of Minnetonka:

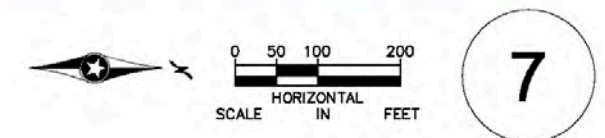
- Unnamed Open Space B
- Opus Development Area Trail Network

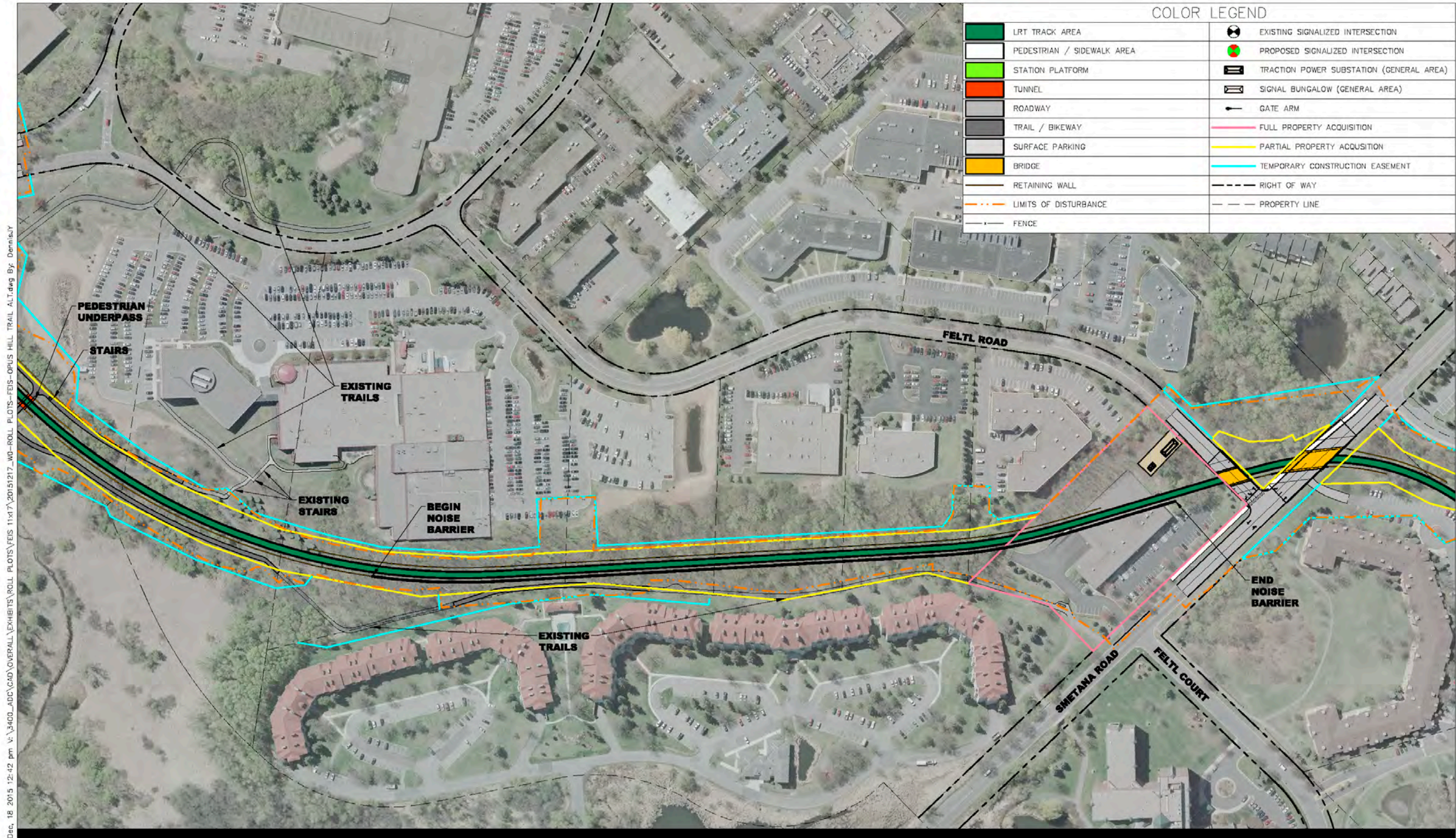


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## SOUTHWEST LRT ALIGNMENT SEGMENT W2 / W3 - EDEN PRAIRIE / MINNETONKA OPUS STATION



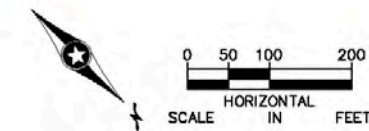


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## SOUTHWEST LRT ALIGNMENT

### SEGMENT W3 - MINNETONKA / HOPKINS OPUS HILL



8

**Appendix B**  
**Amended Draft Section 4(f) Evaluation Supporting Documentation**

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## **SOUTHWEST LRT (METRO GREEN LINE EXTENSION)**

### **Index**

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1. Materials from City of Minnetonka Official With Jurisdiction Meeting, January 2016
2. Unnamed Open Space B: Property Legal Documents
3. Unnamed Open Space A: Property Legal Documents

**1. Materials from City of Minnetonka Official With Jurisdiction Meeting, January 2016**

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**Meeting Title:** Section 4(f) Coordination – Newly Identified Section 4(f) Properties within the City of Minnetonka

**Date:** 01/05/2016      **Time:** 1:00 p.m.      **Duration:** 1.0 hour

**Location:** SPO Conf. Rm. 6A  
Call in #: 1 888.742.5095; code: 1109269062

**Meeting called by:** Nani Jacobson, Assistant Director, Environmental & Agreements

**Invitees:** FTA: Maya Sarna; Minnetonka: Julie Wischnack, Phil Olsen, William Manchester; SPO: Jim Alexander, Sarah Ghandour, Ryan Kronzer, Sam O’Connell, Dan Pfeiffer, James Mockovciak, Kim Proia, Mark Bishop, Don Demers, Jeanne Witzig, Leon Skiles

**Purpose of Meeting:** Discuss Newly Identified Section 4(f) properties under jurisdiction of the City of Minnetonka, Section 4(f) process and analysis.

<b>Agenda</b>	
1.	Welcome and Introductions
2.	Overview of Section 4(f) Requirements (handout)
3.	Identification of Section 4(f) Properties (handouts) <ul style="list-style-type: none"> <li>a. Properties Evaluated: <ul style="list-style-type: none"> <li>- Opus Development Area Trail Network</li> <li>- Unnamed Open Space B</li> <li>- Unnamed Open Space A</li> </ul> </li> <li>b. Process for Determining Section 4(f) Status <ul style="list-style-type: none"> <li>- Initial Status Determinations</li> <li>- Current Status Determinations</li> </ul> </li> <li>c. Preliminary Section 4(f) <i>de minimis</i> Impact Determinations (handout)</li> </ul>
4.	Next Steps <ul style="list-style-type: none"> <li>a. Publication of the Amended Draft Section 4(f) Evaluation</li> <li>b. Receipt of Public and Agency Comments and Review by FTA, City, Council</li> <li>c. FTA Request to City for Written Concurrence on the Two Section 4(f) <i>de minimis</i> Impact Determinations</li> <li>d. Publication of the Final Section 4(f) Evaluation</li> </ul>



## Section 4(f) of the Department of Transportation Act Overview

### 1. What is the intent of Section 4(f)?

- To prohibit a transportation project from using a qualifying park/recreation area, historic site or wildlife/ waterfowl refuge, unless there is no prudent and feasible avoidance alternative or the use would be *de minimis*

### 2. What is a 4(f) Use?

- The permanent incorporation of any portion of a 4(f) property into a project through the fee simple acquisition of the property or acquiring a property right that allows permanent access to the property (e.g., easement)
- Use has a greater than *de minimis* impact (*de minimis* = no adverse effect to the activities, features or attributes of the 4(f) property, after minimization and mitigation)
- A *proximity impact* (e.g., noise, visual) that *substantially impairs* use of the property = *Constructive Use*
- A short-term construction use that cannot meet five *Temporary Occupancy* criteria

### 3. What is a *de minimis* impact?

- (1) For historic sites, a Section 106 finding of no adverse effect or no historic properties affected on a historic property, or (2) For parks, recreation areas, and wildlife and waterfowl refuges, the project would not adversely affect the activities, features, or attributes qualifying a park, recreation area, or refuge for protection under Section 4(f).

### 4. What is a Constructive Use?

- Occurs when the transportation project does not incorporate land from a Section 4(f) property, but the project's proximity impacts are so severe that the protected activities, features, or attributes that qualify the property for protection under Section 4(f) are substantially impaired. Substantial impairment occurs only when the protected activities, features or attributes of the property are substantially diminished.

### 5. What is a Temporary Occupancy?

- Temporary occupancies of land that are so minimal as to not constitute a use under 4(f). These must meet:
  - Duration must be temporary, i.e. less than the time needed for construction of the project and no change in ownership of the land
  - Scope of work must be minor, i.e. both the nature and magnitude of the changes to the 4(f) property are minimal
  - No anticipated permanent adverse physical impacts, nor will it interfere with protected activities, features or attributes of the property
  - The land being used must be fully restored (returned to a condition which is at least as good as that which existed prior to the project)
  - Documented agreement with the official(s) with jurisdiction

### 6. How is the eligibility of a 4(f) park/recreation area determined?

- Primary purpose of the property is recreation
- Property is publically-owned, publically-accessible and of local significance

**7. What is an Official with Jurisdiction?**

- Parks: Officials with the agency/ies that own or administer the 4(f) property
- Historic sites: SHPO

**8. How are Section 4(f) and Section 106 related?**

- Section 106 process determines the eligibility of historic/archaeological resources for potential 4(f) protection
- Section 106 determines level of 4(f) use (e.g., use + no adverse effect = *de minimis*; use + adverse effect = non-*de-minimis* 4(f) use)
- 106 Agreement documents 4(f) *All Possible Planning to Minimize Harm*

**9. What is a Feasible and Prudent Avoidance Alternative?**

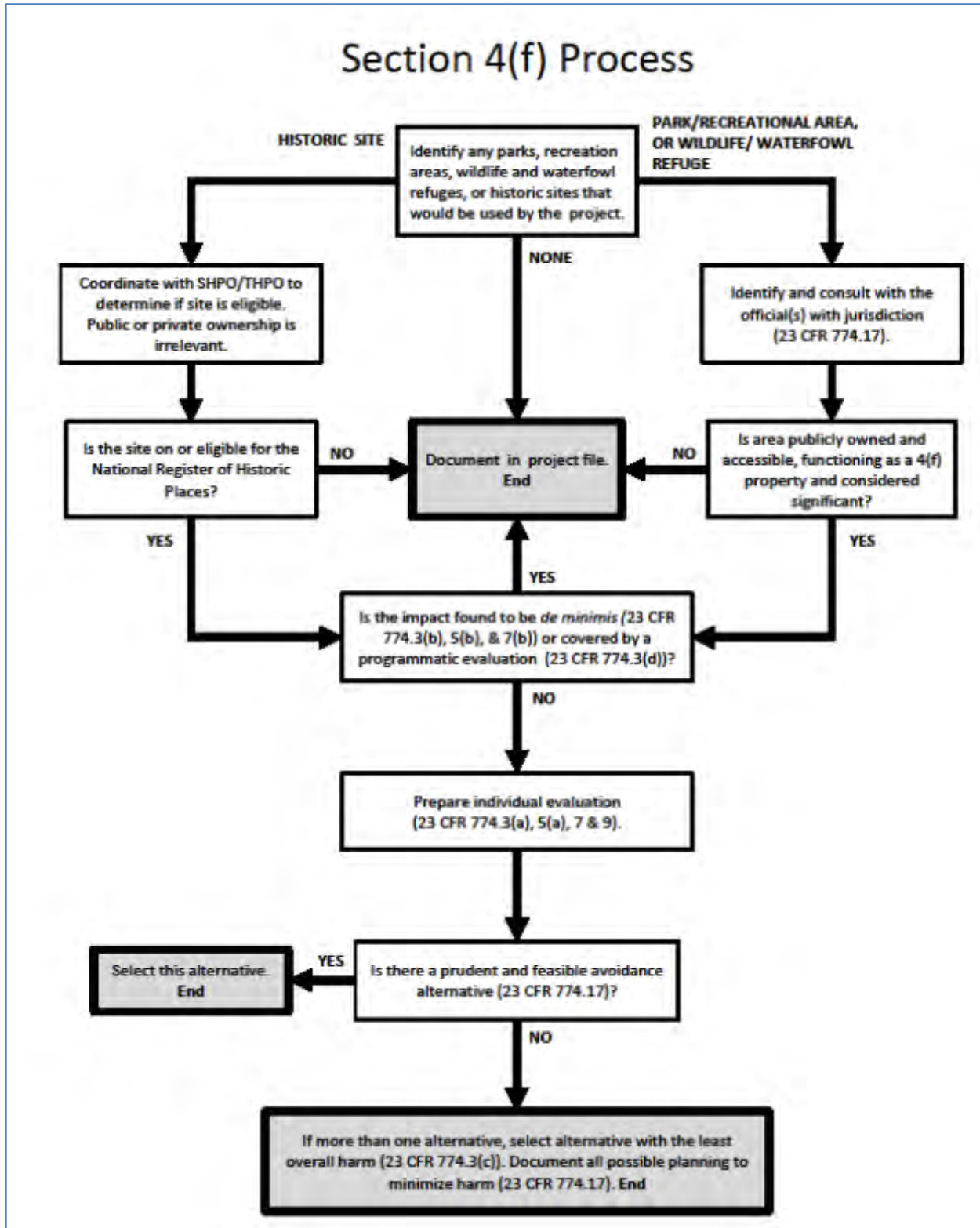
- Completely avoids the permanent use of a 4(f) property
- Feasibility: Can be built as a matter of sound engineering
- Prudence: No severe problems that outweigh protecting the 4(f) property, considering:
  - Meeting Purpose/Need
  - Safety
  - Severe impacts (after mitigation)
  - Extraordinary costs
  - Unique problems/factors
  - Cumulative impact of multiple factors

**10. What happens if the LPA uses a protected property?**

- FTA issues a 4(f) Evaluation (draft and final), including three required determinations:
  - There is **No Prudent/Feasible Avoidance Alternative**
  - **All Possible Planning to Minimize Harm** has occurred (includes all reasonable mitigation measures)
  - LPA must have **Least Overall Harm** compared to other alternatives that have a 4(f) use

**11. What is a Least Overall Harm Analysis?**

- When there is no feasible and prudent avoidance alternative, the comparison of the LPA with other alternatives under consideration that would have a use of any 4(f) property
- Comparative criteria used to reach the determination:
  - Relative value of and impacts to 4(f) properties, after similar mitigation efforts – criteria:
    - Ability to mitigate adverse impacts to each 4(f) property
    - Relative severity of harm to protected characteristics of the 4(f) properties (after mitigation)
    - Relative significance of the 4(f) properties
    - Views of officials with jurisdiction over the 4(f) properties
  - Consideration of substantial problem/s – criteria:
    - Degree to which the alternative meets P&N
    - Magnitude of adverse impacts to non-4(f) resources (after mitigation)
    - Substantial cost differences
- Only the alternative/s with the Least Overall Harm may be approved by FTA



Source: Section 4(f) Policy Paper (p. 62; USDOT: July 20, 2012)

## 6 Newly Identified Section 4(f) Properties in Minnetonka

This section addresses the newly identified Section 4(f) properties within the City of Minnetonka, Minnesota. Table 6-1 lists the resource name, location, and jurisdictional owner. Exhibit 6-1 shows the location of the two park properties within the context of the larger Project and within the area of the Project's alignment in Minnetonka.

**TABLE 6-1**  
Section 4(f) Properties Evaluated in this Amended Draft Section 4(f) Evaluation

Property Name	Property Type	Location	Official with Jurisdiction	Section 4(f) Qualifying Description <sup>a</sup>
Unnamed Open Space B	Park	14600 Minnetonka Boulevard	City of Minnetonka	49.0 acre open space
Opus Development Area Trail Network	Park	Located generally between Smetana Road to the north, Hwy 169 to the east, W 62 <sup>nd</sup> St to the South and Hwy 61 to the west	City of Minnetonka	9.6 acre recreational trails

<sup>a</sup> All listed parks are publicly owned, publicly accessible and of local significance.

Table 6-2 summarizes FTA's Section 4(f) use determinations for each of the Section 4(f) park and recreation properties within the Project's study area. Table 6-2 also includes how many acres, if any, of the property will be incorporated under the Project (compared to the property's acreage). Park and recreation properties are generally listed from south-to-north in the Project study area.

**TABLE 6-2**  
Summary of Permanent Section 4(f) Park and Recreational Property Uses

Section 4(f) Property	Non- <i>de minimis</i> Use	<i>De minimis</i> Impact	No Use	Existing Property Acreage	Acres Permanently Used	% of Property Used
Unnamed Open Space B		•		49.0	1.0	2.0%
Opus Development Area Trail Network		•		9.6	0.0 <sup>c</sup>	0.0% <sup>a</sup>

<sup>a</sup> Approximately 1.5 acres of the Opus development area trail network will be removed due to the Project and it will be replaced with approximately 1.8 acres of new trails with the same connections and functions, for a net increase of 0.3 acres of additional trail area within the Opus development area trail network.

The following property in the City of Minnetonka is not considered a Section 4(f) park/recreation property:

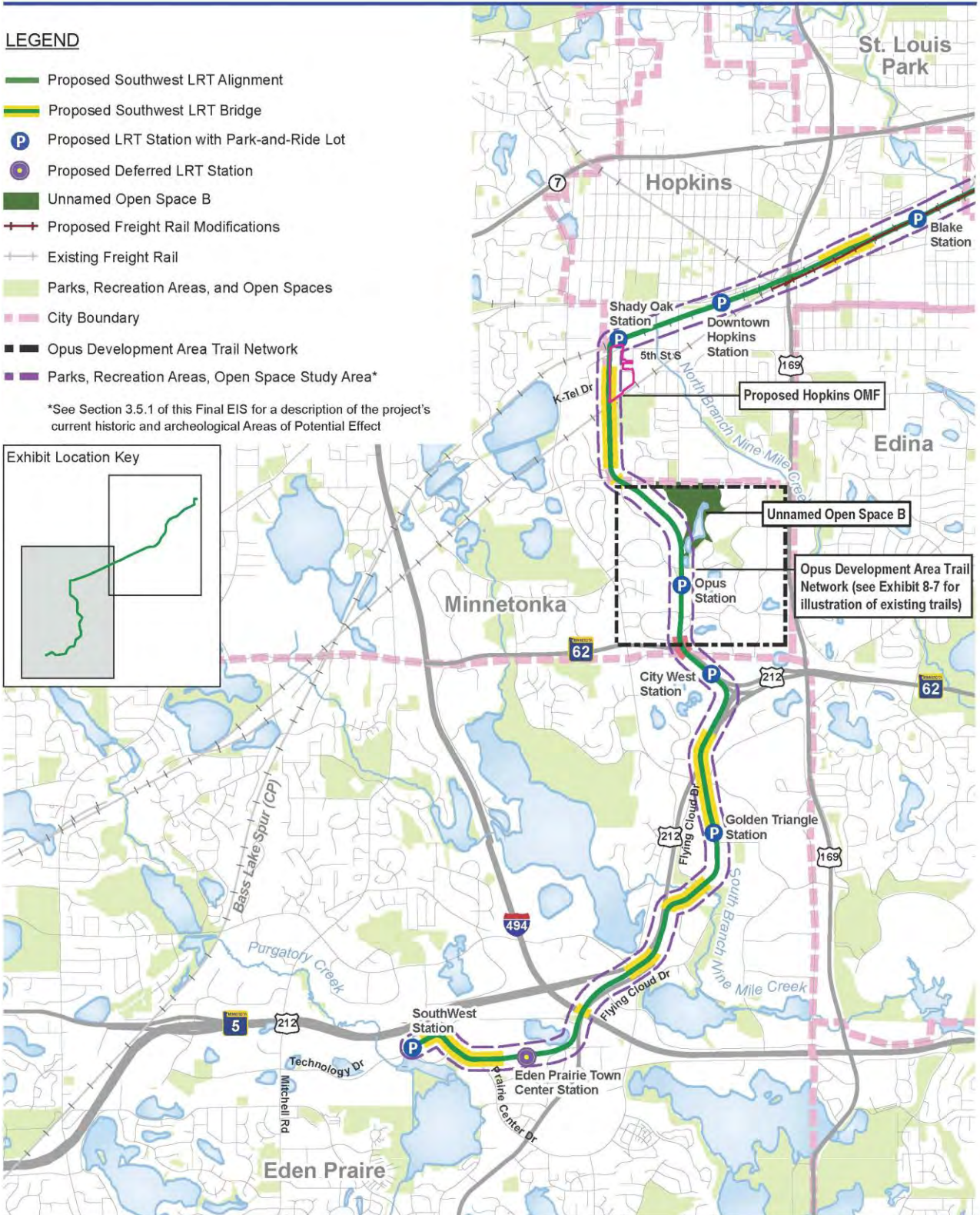
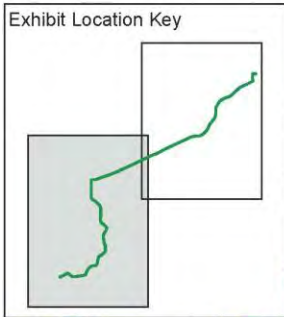
- **Unnamed Open Space A.** Composed of one generally naturally vegetated parcel (approximately 3.0 acres), Unnamed Open Space A is located immediately east of Bren Road E. This parcel's official plan designation in the City Minnetonka 2030 Comprehensive Plan (Figure IV-15) is "Mixed Use" (and not "Parks" or "Open Space"). A paved trail, which is part of the Opus development area trail network, (see Section 6.1.2) crosses the parcel in an east-west manner at a point approximately 830 feet north of the intersection of Bren Road East and Red Circle Drive. Unnamed Open Space A also contains an easement owned by Hennepin County for drainage purposes. Based on deed/title information on this property there are no park/recreation-related easements or other park/recreational legal agreements attached to this property. Further, there is no deed covenant restricting the future use of this parcel to "parkland" or "open space." Therefore, FTA does not consider Unnamed Open Space A to be a Section 4(f) property.




**EXHIBIT 6-1**  
**Section 4(f) Properties in Minnetonka and within the vicinity of the Proposed Project**

**LEGEND**

-  Proposed Southwest LRT Alignment
-  Proposed Southwest LRT Bridge
-  Proposed LRT Station with Park-and-Ride Lot
-  Proposed Deferred LRT Station
-  Unnamed Open Space B
-  Proposed Freight Rail Modifications
-  Existing Freight Rail
-  Parks, Recreation Areas, and Open Spaces
-  City Boundary
-  Opus Development Area Trail Network
-  Parks, Recreation Areas, Open Space Study Area\*

\*See Section 3.5.1 of this Final EIS for a description of the project's current historic and archeological Areas of Potential Effect



	<p>Section 4(f) Properties within the City of Minnetonka and within the Vicinity of the Project</p>		
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Following is a description of the two Section 4(f) park and recreation properties within the Project's park and recreation study area within the City of Minnetonka (generally from south to north), including:

- A description of the Section 4(f) property
- A Section 4(f) *de minimis* impact determination

## **6.1 Unnamed Open Space B – Preliminary *De Minimis* Impact Determination**

### **A. Section 4(f) Property Description**

Unnamed Open Space B is an approximately 49-acre regional park located at 14600 Minnetonka Boulevard in Minnetonka (see Exhibit 6-2). Unnamed Open Space B is owned and operated by the City of Minnetonka. The open space is generally located between Bren Road West on the south, Smetana Road on the north, Green Circle Drive on the east, and private residential and commercial properties on the west. This parcel is designated as "Open Space" in the City Minnetonka 2030 Comprehensive Plan (Figure IV-5) versus Open Space A which is designated as "mixed use." The City's Plan notes that the purpose of "open spaces" is to preserve as many of the natural features of the land as possible.<sup>1</sup>

Unnamed Open Space B is predominantly naturally vegetated (e.g., wooded, riparian, and wetland features), with some areas of landscaping and pavement (i.e., roadway and trail segments that cross the property). The primary recreation features and attributes of Unnamed Open Space B are: 1) the naturally vegetated areas of the property that make up the majority of the recreation area; and 2) segments of the Opus development area trail network, which is also a Section 4(f) property (see Section 6.2).

The natural areas of Unnamed Open Space B are predominantly made up of the following: an established and functioning wetland in the northern portion of the property; a meandering minor waterway connecting to the wetland; and areas of natural woods, meadow and brush. These natural areas of the property attract an array of wildlife, which are also attracted to and move about between other natural areas that are located on nearby private properties within the Opus development area. The recreational activities within Unnamed Open Space B that are related to those natural features include bird watching, wildlife viewing, native plant observation and identification, nature photography, picnicking, work breaks (from adjacent offices), solitude and contemplation, off-trail walking/hiking, and cross country skiing (weather permitting). Within Unnamed Open Space B there are a few park benches located adjacent to the trail segments that traverse the open space.

Additional recreation activities that occur within Open Space B are those that occur on the segments of the Opus development area trail network that pass through the property. Those recreation activities include walking, running, bicycling, nature and wildlife observation, cross country skiing, and other similar activities. The trail network is the primary way in which recreational users of Unnamed Open Space B access the property.

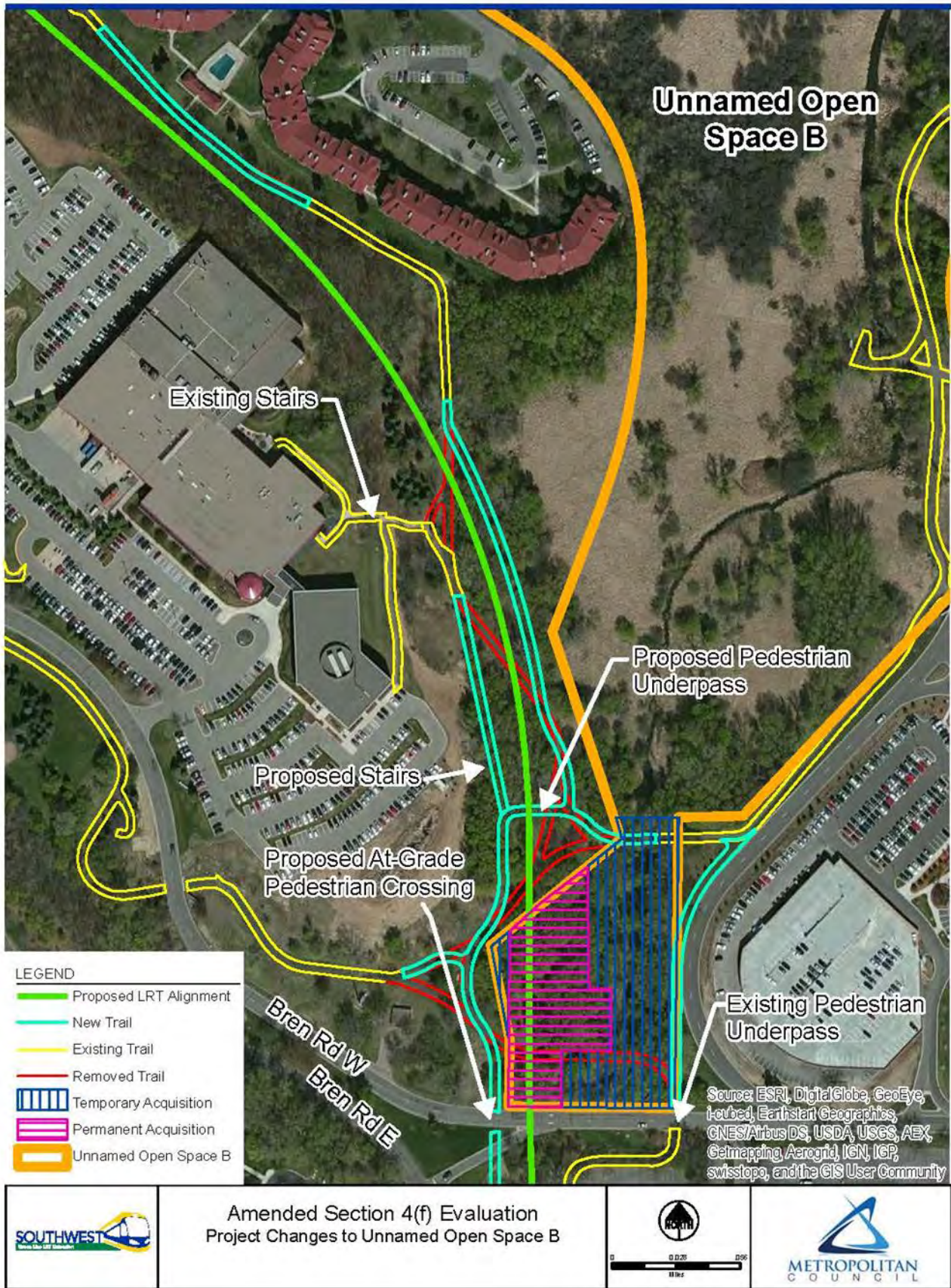
As Unnamed Open Space B is a publicly owned, publicly accessible recreation area of local significance, FTA considers Unnamed Open Space B to be a Section 4(f)-protected property. Consultation between City of Minnetonka and Project staff on design issues related to Open Space B has occurred throughout the design refinement process that occurred after publication of the Draft EIS. In addition, Project staff held a meeting with City staff on January 5, 2016,<sup>2</sup> which focused on recreation areas owned and operated by the City of Minnetonka, the Section 4(f) process and documentation, and FTA's preliminary Section 4(f) determinations for the two City recreation areas addressed in this document.

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<sup>1</sup> There is a covenant restricting the future use of this parcel to "parkland" or "open space" (see Deed Document No. 1260164). The covenant restriction will be addressed through the Council's and MnDOT's property acquisition process by implementing a real property condemnation process for the portion of Open Space B that will be permanently acquired for the Project. Open Space B also includes an easement for right-of-way across the northwest portion of the property, which includes an existing paved roadway by the Claremont Apartments to access Smetana Road. Other easements affecting the property include those for flowage rights of the City of Hopkins, drainage, and utilities.

<sup>2</sup> See Section 7 for a more detailed description of the FTA's and the Council's Section 4(f) consultation process and activities.





## **B. Determination of Permanent Section 4(f) Use**

As illustrated in Exhibit 6-2, the Project will result in a variety of permanent and short-term (construction-related) changes to Unnamed Open Space B, described as follows.

The Council will permanently acquire from the City of Minnetonka an approximately 1.0 acre portion of Unnamed Open Space B (approximately 2 percent), as illustrated on Exhibit 6-2). The acquired property will be incorporated into the Project for transportation purposes. In particular, the acquired portion of Unnamed Open Space B will be used by the Project for the following:

- A short section of the proposed light rail alignment, including a double crossover and grading required to accommodate the light rail alignment;
- A traction power substation and a double-crossover bungalow, and
- An access driveway between the substation/bungalow and Bren Road West.

Most of the natural areas of Unnamed Open Space B, which are predominantly located in the northern portion of the property, will not be directly affected by the Project. Those areas, such as the wetland, will not be altered by the Project, either permanently or temporarily. In addition, the proposed light rail alignment will generally be screened from view from those natural areas due to retained trees and existing residential buildings located between the proposed alignment and those natural areas.

The portion of the property that will be acquired by the Project includes some natural vegetation; however, that area is generally isolated from the larger natural areas located in the northern portion of the property. Further, the area that will be acquired by the Project has somewhat different attributes than the northern natural areas, in that it is directly bordered on three sides – by large commercial development immediately to the east and west and by an arterial roadway (Bren Road West) to the south. Additionally, some of the area to be acquired for the Project is currently landscaped, rather than naturally vegetated. Finally, over half the southern portion of the property will not be acquired for the Project and will be retained in City ownership; this remaining area of the southern portion of Unnamed Open Space B will provide a vegetative buffer between a new trail segment on the southwest edge of the property and commercial development located to the west.

Project construction activities will be confined to the southern portion of Unnamed Open Space B. Those construction activities will predominantly occur within the area of Unnamed Open Space B that will be permanently acquired for the Project. Those construction activities will include clearing, grubbing, and grading, construction of the light rail alignment, new trail sections, the new traction power substation and signal bungalow, and revegetation of the site.

Some construction activities will also occur within the approximately 1.6 acres of Unnamed Open Space B located outside and immediately to the east of the area of the property to be permanently acquired for the Project. In general, those construction activities will be related to regrading that will be required to match the grading within the area to be permanently acquired, as well as the removal and replacement of trail segments. Those construction activities may also include the construction and removal of potential temporary trail connections.

Construction activities within Unnamed Open Space B will be closely coordinated with the City of Minnetonka to help avoid and minimize effects on recreational activities within the open space. The Council will also provide the City of Minnetonka and the public with ongoing notification of construction activities within the open space, such as the timing and location of heavy construction activities and trail detours. All areas of the remaining Unnamed Open Space B property that will be affected by Project construction activities will be restored to existing conditions or better and restoration plans will be developed and implemented in consultation with the City of Minnetonka.

Relative to the segments of the Opus development area trail network that traverse portions of Unnamed Open Space B, portions of the existing at-grade trail will be relocated to accommodate construction of the light rail alignment and other facilities. New sections of trail will be located within the remaining adjacent portion of Unnamed Open Space B, as illustrated on Exhibit 6-2. The realignment of the trails within the open

space will ultimately be determined through continued consultation between FTA, the Council, and the City of Minnetonka, which will work to avoid, minimize, and mitigate impacts to the open space's Section 4(f)-qualifying activities, features, and attributes. As noted in Section 6.2, existing trail connections for portions of the Opus development area trail network that are within Unnamed Open Space B will be maintained in the long-term under the Project. Except for the potential for short-term trail closures to ensure trail user safety, all existing trail connections will be maintained during construction of the new trail alignment. During those short-term temporary trail closures, trail users will be provided with detour routes and information. Temporary trails may be constructed to allow for the removal of existing trail segments and construction of new trail segments.

FTA, the City of Minnetonka, and the Council have made efforts to help avoid, minimize, and mitigate impacts to Unnamed Open Space B, including participation in a Section 4(f) coordination meeting in January 2016. See Appendix B for the notes and materials from that meeting. In particular, the Project minimized the amount of area of the property needed to be acquired for transportation purposes and designed the modified trail network to ensure continued connections and minimal trail modifications. Further, the recreation activities that currently occur within the area unaffected by the Project in Unnamed Open Space B will be maintained both during and after construction of the Project.

### **C. Preliminary Section 4(f) Use Determination**

Based on the design and analysis as described in this section, and consistent with the requirements of 23 CFR 774.5(b), FTA has preliminarily determined, in coordination with the City of Minnetonka, that Project actions will not adversely affect the features, attributes, or activities that qualify Unnamed Open Space B for Section 4(f) protection. As such, FTA has concluded that Project actions will result in a Section 4(f) *de minimis* impact at Unnamed Open Space B, consistent with 23 CFR 774.17.

FTA, the Council, and the City of Minnetonka will consider all comments received during the public comment period for this Amended Draft Section 4(f) Evaluation that address this preliminary Section 4(f) *de minimis* impact determination for Unnamed Open Space B. Following the close of the public comment period on this Amended Draft Section 4(f) Evaluation and after consideration of the comments, FTA will request written concurrence from the City of Minnetonka prior to making a final *de minimis* use determination for this property. FTA intends to make the final *de minimis* impact determination for Unnamed Open Space B in the Project's Final EIS/Final Section 4(f) Evaluation.

## **6.2 Opus Development Area Trail Network – Preliminary *De Minimis* Impact Determination**

### **A. Section 4(f) Property Description**

The Opus development trail network is an approximately eight-mile (approximately 42,000 feet) length of trail corridor that generally serves the mixed-use Opus development area in Minnetonka, Minnesota (see Exhibit 6-3). In general, the Opus development trail network is owned and maintained by the City of Minnetonka. Portions of the trail network are on land owned fee simple by the City of Minnetonka (e.g., within Unnamed Open Space B); portions of the trail network are on land owned fee simple by a private entity or individual within an easement owned by the City of Minnetonka (e.g., south of the Claremont Apartments); and portions of the trail network are located on land owned fee simple by a private entity or individual.

The Opus development area trail network is generally located between Smetana Road to the north, Highway 169 to the east, West 62nd Street to the south and Highway 61 to the west. The Opus development trail network was originally designed and constructed as an element of the Opus mixed use development, which includes office, retail, residential, institutional, recreation, and other uses. Overall, trails within the City of Minnetonka, including the Opus development area trail network, are designated as both a recreation and a transportation facility in the City Minnetonka 2030 Comprehensive Plan (Chapter VII – Parks, Open Space and Trail Plan; Figure VII-2 – Existing Trail System within the Comprehensive Plan; Chapter 8 – Transportation Plan).

### **EXHIBIT 6-3**



The Opus development area trail network is a collection of trails that are generally paved with asphalt, with short sections of concrete pavement. Most of the trail network is at-grade, with some short sections of trails crossing under local roads. Maintaining and improving the road/trail grade separations are a priority of the City of Minnetonka. The primary recreation facilities within the Opus development area trail network are the trails themselves. There are scattered benches, picnic tables, directional signs, and the like that are located adjacent to the trail network and are utilized by trail users. Segments of the Opus development area trail network cross through and are included within Unnamed Open Space B, which is a Section 4(f) property (see Section 6.1 for additional information on Unnamed Open Space B). The primary recreation activities that occur within the Opus development area trail network occur on the trails. Those recreation activities include walking, running, bicycling, nature and wildlife observation, cross-country skiing (conditions allowing), and other similar activities. There are also ancillary passive and active recreation activities occurring on other public and private recreation areas or open spaces that connect to the trail network, for example, where trail users stop to observe or use a recreation area or open space. Transportation activities also occur within the trail network, providing pedestrians and bicyclists with connections between residential, commercial retail, and other uses within and outside of the Opus development area. Much of the trail network is plowed of snow during the winter.

As the Opus development area trail network is a publicly owned, publicly accessible recreation area of local significance, FTA considers the Opus development area trail network to be a Section 4(f)-protected property. Consultation between the City of Minnetonka and Project staff on design issues related to the Opus development area trail network has occurred throughout the design refinement process that occurred after publication of the Draft EIS. In addition, Project staff held a meeting with City staff on January 5, 2016,<sup>3</sup> which focused on recreation areas owned and operated by the City of Minnetonka, the Section 4(f) process and documentation, and FTA's preliminary Section 4(f) determinations for the recreation areas.

#### **B. Determination of Permanent Section 4(f) Use**

As illustrated on Exhibits 6-4 and 6-5, the Project will result in a variety of permanent and short-term (construction-related) changes to the Opus development area trail network, described as follows.

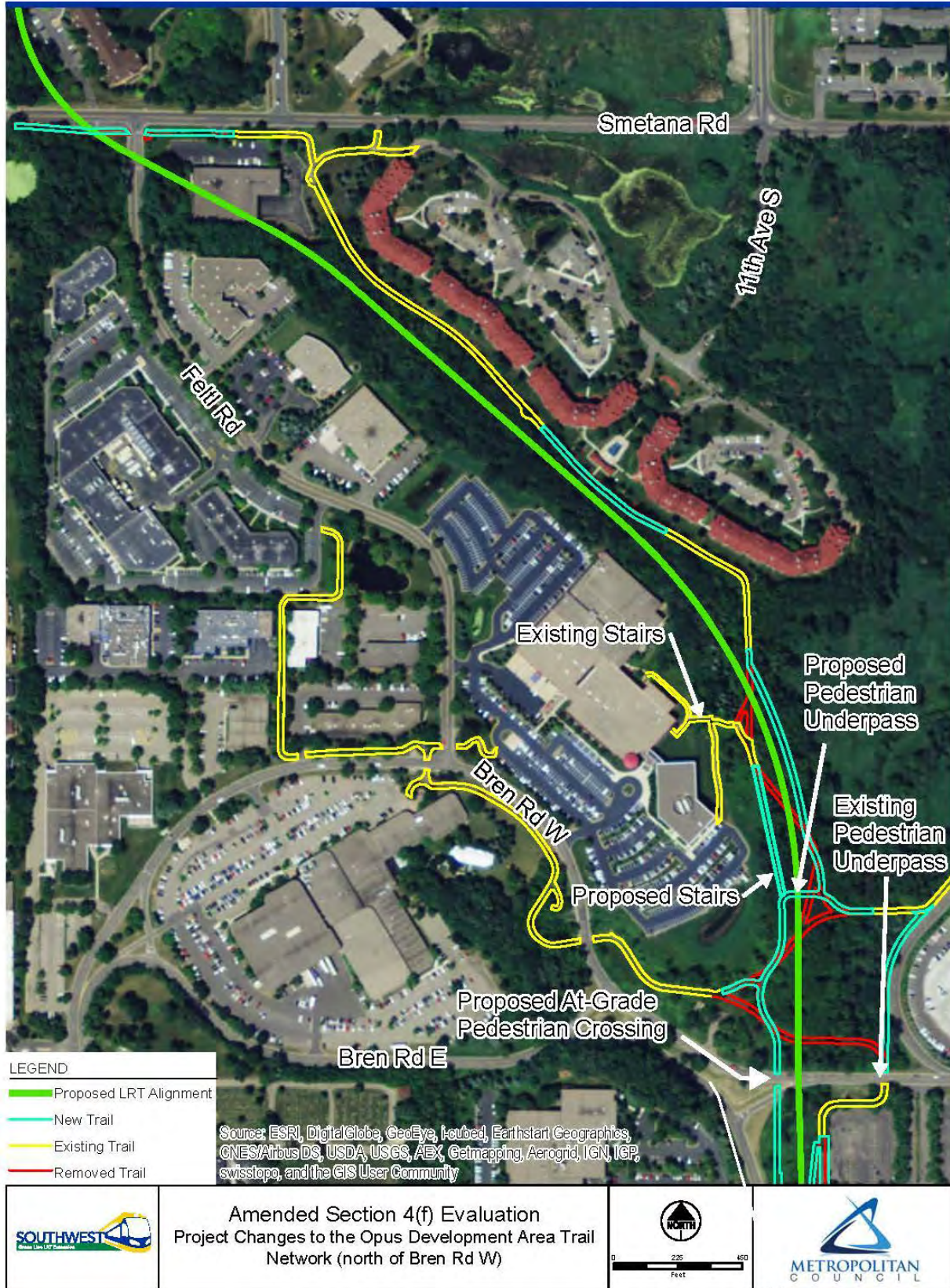
The Council will permanently alter relatively short sections of the Opus development area trail network to accommodate the introduction of the light rail alignment, station, and related improvements (as illustrated on Exhibits 6-4 and 6-5). In general, alterations to the trail network by the Project will include removal of relatively short sections of paved trail to be replaced with new paved trail sections in different locations, resulting in a net increase in the size of the trail network. In summary, approximately 1.5 acres of existing trail will be removed and replaced with approximately 1.8 acres of new trail, resulting in a net increase of approximately 0.3 acres of trail. The Project will also maintain the number of trail undercrossings beneath roadways and will include a new trail undercrossing beneath the proposed light rail alignment. All alterations to the trail network will result in maintaining all connections currently provided through the Opus development area trail network. Each new trail segment will be designed and constructed to have the same or better physical and functional characteristics of the trail segment that it will replace. For example, new trail segments will be paved with asphalt where the current trail segment is paved with asphalt and a trail segment that is currently 10 feet wide will be replaced with a trail segment that is at least 10 feet wide. Specifications for the new replacement trail segments have and will be developed in consultation with the City of Minnetonka.

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<sup>3</sup> See Section 7 for a more detailed description of the FTA's and the Council's Section 4(f) consultation process and activities.

**EXHIBIT 6-4**

**Amended Draft Section 4(f) Evaluation – Project Changes to the Opus Development Area Trail Network (north of Bren Rd W)**



**EXHIBIT 6-5**

**Amended Draft Section 4(f) Evaluation – Project Changes to the Opus Development Area Trail Network (south of Bren Rd W)**



Some temporary construction activities associated with the Project will affect the Opus development area trail network within and directly adjacent to the segments of trail that will be removed and replaced with a new trail segment. Construction activities within the Opus development area trail network include grading, vegetation removal and replacement, repaving segments of the trail that will remain in place to match new trail segments, temporary trail connections and signage, and other activities associated with reconstruction of affected trails. The Project will provide the public and the City of Minnetonka with construction detour information. Further, the Project will restore all segments of the Opus development area trail network altered but not permanently moved by the Project (e.g., regrading a trail segment to match a new trail segment) to pre-construction conditions or better, based on specifications agreed to between the Council and the City of Minnetonka.

All existing trail connections provided by the Opus development area trail network will be maintained in the long-term under the Project. Except for the potential for short-term trail closures to ensure trail user safety during construction, all existing trail connections will be maintained during construction of the new trail. During those temporary trail closures, trail users will be provided with detour routes, signage, and other information as appropriate. Temporary trails may be constructed to allow for the removal of existing trail segments and construction of new trail segments. Construction activities within the Opus development area trail network will be closely coordinated with the City of Minnetonka to help avoid and minimize effects on recreational activities within the trail network. The Council will also provide the City of Minnetonka and the public with ongoing notification of construction activities within the trail network, such as the timing and location of trail detours.

FTA, the City of Minnetonka, and the Council have made efforts to help avoid, minimize, and mitigate impacts to the Opus development area trail network, including participation in a Section 4(f) coordination meeting on January 5, 2016 (see Appendix B for copies of the notes and materials for that meeting). For the areas of the Opus development area trail network that will be permanently and temporarily affected by the Project, FTA, the City of Minnetonka, and the Council have coordinated to define ways to help avoid, minimize, and mitigate impacts to the open space. In particular, the Project minimized the amount of area of the trail network to be modified. Further, Project designs have and will ensure that all existing trail connections will be maintained during and after construction of the Project. In addition, the modifications to the trail network have avoided the removal of any existing trail undercrossings of roadways of trails within the network. Further, a new trail undercrossing of the proposed light rail alignment will be provided just north of Bren Road West. Finally, the design of the Project has and will continue to ensure that recreation activities that currently occur within the Opus development area trail network will be maintained both during and after construction of the Project.

### **C. Preliminary Section 4(f) Use Determination**

Based on the design and analysis as described in this section, and consistent with the requirements of 23 CFR 774.5(b), FTA has preliminarily determined, in coordination with the City of Minnetonka, that Project actions will not adversely affect the features, attributes, or activities that qualify the Opus development area trail network for Section 4(f) protection. As such, FTA has concluded that Project actions will result in a Section 4(f) *de minimis* impact of the Opus development area trail network, consistent with 23 CFR 774.17.

FTA, the Council, and the City of Minnetonka will consider all comments received during the public comment period for this Amended Draft Section 4(f) Evaluation that address this preliminary Section 4(f) *de minimis* impact determination for the Opus development area trail network. Following the close of the public comment period on this Amended Draft Section 4(f) Evaluation and after consideration of the comments, FTA will request written concurrence from the City of Minnetonka prior to making a final *de minimis* impact determination for this property. FTA intends to make the final *de minimis* impact determination for the Opus development area trail network in the Project's Final EIS/Final Section 4(f) Evaluation.



## Minnetonka 2030 Comprehensive Plan – Chapter VII – Parks, Open Space and Trail Plan

### Open Space Related Exerpts

#### Chapter VII. Parks, Open Space and Trail Plan

The Minnetonka park, open space and trail system has become one of the more important community assets and serves city residents and businesses, alike. The park and open space system contributes a substantial amount of property for public activities in the community and reflects the city's commitment towards natural resource stewardship. Further, the trail system provides connections between public spaces and community-oriented activity areas within and outside the city.

The Minnetonka parks and recreation system has expanded and grown as the city has developed. Through thoughtful planning by community leaders in response to understanding the values and interests of the community, residents and workers enjoy diverse opportunities for leisure. As demographic changes continue to impact the city, it will be important to understand which recreational amenities can maintain the city's vitality and attractiveness.

The following chapter of the comprehensive guide plan provides a framework for the overall park, open space and trail planning activities through 2030. Much of the information within this chapter is based on the Minnetonka *Park, Open Space and Trail System Plan* (POST Plan) prepared and adopted by the city in 2000 and is referenced for specific park planning information. The POST Plan establishes a balanced approach to managing community and neighborhood parks, open space, athletic field and trail resources in the city.

The chapter includes:

- a review of the park planning history in the city,
- a summary of park, open space, trails, recreation resources in the city,
- current strategic planning efforts,
- future park, open space and trail improvements, and
- concludes with implementation strategies and tools.

The basis for this chapter is represented in the Minnetonka 2030 Vision, and the community policies included in Chapter III – Overall City Policies.

#### **4. Open Space Preservation**

Minnetonka has long been committed to open space preservation, most recently reflected by the passage of the 2001 bond referendum, a shift to conservation development, and updates of land use ordinances related to preservation of steep slopes, shore land and trees. Following the 2001 referendum, the park board and city council prioritized approximately 50 areas throughout the community for possible preservation. The rankings were based on factors developed by the citizen open space preservation task force and adopted by the city council. These factors include sensitive environmental features, buffers for neighborhoods, high visibility, size and linkage to other open areas.

Preservation strategies were developed for each of these areas, ranging from the negotiation of easements to outright purchase. Following the passage of the referendum, the city successfully negotiated acquisitions of five parcels along Minnehaha Creek. Additionally, the city acquired an option to purchase a 30 acre property across from Meadow Park. The city still holds that option, and the resident has donated a conservation easement over the entire property to the Minnesota Land Trust.

Additionally, conservation development agreements have been negotiated for a number of properties to preserve as many of the natural features of the land as possible. Often a property owner has dedicated a conservation easement that prohibits future development activity. Between 2000 and 2006, 159 acres of private land have been placed in conservation easements.

In addition to the donation of easements, other conservation techniques continue to promote the quality of the environment. These include smaller road widths, which allow more open space and less impervious surface, and rain gardens or infiltration systems to treat the storm water run off and promote better water quality.

Additionally, the Park Board has adopted goals and specific strategic objectives (the order does not reflect priority) for the future, that are updated on an annual basis. The 2008 goals and objectives follow the policies included in Chapter III – Overall Policies pertaining to parks, open space and recreation:

##### **1. To protect natural resources and open space**

- a. Conduct an ongoing evaluation of the open space process
- b. Continue to review and comment on the implementation of the natural resources stewardship plan
- c. Assist staff in managing the open space process through successful completion
- d. Review options to enhance natural resources & open space
- e. Review all proposed changes to the city's code of ordinances that pertain to natural resources and open space
- f. Actively participate in development of the city's Minnehaha Creek Visioning Plan
- g. Consider a program to recognize historical aspects of the park system

### 3. Open Space and Natural Area Connections

The 2030 Minnetonka Vision shown as Figure III-1 in Chapter III – Overall Policies depicts the park and open space areas in the city under public control, water resources and areas of important vegetation in the city. The creek corridors, associated floodplain and wetlands, and trails create natural “greenways” within the city, often connecting the city’s parks that feature preservation and natural resource stewardship.

The 2000 POST Plan established the need to develop an overall program (with funding) for the preservation of open space under city control based upon the ecological qualities of the area. In the coming years, further study is needed by the city to determine the potential for other private and public stewardship activities to foster connections between the natural “greenways”, public open space and areas of important vegetation. Additionally, investigation is needed to review incorporating new stormwater sustainability techniques and address concerns with the growing number and type of plant and animal invasive species.

An update to the POST Plan is needed to further examine the potential for connections between the greenways, open space, and other conservation and sustainability efforts. Information pertaining to MLCCS data and other water quality management inventories reviewed in Chapter VI – Resource Management should be consulted and refined during the POST plan update process to determine the appropriate strategies for the city to manage public open space and encourage private conservation efforts on an ecological neighborhood basis.

### 3. Open Space

- a) Utilize the city open space preservation program and the management of natural resources policy to obtain, manage and improve open space for the public.
- b) Convert properties acquired for open space preservation to a park or natural setting environment.
- c) Continue to eradicate invasive plant and animal species from open space and other city property and maintain open space in accordance with the Park Maintenance Standards, as may be amended.
- d) Seek grants, funding partners and other outside funding opportunities to increase the amount of publically held open space in the city.

## Section IV Bicycle and Trail System Plan

Minnetonka has a well-developed system of trails (Figure VIII-12). These trails may help reduce traffic by encouraging the use of alternatives to the automobile, including non-motorized transportation modes such as bicycle and pedestrian.

The City will strive to achieve the following trail system goals as related to transportation:

- ✓ To enhance the transportation system through provisions for multiple modes of travel and intermodal connections;
- ✓ To encourage pedestrian travel for local trips and the use of transit facilities;
- ✓ To provide direct and continuous access for destination-oriented pedestrian and bicycle trips;
- ✓ To provide pedestrian and bicycle-oriented improvements that overcome natural and man-made barriers and promote neighborhood connectivity;
- ✓ To provide safe, attractive and convenient pedestrian-oriented improvements which recognize the differing needs of bicyclists and pedestrian, especially the needs of the elderly, disabled and children;
- ✓ To provide for the integration of street and park systems, so as to support the transportation, park and land-use elements of the City's Comprehensive Plan.

## Chapter VII - Parks, Open Space and Trails Plan – Trail-Related Excerpts

### 2. Existing Trail System

The city's existing trail system, shown on Figure VII-2 consists of off-road trails, walkways (asphalt trails that parallel roadways) and on-road pedestrian-bicycle lanes. The original Loop Trail System was designed to connect the city's major parks and activity centers, and to function as both a transportation and recreation system. Its 33 miles of trails is the centerpiece of the entire trail system that includes neighborhood connectors, sidewalks, pedestrian-bicycle lanes and regional connectors. The main city trail system connects with the Three Rivers Park District's combined 27 mile south segment of Lake Minnetonka and Minnesota River Bluffs LRT regional trails (formerly Southwest Regional LRT). Both corridors begin in Hopkins; the north corridor extends to Victoria, while the south corridor extends to Chanhassen. The city's trail and walkway system also connects with a DNR state trail, the 62 mile Luce Line Trail, in Plymouth just north of Minnetonka.

Trail facilities, including restrooms and drinking fountains, are located at each of the city's five community parks. Much of the main trail system is plowed during the winter months, making it usable throughout the year.

Each year, the city continues to add to the trail system. New trails are generally added with major road reconstruction projects (e.g., CR 101 and the planned 2008-09 improvements to Shady Oak Road). Internal trails have been included with the park renewal projects.

b. Local trail connections and pathways

Although there are numerous trails within the city, the trail system is many years from completion. As noted in Chapter VIII – Transportation, several trail connections are planned in conjunction with roadway improvements scheduled in the coming years. These trails will be physically separated from vehicular traffic.

However, there are numerous other trails and pathways that are needed to establish connections to the village centers, parks, schools, existing trails and other activity centers. Figure VII-3 shows the future overall trail plan and identifies numerous trails that currently remain unfunded. It is anticipated that the necessary right of way control and construction of the unfunded trails and pathways will eventually be accomplished as part of the following activities:

- future roadway reconstruction,
- new development and private development activities,
- outside funding from other government agencies or private entities, and
- future capital improvement programming.

**2. Trail/Pathway Development and Maintenance**

- a. Continue yearly investments into the Future Trail Plan according to the schedule identified in the capital improvements program.
- b. Provide safe neighborhood trail connections to the overall trail system and community amenities in response to neighborhood requests or Park Board recommendations. Chapter VII. Parks, Open Space and Trails Plan VII-16 2030 Comprehensive Guide Plan
- c. Review and prioritization of the unfunded portions of the trail system by the Park Board to connect the village areas, community parks and adjacent communities.
- d. Incorporate identified trails, sidewalks and pathways connections in roadway reconstruction projects.
- e. Continue investments to rehabilitate older trail segments and improve signage (identification and wayfinding).
- f. Maintain trails in accordance with the Park Maintenance Standards, as may be amended, to improve “wheel-ability” for all age groups, sustainability and year round use, as appropriate.

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DECLARATION OF RESTRICTIVE COVENANT HENNEPIN COUNTY MINN.

[Signature] DEPUTY

THIS DECLARATION OF RESTRICTIVE COVENANT is made as of this \_\_\_ day of February, 1985, by and between THE CITY OF MINNETONKA, a municipal corporation (hereinafter referred to as the "City"), and OPUS CORPORATION, a Minnesota corporation (hereinafter referred to as "Opus"), with reference to the following facts and circumstances:

A. By that certain Quit Claim Deed dated September 19, 1977, filed February 15, 1978, as Document No. 4356924 in the Office of the County Recorder for Hennepin County, Minnesota, Opus (then known as Rauenhurst Corporation) conveyed to the City the fee title to that certain tract of land legally described as:

Outlot A, Opus 2 Fourth Addition, according to the recorded plat thereof

(hereinafter referred to as the "Subject Property").

B. The Subject Property was conveyed upon the express condition that it be used only as "parkland and open space purposes", and with the provision that the Subject Property would revert to Opus if it were ever used for any purpose other than parkland or open space.

C. In connection with its issuance of a permit for the proposed development of certain adjoining property legally described as Tract A, Registered Land Survey No. 1530, Files of Registrar of Titles, County of Hennepin, Nine Mile Creek Watershed District has required that no further development of the Subject Property be permitted which would require fill or encroachment within the 100-year frequency floodplain of Nine Mile Creek (hereinafter referred to as the "Floodplain"), and the City has agreed that such restriction is acceptable for the Subject Property.

D. Opus has agreed that a development restriction as set forth in Paragraph C above would be appropriate for the Subject Property and Opus has further agreed that should Opus, or its successors or assigns, acquire the Subject Property by operation of the reverter contained in said Quit Claim Deed, Opus and its successors and assigns would be bound by such development restriction.

E. The City and Opus desire to set forth in writing this development restriction.

NOW, THEREFORE, in consideration of the foregoing facts and circumstances, and for other good and valuable consideration, the City and Opus hereby agree as follows:

1. The Subject Property shall hereafter be held and conveyed subject to the restriction that there be no further filling or encroachment within the Floodplain, as such area from time to time may be situated within the Subject Property.

2. This development restriction shall apply to and bind each and every owner of any part of the Subject Property, and its respective successors and assigns, to the extent such part of the Subject Property lies within the Floodplain, and shall operate as a covenant passing with the title to the Subject Property.

IN WITNESS WHEREOF, the City and Opus have caused this Declaration to be executed as of the day and year first above written.

THE CITY OF MINNETONKA  
By [Signature]  
Its Mayor  
And [Signature]  
Its City Manager

OPUS CORPORATION  
By [Signature]  
Its VICE PRESIDENT - REAL ESTATE DIVISION

EMBRACES ALL LAND IN CTF 562892 (BALANCE NT)

36-117-22-21-0002



1814167

REGISTERED VOL 1846 PAGE 562892

562892

OFFICE OF THE REGISTRAR  
OF TITLES  
HENNEPIN COUNTY, MINNESOTA  
CERTIFIED FILED ON

MAR 18 1987

*Q*  
*am*

*R. D. Cole*  
REGISTRAR OF TITLES  
BY *[Signature]* DEPUTY

10 52



AUG 7 1991

5812670

CityMtk  
07/11/91 MLK

~~HENNEPIN COUNTY ADMIN~~  
DEPUTY

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made this 22 day of July, 1991, by and between OPUS CORPORATION, a Minnesota corporation (hereinafter referred to as "Owner"), and the CITY OF MINNETONKA, a Minnesota municipal corporation (hereinafter referred to as "City"), with reference to the following facts and circumstances:

A. Owner is the fee owner of certain real property legally described as follows:

Lots 3 and 4, Block 4, Opus 2 Ninth Addition, according to the recorded plat thereof, Hennepin County, Minnesota (hereinafter referred to as the "Property").

B. Owner has constructed across certain portions of the Property a bituminous surfaced path, and related improvements, all as part of a trail system in the Opus 2 development (such paths and related improvements collectively hereinafter referred to as the "Secondary Road Improvements"), and Owner has agreed to grant to City an easement for the Secondary Road Improvements upon certain terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing facts and circumstances, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, Owner and City hereby agree as follows:

1. Owner hereby grants to City a perpetual, non exclusive easement for the construction, installation, use and maintenance of the Secondary Road Improvements over those portions of the Property lying within the fifteen (15) foot wide drainage and utility easement dedicated in the plat of Opus 2 Ninth Addition which lies along the Northeast boundary of the Property. The use of the Secondary Road Improvements permitted pursuant to this easement grant shall be limited to pedestrian and nonmotorized vehicular travel by the general public and by City, its employees and agents; provided, however, that City may use the Secondary Road Improvements as a means of access for emergency vehicles in instances where public health or safety necessitates such access, and for City maintenance vehicles.

2. Owner hereby grants, bargains, quit claims and conveys to City, its successors and assigns, forever, the Secondary Road Improvements. City accepts the Secondary Road Improvements, and agrees that from and after the date hereof City shall be solely responsible for maintaining, repairing and replacing all of the Secondary Road Improvements and the area within the easement described in Paragraph 1 hereof. Without limiting the generality of the foregoing, City agrees that it shall be responsible for mowing all grass immediately adjoining such bituminous surfaced paths.

3. Nothing in this Easement Agreement to the contrary shall prohibit Owner from using the easement area described in Paragraph 1 hereof for such purposes as Owner may deem appropriate, provided that such use by Owner does not materially interfere with the enjoyment by City of the rights and easement herein granted.

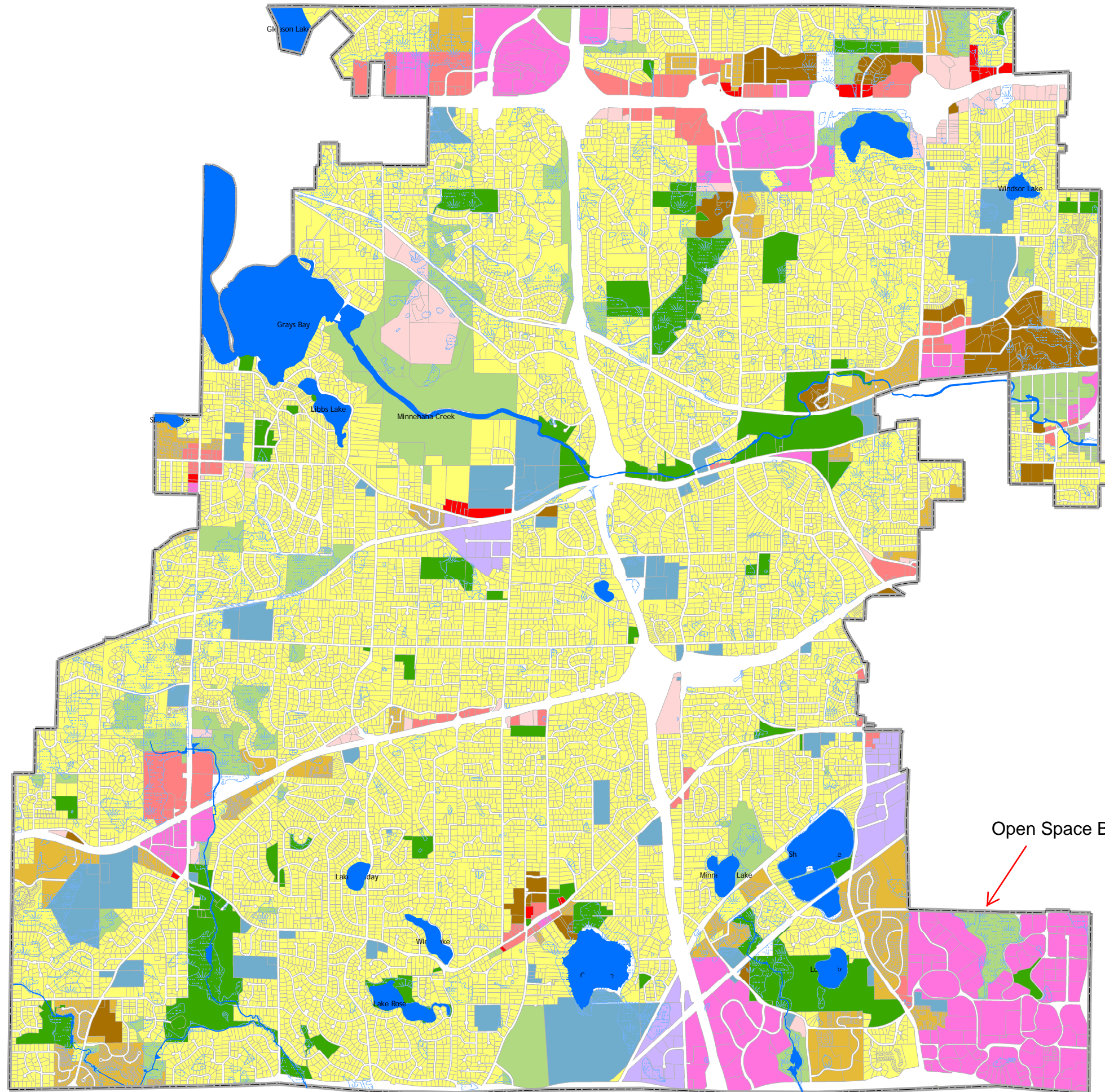
4. The easement hereby granted and the agreement herein contained shall be an easement and agreement running with the Property, and shall inure to the benefit of and be binding upon Owner and City and their respective successors and assigns

5 812

KOLL 277

8-9-91





Land Use Catagory

- Low Density Residential (2 - 4 units per acre)
- Medium Density Residential (5 to 12 units per acre)
- High Density Residential (over 12 units per acre)
- Commercial
- Service Commercial
- Office
- Mixed Use
- Industrial
- Institutional
- Open Space
- Parks
- Wetlands
- Lakes

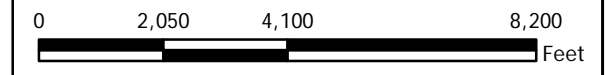
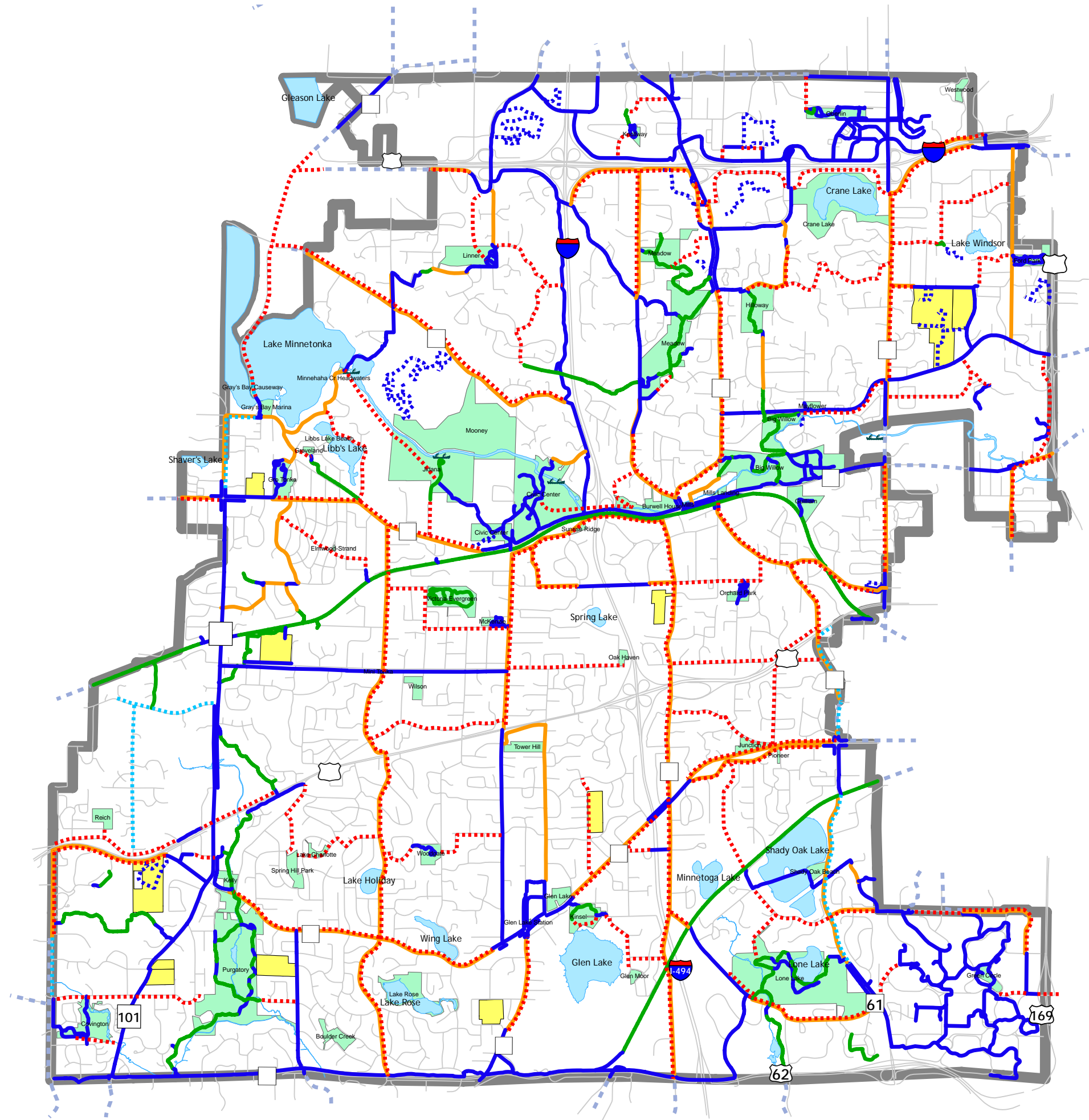


Figure IV-15  
2030 Land Use Plan

Source: City of Minnetonka



**Legend**

**Trails Existing**

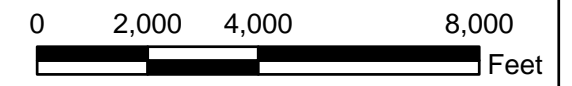
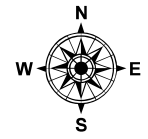
- Intercity Connections
- Off Road (Paved/Concrete)
- Off Road (Gravel)
- On Road
- Private

**Future Trail System**

- Scheduled Segments
- Unscheduled Segments

**Amenities**

- Canoe Landing
- Parks
- School Parcels



**Trail Map**

Map prepared by: City of Minnetonka



**Meeting Title:** Section 4(f) Coordination – Newly Identified Section 4(f) Properties within the City of Minnetonka

**Date:** 01/05/2016      **Time:** 1:00 p.m.      **Duration:** 1.0 hour

**Location:** SPO Conf. Rm. 6A  
Call in #: 1 888.742.5095; code: 1109269062

**Meeting called by:** Nani Jacobson, Assistant Director, Environmental & Agreements

**Attendees:** FTA: Maya Sarna (phone); Minnetonka: Julie Wischnack, Phil Olsen, William Manchester; SPO: Jim Alexander, Sarah Ghandour, Dan Pfeiffer, James Mockovciak, Jeanne Witzig, Leon Skiles, Leila Bunge

**Purpose of Meeting:** Discuss Newly Identified Section 4(f) properties under jurisdiction of the City of Minnetonka, Section 4(f) process and analysis.

<b>Agenda</b>	
1.	Welcome and Introductions
2.	Overview of Section 4(f) Requirements (handout)
3.	Identification of Section 4(f) Properties (handouts) <ul style="list-style-type: none"> <li>a. Properties Evaluated: <ul style="list-style-type: none"> <li>- Opus Development Area Trail Network</li> <li>- Unnamed Open Space B</li> <li>- Unnamed Open Space A</li> </ul> </li> <li>b. Process for Determining Section 4(f) Status <ul style="list-style-type: none"> <li>- Initial Status Determinations</li> <li>- Current Status Determinations</li> </ul> </li> <li>c. Preliminary Section 4(f) <i>de minimis</i> Impact Determinations (handout)</li> </ul>
4.	Next Steps <ul style="list-style-type: none"> <li>i) Publication of the Amended Draft Section 4(f) Evaluation</li> <li>ii) Receipt of Public and Agency Comments and Review by FTA, City, Council</li> <li>iii) FTA Request to City for Written Concurrence on the Two Section 4(f) <i>de minimis</i> Impact Determinations</li> <li>iv) Publication of the Final Section 4(f) Evaluation</li> </ul>

**DISCUSSION:**

2) Overview of Section 4(f) Requirements

SPO staff provided an overview of Section 4(f) requirements and the process for a *de minimis* use of the newly identified Section 4(f) properties under jurisdiction of the City of Minnetonka (Refer to handout “Section 4(f) of the Department of Transportation Act”).

- a) The intent of Section 4(f) is to prohibit a transportation project from using a qualifying park/recreation area, historic site or wildlife/waterfowl refuge, unless there is no prudent and feasible avoidance alternative or the use would be *de minimis*.
- b) The use of a Section 4(f) property includes the incorporation of the park property into a transportation use through a physical use or through a permanent change in property ownership.
- c) A *de minimis* impact is a physical use of the 4(f) property; however, the project would not adversely affect the activities, features, or attributes qualifying a park, recreation area, or refuge for protection under Section 4(f).
- d) For *de minimis* impacts, reasonable mitigation measures are identified for the 4(f) property, and FTA issues a preliminary determination in a draft Section 4(f) Evaluation for public comment. Following the comment period, the local jurisdiction has the opportunity to concur in writing that the affected property has a *de minimis* use. Final Section 4(f) determinations will be made by FTA, reflecting consideration of comments on the preliminary determinations and on continued consultation with the Officials with Jurisdiction.

3) Identification of Section 4(f) Properties

SPO staff described the Section 4(f) Properties within the City of Minnetonka and the project area that are proposed to have a preliminary *de minimis* use determination.

a) Properties described (Refer to handout “Newly Identified Section 4(f) Properties in Minnetonka”, Section 6.1 for full descriptions of the properties) include:

- Opus Development Area Trail Network (Refer to handout “Newly Identified Section 4(f) Properties in Minnetonka”, Exhibit 6-4 for location)
    - A 2-foot buffer on either side of the trail is provided where it would need to be maintained (a total of about 9 acres)
    - The multi-use trails are the features and the activities on the trail including walking, biking, cross-country skiing, etc.
    - Trail provides access to secluded areas and to workplaces, for both commercial and residential destinations
    - Certain sections of the trail will be moved for the construction of the LRT and will be repaved later (Refer to Exhibit 6-4 for those changes)
    - No part of the trail will be permanently removed without its current connectivity function being replaced
    - The project preserves the pedestrian grade separated crossings in the Opus development area trail network. After construction the amount of trail acreage will slightly increase
  - Unnamed Open Space B (Refer to handout “Newly Identified Section 4(f) Properties in Minnetonka”, Exhibit 6-1 for location)
    - Primarily open space use (undeveloped, meadows, forested area, landscaped area)
    - Trail going through Open Space B is paved and goes through the natural areas within open space (part of the Opus development area trail network)
    - No traditional recreational features (i.e. ball park, playground, etc.)
    - Uses are typical things that would occur in natural areas, like bird watching, plant identification, areas for solitude, appreciation of nature, etc.
    - City staff mentioned that the area in the north of Open Space B (West of Green Circle Drive) is a wetland restoration area and that the Opus area is officially named Opus 2 Business Park
    - Changes to Open Space B – approximately 1.5 acres of the property will be permanently incorporated into the project through the acquisition process (Refer to Exhibit 6-2 for permanent acquisition location) as well as temporary trail impacts; however, the detour routes will be provided for the trail during construction. A TPSS and signal bungalow will be located on this property and will require some permanent realignment of trails in Open Space B; however there be no long or short-term adverse effects on the trails
    - There will be no noise impact on the noise sensitive uses of the property and those areas will generally be shielded from view of the LRT alignment by existing trees and other vegetation
    - Natural areas will be maintained with no adverse effects
  - Unnamed Open Space A (Refer to handout “Newly Identified Section 4(f) Properties in Minnetonka”, page 1)
    - **Not considered a Section 4(f) park/recreation property**
    - Based on deed/title information on this property there are no park/recreation-related easements or other park/recreational legal agreements attached to this property
    - There is no deed covenant restricting the future use of this parcel to “parkland” or “open space”
    - FTA does not consider Unnamed Open Space A to be a Section 4(f) property
    -
- b) Preliminary Section 4(f) *de minimis* Impact Determinations (Refer to handout “Newly Identified Section 4(f) Properties in Minnetonka”)

- Open Space B – the Project actions will not adversely affect the features, attributes, or activities that qualify Open Space B for Section 4(f) Projection. FTA has preliminarily concluded that Project actions will result in a Section 4(f) *de minimis* impact.
- Opus Development Area Trail Network - the Project actions will not adversely affect the features, attributes, or activities that qualify Opus Development Area Trail Network for Section 4(f) Projection. FTA has preliminarily concluded that Project actions will result in a Section 4(f) *de minimis* impact.

4) Next Steps

i) Publication of the Amended Draft Section 4(f) Evaluation

- The Amended Draft Section 4(f) Evaluation will be published separately from the NEPA documentation because these two properties are newly identified and not initially included in previous Section 4(f) preliminary evaluations included with NEPA documentation (e.g., DEIS and SDEIS).
- City Staff asked where the document would be published. SPO Staff stated that it will be published in the *Federal Register*, the EQB Monitor, and on the Project website. Hard copies will be available at the SPO, State Legislative Library, MnDOT Library, Met Council Library, Minnetonka public library and Minnetonka City Hall.
- It is anticipated to be published on January 11, 2016. The document will include two appendices: Plan sheets and meeting materials/notes

ii) Receipt of Public and Agency Comments and Review by FTA, City, Council

- SPO will respond, in coordination with City of Minnetonka, to the comments received after the 45-day public comment period
- No public hearing will be held, or required under Section 4(f)
- With publication on January 11, February 25, 2016 ends the 45-day comment period

iii) FTA Request to City for Written Concurrence on the Two Section 4(f) *de minimis* Impact Determinations

- City Staff asked what their role is in this process. SPO staff responded that it is an active action that both parties (i.e., FTA and the City) agree on after the comment period closes and both need to agree that this is a *de minimis* finding
- City Staff provided the contact for the written concurrence letter to be Julie Wischnack

iv) Publication of the Final Section 4(f) Evaluation

- Will be included in the FEIS

<b>ACTION ITEMS:</b>	<b>PERSON RESPONSIBLE:</b>	<b>DEADLINE:</b>
Notify adjacent property owners (AMS and Claremont) that this document will be published	SPO Outreach Staff	1/11/2016
Review Amended Draft Section 4(f) Evaluation for comments and changes	City Staff	1/6/2016
Publish Amended Draft Section 4(f) Evaluation for comments	SPO Staff	1/11/2016
Respond to comments with input from City Staff	FTA, SPO Staff	After 2/25/2016



## **2. Unnamed Open Space B: Property Legal Documents**

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AA

77-003

MINNESOTA DEPARTMENT OF TRANSPORTATION

1 of 2  
DUPLICATE

C.S. \_\_\_\_\_ PARCEL NO. \_\_\_\_\_

COUNTY OF HENNEPIN JOB NO. T9N635

**TITLE OPINION**

I hereby certify to the State of Minnesota that I have examined the title to the real estate herein described as shown by the records in the office of the County Recorder, Registrar of Titles, County Auditor and County Treasurer, and as shown by said records the title to the following described tract:

Outlot A Opus 2 Fourth Addition

EXCEPT

That part of Outlot A embraced within the North 10 acres of the West half of the Northwest Quarter of the Northeast Quarter of Section 36, Township 117, Range 22, Opus 2 Fourth Addition.

NENW of section 36, Township 117 North, Range 22 Hennepin County,

is at the date of this certificate in the following named persons: (if the title is registered, note the certificate number.)

**REGISTERED LAND TORRENS CERTIFICATE NO.** \_\_\_\_\_

<u>Name</u>	<u>Nature of Interest</u>	<u>Date of Document &amp; Recording Date</u>	<u>Book and Page and/or Document No.</u>	<u>Name of Spouse or if Single, so state</u>
City of Minnetonka	Fee	D: September 19, 1977 R: February 15, 1978	A-4356924 ✓	

**During the past five years the title to said tract was in the following persons, if different from above:**

<u>Name</u>	<u>Nature of Interest</u>	<u>Date of Document &amp; Recording Date</u>	<u>Book and Page and/or Document No.</u>	<u>Name of Spouse or if Single, so state</u>
-------------	---------------------------	--	--	--



AA

Duplicate  
2 of 1

MINNESOTA DEPARTMENT OF TRANSPORTATION

C.S. \_\_\_\_\_ PARCEL NO. \_\_\_\_\_

COUNTY OF HENNEPIN JOB NO. T9N635

TITLE OPINION

I hereby certify to the State of Minnesota that I have examined the title to the real estate herein described as shown by the records in the office of the County Recorder, Registrar of Titles, County Auditor and County Treasurer, and as shown by said records the title to the following described tract:

That part of Outlot A embraced within the North 10 acres of the West half of the Northwest Quarter of the Northeast Quarter of Section 36, Township 117, Range 22, Opus 2 Fourth Addition

NENW of section 36, Township 117 North, Range 22 Hennepin County,

is at the date of this certificate in the following named persons: (if the title is registered, note the certificate number.)

REGISTERED LAND TORRENS CERTIFICATE NO. 562892

<u>Name</u>	<u>Nature of Interest</u>	<u>Date of Document &amp; Recording Date</u>	<u>Book and Page and/or Document No.</u>	<u>Name of Spouse or if Single, so state</u>
City of Minnetonka	Fec	D: September 19, 1977 R: February 15, 1978	T-1260164 ✓	

During the past five years the title to said tract was in the following persons, if different from above:

<u>Name</u>	<u>Nature of Interest</u>	<u>Date of Document &amp; Recording Date</u>	<u>Book and Page and/or Document No.</u>	<u>Name of Spouse or if Single, so state</u>
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# Certificate of Title

Certificate Number: **562892**

Transfer From Certificate Number: 492736 1260164

Originally registered July 15, 1955 Volume: 781, Certificate No. 237190, District Court No: 12339

State of Minnesota } s.s. Registration  
 County of Hennepin }

This is to certify that

City of Minnetonka a Minnesota municipal corporation, whose address is 14600 Minnetonka Boulevard, Minnetonka, Minnesota is now the owner of an estate in fee simple

In the following described land situated in the County of Hennepin and State of Minnesota:

That part of Outlot A embraced within the North 10 acres of the West half of the Northwest Quarter of the Northeast Quarter of Section 36, Township 117, Range 22, Opus 2 Fourth Addition.

Subject to drainage and utility easements as shown on plat;

Subject to the right-of-way mentioned in deed of record in Book 1074 of Deeds, page 300, the flowage rights of the City of Hopkins created by an instrument of record in Book 1951 of Deeds, page 173;

Subject to drainage and utility easements as shown on plat of Opus II 1st Addition;

Subject to the condition that above land shall be used solely for parkland and open space purposes, as shown in Deed Doc No 1260164, with reversionary clause;

Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes chapter 508, namely:

1. Liens, claims, or rights arising under the laws or the Constitution of the United States; which the statutes of this state cannot require to appear of record;
2. Any real property tax or special assessment for which a sale of the land has not been had at the date of the certificate of title;
3. Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;
4. All rights in public highways upon the land;
5. Such right of appeal or right to appear and contest the application as is allowed by law;
6. The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;
7. Any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.

Memorials				
Document Number	Document Type	Date of Filing Month Day, Year Time	Amount (\$)	Running in Favor Of
1241181	Resolution	Oct 12, 1977 8:00 AM		By the City Council of the City of Minnetonka; Vacating public right-of-way and drainage and utility easements in Opus II 1st Addition.
1814167	Declaration	Mar 18, 1987 9:00 AM		Creating restrictive covenant.
4437117	Ordinance	Oct 16, 2007 4:00 PM		Ordinance No. 2007-25 By the City Council of the City of Minnetonka. 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. (See Inst)

Indexes Verified through 9/25/2013



IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office this 14th day of February, 1978.

**Wayne A. Johnson**  
Registrar of Titles,

In and for the County of Hennepin and State of Minnesota.

Quit Claim Deed, Corporation to Corporation

1260-164

Form No. 31-M

4356924

No. 36-25

RETURN TO TORRENS DEPT.

This Indenture, Made this 19th day of September, 1977 between

RAUENHORST CORPORATION

a corporation under the laws of the State of Minnesota, party of the first part, and  
municipal CITY OF MINNETONKA  
a corporation under the laws of the State of Minnesota, party of the second part,

BY FIRST-EMBRACE ALL OF THE FOLLOWING IS A MINN. FOLLOW C.T.C.

Witnesseth, That the said party of the first part, in consideration of the sum of One dollar (\$1.00) and other good and valuable consideration - DOLLARS, to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does hereby Grant, Bargain, Quitclaim, and Convey unto the said party of the second part, its successors and assigns, Forever, all the tract or parcel of land lying and being in the County of Hennepin and State of Minnesota, described as follows, to-wit:

Outlot A, Opus 2 Fourth Addition, according to the recorded plat thereof, upon the express condition that said property shall be used solely for parkland and open space purposes and if such property shall be used for any purposes other than parkland or open space purposes, said property shall revert to party of first part, its successors and assigns.

This instrument is a conveyance of fee title.

C. V. FILED  NOT REQ.

FEB 5 1978

BY *[Signature]*

STATE DEED TAX DUE HEREON *[None]*

To Have and to Hold the Same, Together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said party of the second part, its successors and assigns, Forever.



In Testimony Whereof, The said first party has caused these presents to be executed in its corporate name by its President and its Estate Div. Asst. and its corporate seal to be hereunto affixed the day and year first above written.

RAUENHORST CORPORATION

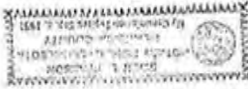
By *[Signature]*  
PRESIDENT, REAL ESTATE DIV.

*[Signature]* President  
*[Signature]* Asst. Secretary

RETURN TO TORRENS DEPT.

T 49-736

State of Minnesota, } vs.  
 County of Hennepin }  
 The foregoing instrument was acknowledged before me  
 this 19th day of September, 1977  
 by Robert J. Dahlin, PRESIDENT, REAL ESTATE CO.  
 (NAME OF OFFICER OR AGENT, TITLE OF OFFICER OR AGENT)  
 and by James L. Tucker, Assistant Secretary  
 (NAME OF OFFICER OR AGENT, TITLE OF OFFICER OR AGENT)  
 of Rauenhorst Corporation  
 (NAME OF CORPORATION ACKNOWLEDGING)  
 of Minnesota  
 (STATE OR PLACE OF INCORPORATION) corporation, on behalf of the corporation.



*James L. Tucker*  
 (SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT)  
 Notary Public  
 (TITLE OR RANK)

THIS INSTRUMENT WAS DRAFTED BY

(Name)  
 (Address)

INSTRUMENT PREPARED BY:  
 JAMES L. TUCKER  
 3500 Hennepin Avenue South  
 Minneapolis, Minnesota 55411

CTF. NO. 51272 1250164  
 RESERVE  
 estimated to 1633.00 498736  
 498 736  
 RETURN TO  
 TORRENS DEPT.

OFFICE OF REGISTRAR OF TITLES  
 STATE OF MINNESOTA  
 COUNTY OF HENNEPIN  
 I hereby certify that the written instrument  
 was filed in this office on the  
 14 day of FEB A.D. 1978 at  
 3:15 o'clock P. M.  
*J. L. Tucker*

By *James L. Tucker*  
 REGISTRAR OF TITLES  
 DEPUTY REGISTRAR OF TITLES  
 No delinquent taxes  
 and transfer entered  
 FINANCE DIVISION  
 HENNEPIN COUNTY, MINN.  
 FEB 10 1978  
 FINANCE DIVISION DIRECTOR  
 DEPUTY  
 RETURN TO  
 TORRENS DEPT.  
 1325 CO. CHARGE

Doc. No. 4356924  
 QUIT CLAIM DEED  
 TO  
 Office of County Recorder  
 State of Minnesota  
 OFFICE OF COUNTY RECORDER  
 HENNEPIN COUNTY, MINN. SOIA  
 CERTIFIED FILED AND IN  
 RECORDS OF  
 1978 FEB 15 AM 8:16  
 AS DOCUMENT # 4356924  
 DEPUTY

THIS DOCUMENT IS RECORDED  
 ON BOTH ABSTRACT  
 AND TORRENS-PROPERTY  
 entered this day of  
 1978  
 REC FEE  
 COPY FEE  
 Tax statements for the real property  
 described in this instrument should be  
 sent to:  
 CITY OF MTKA  
 14600 MTKA BLVD  
 MTKA MN 55313  
 .Address  
 RETURN TO  
 TORRENS DEPT.



1814167

LAND PRIOR TAXES PAID  
DEPT. OF PROPERTY TAX & PUBLIC RECORDS  
TRANSFER ENTERED

01/30/85  
02/05/85

MAR 18 1987

DECLARATION OF RESTRICTIVE COVENANT HENNEPIN COUNTY MINN.

THIS DECLARATION OF RESTRICTIVE COVENANT is made as of this \_\_\_\_\_ day of February, 1985, by and between THE CITY OF MINNETONKA, a municipal corporation (hereinafter referred to as the "City"), and OPUS CORPORATION, a Minnesota corporation (hereinafter referred to as "Opus"), with reference to the following facts and circumstances:

A. By that certain Quit Claim Deed dated September 19, 1977, filed February 15, 1978, as Document No. 4356924 in the Office of the County Recorder for Hennepin County, Minnesota, Opus (then known as Rauenhorst Corporation) conveyed to the City the fee title to that certain tract of land legally described as:

Outlot A, Opus 2 Fourth Addition, according to the recorded plat thereof

(hereinafter referred to as the "Subject Property").

B. The Subject Property was conveyed upon the express condition that it be used only as "parkland and open space purposes", and with the provision that the Subject Property would revert to Opus if it were ever used for any purpose other than parkland or open space.

C. In connection with its issuance of a permit for the proposed development of certain adjoining property legally described as Tract A, Registered Land Survey No. 1530, Files of Registrar of Titles, County of Hennepin, Nine Mile Creek Watershed District has required that no further development of the Subject Property be permitted which would require fill or encroachment within the 100-year frequency floodplain of Nine Mile Creek (hereinafter referred to as the "Floodplain"), and the City has agreed that such restriction is acceptable for the Subject Property.

D. Opus has agreed that a development restriction as set forth in Paragraph C above would be appropriate for the Subject Property and Opus has further agreed that should Opus, or its successors or assigns, acquire the Subject Property by operation of the reverter contained in said Quit Claim Deed, Opus and its successors and assigns would be bound by such development restriction.

E. The City and Opus desire to set forth in writing this development restriction.

NOW, THEREFORE, in consideration of the foregoing facts and circumstances, and for other good and valuable consideration, the City and Opus hereby agree as follows:

1. The Subject Property shall hereafter be held and conveyed subject to the restriction that there be no further filling or encroachment within the Floodplain, as such area from time to time may be situated within the Subject Property.

2. This development restriction shall apply to and bind each and every owner of any part of the Subject Property, and its respective successors and assigns, to the extent such part of the Subject Property lies within the Floodplain, and shall operate as a covenant passing with the title to the Subject Property.

IN WITNESS WHEREOF, the City and Opus have caused this Declaration to be executed as of the day and year first above written.

THE CITY OF MINNETONKA

OPUS CORPORATION

By James G. Honlin  
Its Mayor  
And James J. Miller  
Its City Manager

By Steph A. Robinson  
Its VICE PRESIDENT - REAL ESTATE DIVISION

EMBRACES ALL LAND  
IN CTF EG21992  
(BALANCE NT)

36-117-22-21-0002



1814167

REGISTERED VOL. 1816 PAGE 562892

562892

OFFICE OF THE REGISTRAR  
OF TITLES  
HENNEPIN COUNTY, MINNESOTA  
CERTIFIED FILED ON

MAR 18 1987

BY *R. B. Galt*  
REGISTRAR OF TITLES  
DEPUTY

*Qam*

1052

225770  
FLOWAGE AGREEMENT

THIS INDENTURE, made this 29 day of November, 1952, between Charles Vasko and Anna Vasko, husband and wife, of the County of Hennepin and State of Minnesota, parties of the first part and City of Hopkins, a municipal corporation located and being in the County of Hennepin and State of Minnesota, party of the second part,

WITNESSETH, that

WHEREAS, the City of Hopkins has this year deepened and widened that part of Nine Mile Creek lying within the limits of the City of Hopkins, and

WHEREAS, the City of Hopkins has agreed to maintain the said Creek, at not less than substantially its present average depth and width, and

NOW THEREFORE, in consideration of the party of the second part hereafter maintaining Nine Mile Creek at not less than substantially its present depth and width and cutting any weeds growing on the bottom of said Creek at reasonable time and using reasonable efforts to keep the water flowing freely through that portion of said Creek located within the City of Hopkins, the parties of the first part do hereby grant, bargain, quit claim and convey unto the said party of the second part, its successors and assigns, forever, the perpetual right, privilege and easement to overflow with waters from Nine Mile Creek, ~~all the tract or parcel of land lying and being in the~~ <sup>except average</sup> county of Hennepin and State of Minnesota, described as follows: to-wit: The south (S) Three hundred (300) feet of the north (N) Ten (10) acres of the west (W) one-half of the northwest quarter (NW $\frac{1}{4}$ ) of the northeast quarter (NE $\frac{1}{4}$ ) of Section Thirty-six (36), Township One Hundred Seventeen (117), Range Twenty-two (22);

TO HAVE AND TO HOLD the same, together with all the hereditaments and appurtenances thereto belonging or in anywise appertaining to said party of the second part, its successors and assigns, subject however, to the provisions above set forth to be performed by party of the second part.

IN TEST WHEREOF the said parties of the first part have hereunto set their hands the day and year first above written.

In Presence of:  
Frank H. Whitney }  
City of }  
Hopkins

Charles Vasko  
Charles Vasko  
Aina Vasko  
Aina Vasko  
CITY OF HOPKINS  
By W. Harlan Perbix  
W. Harlan Perbix, Mayor  
and W. H. Taylor  
Walton H.L. Taylor, City Manager

\*\*\*\*\*

STATE OF MISSISSIPPI )  
COUNTY OF HENRY ) SS

On this 29 day of November, 1950, before me, a Notary Public within and for said county, personally appeared Charles Vasko and Aina Vasko, husband and wife, to me known to be the persons described in, and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

John D. Huran  
JOHN D. HURAN  
Notary Public, Henry County, Miss.  
My Commission Expires May 24, 1954

STATE OF MISSISSIPPI )  
COUNTY OF HENRY ) SS

On this 17 day of January, 1953, before me, a Notary Public within and for said county, personally appeared W. Harlan Perbix and Walton H. L. Taylor, to me personally known, who, being sworn by me duly sworn, they did so, that they are respectively the Mayor and the City Manager of the City of Hopkins, in said county, Mississippi, and that the seal of said City is the corporate seal of said City, and that said instrument was duly executed in and to the honor of said City in authority of the City Council, and that said W. Harlan Perbix and Walton H. L. Taylor acknowledged said instrument to be the free act and deed of said City.

Frank H. Whitney

FRANK H. WHITNEY  
Notary Public, Henry County, Miss.  
My Commission Expires July 2, 1955



THIS INSTRUMENT, Made this 20th day of April in the year of our Lord one thousand nine hundred and twenty six Between Vera D. Matteson and Judson D. Matteson her husband.

of the County of Los Angeles and State of California, parties of the first part, and Charles D. Walker, Notary Public in and for said County and State of California, party of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of... Dollars, lawfully obtained of the said party of the second part, the receipt whereof is hereby acknowledged, do hereby Grant, Bargain, Sell and Convey unto the said party of the second part, their heirs and assigns, Forever, all that certain parcel of land being in the County of Hennepin and State of Minnesota, described as follows, to-wit: The South East corner of the West half 19, 20, 21 of the North West quarter 42, 43, 44 of section 23, 24, 25 Township 26 North Range 20 West of the Fifth Principal Meridian containing Ten (10) acres in the more or less according to the Government Survey thereof. The parties of the first part reserves the right to at all times to have the privilege of using a strip of ground six (6) rods wide along the west line of the ten (10) acre more or less roadway to connect with North Avenue as is now laid out in the town of Hopkins, also known as West Minneapolis Township, Minn.

TO HAVE AND TO HOLD THE SAME, Together with all the covenants and appurtenances thereto belonging or in anywise appertaining to the said party of the second part, to their heirs and assigns, FOREVER, And the said Vera D. Matteson and Judson D. Matteson her husband,

parties of the first part, for themselves, their heirs, executors and administrators, do hereby covenant with the said party of the second part, their heirs and assigns, that they are well seized in fee of the lands and premises aforesaid, and have good right in sell and convey the same in manner and form aforesaid, and that the same are free from all encumbrances.

and the above bargained and granted lands and premises, in the quiet and peaceable possession of the said party of the second part, their heirs and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, the said parties of the first part will WARRANT and DEFEND.

IN TESTIMONY WHEREOF, The said party of the first part hereunto set their hand and seal the day and year first above written.

Signed, Sealed and Delivered in Presence of
C. W. Miller
Philvaint Blomens
Vera D. Matteson
Judson D. Matteson
(Scale)
(Scale)
(Scale)
(Scale)

STATE OF California
County of Los Angeles

On this 20th day of April, A. D. 1926, before me, a Notary Public within and for said County, personally appeared Vera D. Matteson and Judson D. Matteson her husband,

to me known to be the person described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

Notarial Seal

J. H. Loucks Notary Public
In and for the County of Los Angeles, State of California
My Commission expires December 31, 1926

Doc No. 1882-24
Book 1393 Page 209

1241181

Feltl Rd. Vacation

4323765

1241181

RESOLUTION NO. 77 - 5177

RETURN TO  
TORRENS DEPT.

RESOLUTION ORDERING THE VACATION OF PUBLIC RIGHT OF WAY AND DRAINAGE AND UTILITY EASEMENTS FOR RAUENHORST CORPORATION OPUS II 1ST ADDITION.

RETURN TO  
TORRENS DEPT.

WHEREAS, the Rauenhorst Corporation has petitioned the City Council of the City of Minnetonka to vacate the following portion of City easement to wit:

Legal Description for Vacation of Feltl Road

All that part of Feltl Road lying within the Southwest Quarter of the Northwest Quarter of Section 36, Township 117, Range 22, Hennepin County, Minnesota, which lies West of the East 205.70 feet thereof.

Legal Description for Vacation of Streets and Drainage and Utility Easements in Opus II 1st Addition

All that part of Bren Road West, Bren Road East, Bren Road Connection, Bren Road, Red Circle Drive, Yellow Circle Drive, Green Circle Drive, Dominick Drive, 11th Street, Westward Way and County Road No. 62, all as dedicated within the plat of OPUS II 1st Addition, according to the recorded plat thereof, on file or of record in the office of County Recorder in and for said Hennepin County,

ONLY DOMINICK DRIVE AFFECTS REGISTERED LAND.

and All that part of Blue Circle Drive as dedicated within the plat of OPUS II 1st Addition, according to the recorded plat thereof, on file or of record in the office of County Recorder, in and for said Hennepin County; Except that part of said Blue Circle Drive lying Westerly of "Line A" to be hereinafter described and lying Easterly of "Line B" to be hereinafter described:

Commencing at the Northeast corner of Lot 4, Block 10, OPUS II 1st Addition, according to the recorded plat thereof on file or of record in the office of County Recorder, in and for said Hennepin County; thence South 4 degrees 11 minutes 17 seconds East (assumed bearing) along the Easterly line of said Lot 4, a distance of 239.79 feet; thence Southwesterly along the Southeasterly line of said Lot 4, on a tangential curve, concave to the Northwest, having a radius of 275.38 feet, a central angle of 52 degrees 00 minutes 55 seconds, and a chord bearing of South 21 degrees 29 minutes 11 seconds West, for a distance of 250.00 feet, to the point of beginning of the line to be described; thence South 15 degrees 26 minutes 03 seconds West a distance of 53.30 feet to the Northwesterly line of Ouelot E, said OPUS II 1st Addition and there terminating.

Line B is described as follows:

Beginning at the most northerly corner of Lot 1, Block 11, said OPUS II 1st Addition; thence Northerly to the point of reverse curve on the Westerly line of Lot 5, Block 11, said OPUS II 1st Addition and there terminating,

and All of the drainage and utility easements as dedicated on the plat OPUS II 1st Addition, according to the recorded plat thereof; Except those drainage and utility easements lying within Blocks 10 and 11 of said OPUS II 1st Addition.

WHEREAS, a Notice of Hearing on said petition was published in the official newspaper of the City of Minnetonka on the 25th day of May, 1977, and the 1st day of June, 1977, and was duly posted as required by law; and,

RETURN TO  
TORRENS DEPT.

1241181

RESOLUTION NO. 77 - 5177  
page two

WHEREAS, a hearing on such petition was held on the 6th day of June, 1977, at which time all persons for and against the granting of said petition were heard, and

WHEREAS, the City Council of the City of Minnetonka, Minnesota, finds that the petitioner is the majority land owner of the land abutting said portions of the City easements sought to be vacated and therefore, the proper petitioner, and that the public interest will be served by vacating said portions of City easements.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MINNETONKA, MINNESOTA.

1. That the above described portions of City easements be and hereby are vacated.
2. That the vacating of Feltl Road shall take place simultaneously with the filing of the plat of OPUS 2 Fourth Addition, which creates "Feltl Lane" on the West 33 feet thereof and "Feltl Road" as shown on said plat with the Registrar of Titles; otherwise said remaining portion of Feltl Road is not to be vacated by these proceedings.

Adopted by the City Council of the City of Minnetonka, Minnesota, this 6th day of June, 1977.



*I. Sam Higuchi*  
I. SAM HIGUCHI, Mayor

*Margaret E. Mullen*  
Margaret E. Mullen, City Clerk

Action on the above resolution:

Motion for adoption: Gray  
Seconded by: Larsen  
Voted in favor of: Gray, Hanson, Larson, Beazable, Higuchi  
Voted against or abstained: Shaw excused; BeChetco was 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 the 6th day of June, 1977.

*Margaret E. Mullen*  
Margaret E. Mullen, City Clerk

RETURN TO:  
TORRENS DEPT.



1241181

1241181

REGISTERED VOL. 1633 PAGE 492736

492736

RETURN TO  
TORRENS DEPT.

44

4323765

OCT 12 1977  
RETURN TO  
TORRENS DEPT. 3765

2003.007.8

OFFICE OF REGISTRAR OF TITLES  
STATE OF MINNESOTA  
COUNTY OF HENNEPIN

I hereby certify that the within instrument  
was filed in this office on the  
12 day of OCT A.D. 1977 at  
8:00 o'clock A.M.

*[Signature]*  
REGISTRAR OF TITLES

By *[Signature]*  
DEPUTY REGISTRAR OF TITLES

OFFICE OF COUNTY RECORDER  
HENNEPIN COUNTY, MINNESOTA  
CERTIFIED FILED AND OR  
RECORDED

1977 OCT 12 PM 1:46

AS DOCUMENT # 4323765

*[Signature]* CO. RECORDER  
BY *[Signature]* DEPUTY

THIS DOCUMENT IS RECORDED  
ON BOTH ABSTRACT  
AND TORRENS PROPERTY

RETURN TO  
TORRENS DEPT.  
300 CO. CHARGE

RETURN TO  
TORRENS DEPT.

### **3. Unnamed Open Space A: Property Legal Documents**

---

L1 A23  
06-002

DUPLICATE

MINNESOTA DEPARTMENT OF TRANSPORTATION

C.S. \_\_\_\_\_ PARCEL NO. \_\_\_\_\_

COUNTY OF HENNEPIN JOB NO. T9N635

TITLE OPINION

I hereby certify to the State of Minnesota that I have examined the title to the real estate herein described as shown by the records in the office of the County Recorder, Registrar of Titles, County Auditor and County Treasurer, and as shown by said records the title to the following described tract:

Outlot E, The Townhouses of Shady Oak

NE SW \_\_\_\_\_ of section 36, Township 116 North, Range 22 Hennepin County,

is at the date of this certificate in the following named persons: (if the title is registered, note the certificate number.)

REGISTERED LAND TORRENS CERTIFICATE NO. 548328

Name	Nature of Interest	Date of Document & Recording Date	Book and Page and/or Document No.	Name of Spouse or if Single, so state
City of Minnetonka	Fee	D: May 17, 1976 R: June 17, 1977	T-1224135	

During the past five years the title to said tract was in the following persons, if different from above:

Name	Nature of Interest	Date of Document & Recording Date	Book and Page and/or Document No.	Name of Spouse or if Single, so state
------	--------------------	-----------------------------------	-----------------------------------	---------------------------------------



# Certificate of Title

1224135

Certificate Number: 548328

Transfer From Certificate Number: 545668

Originally registered June 25, 1973 Volume:1834, Certificate No. 492155, District Court No: 17255

State of Minnesota }  
 County of Hennepin } s. s. Registration

**This is to certify that**

City of Minnetonka a Minnesota municipal corporation, whose address is 14600 Minnetonka Boulevard, Minnetonka, Minnesota is now the owner of an estate in fee simple

In the following described land situated in the County of Hennepin and State of Minnesota:

Outlot E, The Townhouses Of Shady Oak.

Subject to an easement for drainage purposes in favor of the County of Hennepin as contained in Book 89 of Hennepin County Records page 3781501.

Subject to and together with the easements, covenants, liens and restrictions contained in Document No. 1086026, as amended by Document No. 1165854, the easement over common areas being limited to the following common area Lots: Lot 28, Block 1 and Lot 18, Block 2, The Townhouses of Shady Oak and Lots 4, 5 and 6, Block 1, The Townhouses of Shady Oak 2nd Addition as determined in Torrens Case No. A-18335;

Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes chapter 608, namely:

1. Liens, claims, or rights arising under the laws or the Constitution of the United States, which the statutes of this state cannot require to appear of record;
2. Any real property tax or special assessment for which a sale of the land has not been had at the date of the certificate of title;
3. Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;
4. All rights in public highways upon the land;
5. Such right of appeal or right to appear and contest the application as is allowed by law;
6. The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;
7. Any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.

Memorials				
Document Number	Document Type	Date of Filing Month Day Year Time	Amount (\$)	Running in Favor Of
1168818	Quit Claim Deed	Aug 30, 1975 4:15 PM		City of Minnetonka. Granting a perpetual easement for public right-of-way purposes over pt of above land.
11372364	Quit Claim Deed	Apr 1, 1980 12:00 PM		Ravenhorn Corporation. Granting a temporary easement for construction & installation of a walkway to expire Mar 1, 1981, over pt of above land. (See tract)

Indexes Verified through 11/5/2013



IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office this 17th day of June, 1977

**Wayne A. Johnson**  
 Registrar of Titles,

In and for the County of Hennepin and State of Minnesota.

1224135

United Warranty and  
Guarantee Corporation

Form No. 23-M.

State of Wisconsin  
Mortgage Uniform Conveyance Blanks Revised 1936-18

1224135

This Indenture, Made this 17th day of May, 1977,  
between FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE, a national banking association

organized and existing  
incorporated under the laws of the State of Wisconsin, party of the first part, and  
the City of Wauwatosa, a municipal  
incorporation under the laws of the State of Wisconsin, party of  
the second part,

Witnesseth, That the said party of the first part, in consideration of the sum of  
One Dollar and other good and valuable consideration, in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does  
hereby Grant, Bargain, Sell, and Convey unto the said party of the second part, its successors and assigns,  
Mortgage, all the tract or parcels of land lying and being in the County of Wauwatosa  
and State of Wisconsin, described as follows, to-wit:

Sublot E, The Townhouse of Shady Oak, according to the plat thereof on file or of  
record in the office of the Registrar of Titles in and for said county, subject to  
and together with the easements, covenants, conditions, liens and restrictions con-  
tained within document number 085026, files of the Registrar of Titles as amended  
by document number 116554 files of the Registrar of Titles in and for said county.

None

State Deed Tax Paid Hereon \$0.00

To Have and to Hold the same, together with all the benefits and appurtenances there-  
unto belonging or in anywise appertaining, to the said party of the second part, its successors and assigns,  
Forever. And the said party of the first part, for itself and its successors, does warrant with the said  
party of the second part, its successors and assigns, that it has not made, done, executed or suffered any  
act or thing whatsoever whereby the above described premises or any part thereof, now or at any time here-  
after, shall or may be impeded, clouded or incumbered in any manner whatsoever, subject to all  
assessments of unpaid real estate taxes, special assessments and previous easements  
to the City of Wauwatosa.

TRANSFER ENTERED

JUN 1 1977

RECORDED

REGISTERED  
BY [Signature]

And the title to the above granted premises against all persons lawfully claiming the same from, through  
or under it, except liens, if any, heretofore mentioned, the said party of the first part will Warrant  
and Defend.

In Testimony Whereof, The said first party has caused these  
records to be executed in its corporate name by its Mortgage  
Banking Officers, and its corporate seal to  
be hereunto affixed the day and year first above written.



FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE

Alexander N. Matzer

Banking Officer

Richard C. Palmiger

Mortgage Banking Officer

TORRENS 534672

1224135

State of Minnesota, }

County of HENNEPIN

The foregoing instrument was acknowledged before me

this 17th day of May, 1977

by Alexander H. Walter, Mortgage Banking Officer

and by Richard C. Palmer, Mortgage Banking Officer

of First Wisconsin National Bank of Milwaukee

national banking association



Christian S. Brande

Notary Public

THIS INSTRUMENT WAS DRAFTED BY C. S. Brande

3255 Horwardale Blvd., Suite 425  
Bloomington, Mn 55437

CIF, NO. 5-483-1224135  
Reg. Vol 1809 Page 545668

OFFICE OF REGISTRAR OF TITLES  
STATE OF MINNESOTA  
I hereby certify that the within instrument was filed in this office for record on the 17th day of JUN A.D. 1977 at 9:00 AM.  
By: [Signature]  
Deputy Registrar of Titles

LIMITED WARRANTY DEED

Cooperation in Certification

Office of Registrar of Deeds  
State of Minnesota

By: [Signature]  
I hereby certify that the within Deed was filed in this office for record on the 17th day of June, 1977 at 9:00 AM. and was duly recorded in Book [ ] of Deeds, City of [ ] and was duly recorded as instrument [ ]

By: [Signature]  
Deputy Registrar of Deeds

County Auditor  
Deputy

This instrument for the real property described in this instrument should be sent to:

4818

1188618

1188618

Know All Men by these Presents, That the Grantor, First Wisconsin National Bank of Milwaukee, a National Banking Association, organized under the laws of the United States for and in consideration of the sum of one dollar and other good and valuable consideration DOLLARS is, in legal aid, due hereby convey and Quitclaim to the City of Minnetonka, a municipal corporation,

of Hennepin County, State of Minnesota as Grantee, the Real Estate, situated in the County of Hennepin, State of Minnesota, described as follows, to-wit:

A perpetual easement for public right-of-way purposes over, under and across that part of the following described property:

Outlot E, The Townhouses of Shady Oak, according to the plat thereof on file or of record in the office of the Registrar of Titles in and for said Hennepin County.

Which lies westerly, northwesterly and northerly of a line described as follows:

Commencing at the northwest corner of said Outlot E; thence on an assumed bearing of South 20 degrees 04 minutes 27 seconds East, along the westerly line of said Outlot E, a distance of 127.73 feet, to the beginning of the line to be described; thence northeasterly a distance of 173.12 feet, along a nontangential curve concave to the southeast having a radius of 104.41 feet and a central angle of 95 degrees 00 minutes 10 seconds, the chord of said curve has a length of 153.96 feet and bears North 44 degrees 18 minutes 37 seconds East; thence South 88 degrees 11 minutes 18 seconds East, parallel with the north line of said Outlot E, to the easterly line of said Outlot E and said line there terminating.



In Presence of

State of Wisconsin  
County of MILWAUKEE

STATE DEED TAX DUE EXEMPT  
Carl E. Devoe Notary Public, Wisconsin  
 this 27th day of MAY 1926  
E. J. Curdell  
 FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE, a Nat'l. Banking Assoc.  
 by CASE D. LUXEMAN President  
 its WALTER H. ROEBERMAN Vice President

Wayne H. Roebeman  
 Vice President  
 of WISCONSIN NATIONAL BANK OF MILWAUKEE

On this 27th day of MAY, 1926, before me, a Notary Public within and for said county, personally appeared CASE D. LUXEMAN and WAYNE H. ROEBERMAN President and the WALTER H. ROEBERMAN Vice President of the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said CASE D. LUXEMAN and WAYNE H. ROEBERMAN acknowledged said instrument to be the free act and deed of said corporation.

THIS INSTRUMENT WAS DRAFTED BY  
Carl E. Devoe  
19600 Minnetonka Road  
Minnetonka, Minnesota 55343

M. R. Kuhnke  
 Notary Public  
 My commission expires September 1927



434673



1188618

Minnesota Form No. 18

**QUIT CLAIM DEED**  
(Quitclaim Short Form)  
By Operation

TO

Office of Register of Deeds,  
State of Minnesota,

County of \_\_\_\_\_  
I hereby certify that the within Deed  
was filed in this office for record on the  
day of \_\_\_\_\_  
19\_\_\_\_ at \_\_\_\_\_ clock \_\_\_\_\_ A.M.  
and was duly recorded in Book \_\_\_\_\_  
of Deeds, page \_\_\_\_\_

Register of Deeds

By \_\_\_\_\_ Deputy

Taxes paid and Transfer entered this  
day of \_\_\_\_\_

County Auditor

By \_\_\_\_\_ Deputy

Tax statements for the real property  
described in this instrument should be  
sent to:

Name

Address

1188618

Registered Vol 1772 Page 59673

②  
5-16-73

OFFICE OF REGISTER OF TITLES  
STATE OF MINNESOTA  
COUNTY OF \_\_\_\_\_

I hereby certify that the within instrument  
was filed in this office on the  
25<sup>th</sup> day of AUG A.D. 1976 at  
4:15 o'clock P.M.

*[Signature]*  
By \_\_\_\_\_  
DEPUTY REGISTER OF TITLES

X

Recording Fee \$1.00

3 781 501

3781501

Olga Brdentera, single, 2245 ... day of ... 1949

of the County of Hennepin and State of Minnesota parties of the first part, and The County of Hennepin, a duly authorized and incorporated corporation under the laws of the State of Minnesota, party of the second part

Witnesseth, That the said parties of the first part in consideration of the sum of Five Thousand One Hundred Twenty Five Dollars (\$5,125.00) to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do hereby Grant, Bargain, Sell, and Convey with the said party of the second part, its successors and assigns, Forever, all the tract or parcel of land lying and being in the County of Hennepin and State of Minnesota described as follows, to-wit:

ALL that part of the following described tracts;

The West 198 feet of the North 188.5 feet of the Northwest 1/4 of Southwest 1/4 of Section 36, Township 117, Range 22, and that part of the Northwest 1/4 of the Northwest 1/4 of Southwest 1/4 of Section 36, Township 117, Range 22, lying South of the North 188.5 feet thereof, and commencing at the Northwest corner of the Southwest 1/4 of Northwest 1/4 of Section 36, Township 117, Range 22, thence South 165 feet; thence East 215 feet to the center line of County Road; thence Northerly along said center line to the North line of said Southwest 1/4 of Northwest 1/4 of Southwest 1/4; thence West 120 feet to point of beginning, except roads.

which lies within a distance of 30 feet on each side of the following described line: Beginning at a point on the North line of the South 1/2 of Section 35, Township 117, Range 22, distant 242.42 feet westerly of the East Quarter corner of said section; thence deflex southwesterly at an angle of 126° 30' with said North line, a distance of 401.37 feet; thence deflex to the right along a tangential curve having a radius of 1432.39 feet (delta angle 29° 19' 10") a distance of 732.38 feet and there terminating.

Also a permanent easement for drainage purposes over that part of the first above described tracts not acquired herein, which lie within 15 feet on each side of a line 75 feet in length being a radial line of the curve of the above described line and drawn from a point thereon distant 445.04 feet southeasterly of the North line of the South half of said section as measured along said line.

manner and form aforesaid, and that the same are free from all incumbrances.



GRATE TAX DUE HEREON \$ 9.40

And the above bargained and granted lands and premises, in the quiet and peaceable possession of the said party of the second part, its successors and assigns, shall remain lawfully claiming or to claim the whole or any part thereof, subject to incumbrances, if any, heretofore mentioned, to said party of the first part with Warranty and Defend.

In Testimony Whereof, The said parties of the first part do hereby set their hand and seal this 24th day of June 1949.

In Presence of: John W. Nelson, D. L. Nelson

Olga Brdentera, Grantor, The County of Hennepin, Grantee

JUNE 26 1969

34-79138-2415