

Lessard-Sams Outdoor Heritage Council

MEMO: Agenda Item #10

DATE: May 28, 2025

SUBJECT: Request by U of MN Landscape Arboretum for Land Conveyance –

[ML 2013, Ch. 137, Art. 1, Sec. 2, Subd. 5\(e\) – MN Landscape Arboretum Acquisition of Property Surrounding Lake Tamarack](#)

PRESENTER: LSOHC staff

Suggested Motion:

Motion by Member XX to approve the request of the MN Landscape Arboretum as follows:

1. Council approval to allow the replacement of the old road entrance off of Hwy 5 with the new entrance slightly to the east via an underpass, and the old access to be restored to native grassland/pollinator habitat.
2. Council approval to allow the placement of a BWSR easement upon 10 acres of Arboretum property previously acquired with OHF monies.
3. Council approval for the Arboretum to place an OHF Notice of Funding Restriction (NOFR) on an adjacent approximately 26.8 acre Tamarack Lake parcel being donated to the Arboretum by Carver County.

Request Background:

Due to Carver County MDOT road construction on Hwy 5, the MN Landscape Arboretum is asking for Council approval of three items.

1. **Council approval is requested to allow the replacement of the old road entrance off of Hwy 5 with the new entrance slightly to the east via an underpass.** A new, less dangerous entrance to the Arboretum property on the north side of Hwy 5 is required. The Arboretum's old entrance/roadway will be restored to native grassland/pollinator habitat.
2. **Council approval is requested to allow the placement of a BWSR easement upon 10 acres of Arboretum property previously acquired with OHF and ENRTF monies.** With the Hwy 5 road construction there is a requirement to mitigate displaced habitat for Rusty Patch Bumble Bees. The OHF/ENRTF previously acquired Arboretum parcel considered is currently restored grassland habitat, and with the overlay of the BWSR easement would be further enhanced for additional Rusty Patch Bumble Bee habitat. The BWSR easement overlay would not restrict the original intent of the OHF/ENRTF acquisition and would provide additional protection. In addition to LSOHC's permission, LCCMR's approval is separately needed for overlay of the BWSR easement.
3. **Council approval is requested for the Arboretum to place an OHF Notice of Funding Restriction (NOFR) on an adjacent parcel proposed to be donated to the Arboretum by Carver County.** With the Hwy 5 road construction, the city of Victoria sold to Carver County an approximately 26.8 acre parcel that encompasses the northern half of Lake Tamarack. This parcel is adjacent to the Arboretum property previously acquired with ML2013 OHF & ENRTF appropriations. The OHF NOFR will provide additional permanent protection for the parcel.

Statutory Background:

Per 97A.056, any conversion or conveyance of an interest in real property acquired with OHF monies requires prior review and approval of the LSOHC. As a result, the MN Landscape Arboretum must get permission from the Council (majority vote) to allow the additional encumbrance of the OHF funded parcel.

97A.056, subd. 15(c):

(c) A recipient of funding who acquires an interest in real property under paragraph (a) must separately record a notice of funding restrictions in the appropriate local government office where the conveyance of the interest in real property is filed. The notice of funding agreement must contain:

(1) a legal description of the interest in real property covered by the funding agreement;

(2) a reference to the underlying funding agreement;

(3) a reference to this section; and

(4) the following statement: "This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Lessard-Sams Outdoor Heritage Council or its successor." The ownership of the interest in real property transfers to the state if: (1) the holder of

Suggested Procedure:

LSOHC Staff to provide the background and Council members to discuss the requested land exchange and approve the request as presented.

Attachments:

- Arboretum Lake Tamarack Parcel Map
- ML2013 Landscape Arboretum Accomplishment Plan
- Legal description of approximately 26.8 acre donation parcel
- Request from MN Landscape Arboretum Executive Director Andrew Gapinski
- DOT Hwy 5 Arboretum Area Map